



Thursday
September 17, 1998

Part IV

**Department of
Education**

**34 CFR Parts 674 and 682
Federal Perkins Loan Program and
Federal Family Education Loan Program;
Proposed Rule**

DEPARTMENT OF EDUCATION**34 CFR Parts 674 and 682****Federal Perkins Loan Program and Federal Family Education Loan Program**

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to simplify the economic hardship deferment application process for those Peace Corps volunteers who are ineligible for deferment or cancellation of their federal student loans based solely on service in the Peace Corps, the Secretary proposes to amend the Federal Perkins Loan and Federal Family Education Loan (FFEL) program regulations by adding criteria that will allow Peace Corps volunteers to automatically qualify for economic hardship deferments while they are serving in the Peace Corps. The proposed changes will also apply to the William D. Ford Federal Direct Loan (Direct Loan) Program.

The Secretary also proposes to amend the Federal Perkins Loan Program regulations by eliminating provisions that require borrowers to submit requests for loan deferments and postponements in writing. The proposed changes will make the Federal Perkins Loan Program requirements more consistent with the requirements that apply in the FFEL and Direct Loan programs.

DATES: Comments must be received on or before October 30, 1998.

ADDRESSES: All comments concerning these proposed regulations should be addressed to: Mr. Jon Utz, U.S. Department of Education, PO Box 23272, Washington, DC 20026-3272, or to the following internet address: peacecorps@ed.gov. You must include the term "Peace Corps" in the subject line of your electronic message.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of these comments may also be sent to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT:

1. For the Federal Perkins Loan Program: Ms. Sylvia Ross, U.S. Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

2. For the FFEL Program: Mr. George Harris, U.S. Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

3. For the Direct Loan Program: Mr. Jon Utz, Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3045, Regional Office Building 3, 7th and D Streets, SW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any

regulatory burdens found in these proposed regulations.

General

The Peace Corps has requested that the Secretary provide a less burdensome means for borrowers who are not eligible for a statutory loan deferment or cancellation based on Peace Corps service to apply for economic hardship deferments of their federal student loans while serving in the Peace Corps. The Secretary believes that the service performed by Peace Corps volunteers is important to the national interest, and is proposing to amend the economic hardship deferment eligibility criteria in the federal student loan programs in response to that request. The Secretary is also proposing changes that will make the requirements for requesting a loan deferment or postponement in the Federal Perkins Loan Program more consistent with the requirements that apply in the FFEL and Direct Loan programs. A discussion of each proposed change is provided below.

Sections 674.34 and 682.210 Deferment

In the Federal Perkins Loan Program, which includes National Defense Student Loans (Defense Loans), National Direct Student Loans (NDSLs), and Federal Perkins Loans, the vast majority of borrowers are eligible for categorical deferments based on service as Peace Corps volunteers. Specifically, all Defense Loan borrowers, borrowers with NDSLs made before July 1, 1993, and all Federal Perkins Loan borrowers may defer repayment while serving as Peace Corps volunteers. For Federal Perkins Loan borrowers only, service as a Peace Corps volunteer also qualifies a borrower for loan cancellation. In the FFEL and Direct Loan programs, certain borrowers who received loans prior to July 1, 1993 are entitled by law to defer repayment of their loans while serving as Peace Corps volunteers.

Borrowers who are ineligible for loan deferment or cancellation based on service as Peace Corps volunteers are:

- (1) The small number of borrowers who received NDSLs on or after July 1, 1993;
- (2) FFEL Program borrowers who received loans first disbursed on or after July 1, 1993 and who, at the time they obtained those loans, had no outstanding balance on any FFEL Program loan made before that date; and
- (3) Direct Loan Program borrowers who, at the time they received their first Direct Loans, had no outstanding balance on any FFEL Program loan made before July 1, 1993. In all three loan programs, borrowers who wish to defer repayment of their loans while serving as Peace Corps volunteers, but

who are ineligible for a deferment or cancellation based on Peace Corps service, may apply for deferments based on economic hardship.

The Peace Corps has brought to the Secretary's attention the fact that Peace Corps volunteers who are ineligible for loan deferment or cancellation based on Peace Corps service qualify for economic hardship deferments in the federal student loan programs based on the low monthly stipends that they receive. However, the Peace Corps believes that the unique circumstances under which Peace Corps volunteers serve—in foreign countries, often in inaccessible areas—make it difficult for them to apply for economic hardship deferments in accordance with the requirements imposed by current regulations.

Section 674.34(e) of the Federal Perkins Loan Program regulations establishes the economic hardship deferment eligibility criteria for borrowers with Federal Perkins Loans and NDSLs made on or after July 1, 1993. Section 682.210(s)(6) of the FFEL Program regulations establishes the criteria by which a "new borrower" as defined under § 682.210(s) is eligible for an economic hardship deferment. In accordance with § 685.204(b)(3)(ii) of the Direct Loan Program regulations, economic hardship deferment eligibility for all Direct Loan borrowers is based on the standards set forth in the FFEL Program regulations at § 682.210(s)(6).

Under § 674.34(e)(3) and § 682.210(s)(6)(iii), borrowers are eligible for an economic hardship deferment if they are working full-time and earning a total monthly gross income that does not exceed the greater of the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938, or 100 percent of the poverty line for a family of two, as determined in accordance with section 673(2) of the Community Service Block Grant Act. Peace Corps volunteers currently receive monthly living stipends and other smaller allowances that vary according to the country to which they are assigned. Based on an analysis of data provided by the Peace Corps and current minimum wage rate and poverty line amounts, the Secretary has determined that Peace Corps volunteers meet the criteria for economic hardship deferment under § 674.34(e)(3) and § 682.210(s)(6)(iii).

Federal Perkins Loan Program borrowers who apply for an economic hardship deferment based on the income requirements specified in § 674.34(e)(3) are required by § 674.34(e) to provide documentation showing that they meet those requirements. In

accordance with § 682.210(s)(6)(vii) of the FFEL Program regulations, FFEL and Direct Loan borrowers who apply for an economic hardship deferment under § 682.210(s)(6)(iii) are required to submit evidence showing the amount of their most recent total monthly gross income. In all three loan programs, economic hardship deferments are limited to periods of up to one year at a time that, collectively, do not exceed three years. See § 674.34(e), § 674.38(d), and § 682.210(s)(6). The maximum three year limitation is mandated by sections 428(b)(1)(M)(iii), 455(f)(2)(C), and 464(c)(2)(A)(iii) of the Higher Education Act of 1965, as amended (the HEA). A borrower who applies for a subsequent period of economic hardship deferment that begins less than one year after a deferment granted under § 674.34(e)(3) or § 682.210(s)(6)(iii) is required by § 674.34(e)(7) and § 682.210(s)(6)(viii) to provide a copy of the borrower's federal income tax return, if a tax return was filed within eight months prior to the date of the deferment request.

Peace Corps volunteers generally do not have documentation of the amount of their monthly stipend for living expenses prior to beginning their volunteer service. Since Peace Corps volunteers serve overseas, often in remote areas of underdeveloped countries, the current requirement that borrowers submit documentation of their most recent monthly gross income when applying for economic hardship deferments presents significant logistical difficulties for many volunteers. For the same reason, the provisions that limit individual economic hardship deferments to periods of one year at a time are burdensome for Peace Corps volunteers, who normally serve for a period of 27 months. Under current regulatory requirements, they must reapply for an economic hardship deferment each year, and must submit additional income documentation with each deferment request.

The Secretary has the authority under § 435(o) of the HEA to establish criteria by which borrowers may qualify for economic hardship deferments in the Federal Perkins Loan, FFEL, and Direct Loan programs. Because Peace Corps volunteers meet current regulatory requirements for economic hardship deferments based on the modest stipends that they receive, and because of the unique circumstances under which they serve, the Secretary believes that it is appropriate and in the national interest to establish new criteria that will make it easier for Peace Corps volunteers to apply for economic hardship deferments. The new

economic hardship criteria that the Secretary is proposing are consistent with this provision of the HEA.

The proposed changes will allow Peace Corps volunteers who are ineligible for deferment or cancellation based on Peace Corps service to qualify for economic hardship deferments simply by providing documentation showing that they will be serving as Peace Corps volunteers. Since this documentation will be available to Peace Corps volunteers at pre-service orientation sessions, they will be able to apply for economic hardship deferments while still in the United States. In addition, the Secretary is proposing to eliminate the one-year-at-a-time restriction for economic hardship deferments based on service as a Peace Corps volunteer. This will allow Peace Corps volunteers who have not previously received economic hardship deferments to defer repayment of their loans for up to three years, or for their full term of service in the Peace Corps, whichever is less, without having to reapply each year. Peace Corps volunteers who have received previous economic hardship deferments may defer repayment of their loans for up to their remaining period of eligibility under the statutory three-year limitation, or for their full term of service, whichever is less.

Section 674.38 (Deferment Procedures) and § 674.39 (Postponement of Loan Repayments in Anticipation of Cancellation—Loans Made Before July 1, 1993)

The Secretary believes that, to the extent possible, the requirements for requesting a deferment in the Federal Perkins Loan Program, the FFEL Program, and the Direct Loan Program should be the same. For this reason, the Secretary is proposing to amend § 674.38 and § 674.39 by revising paragraph (a)(1) in each section to eliminate the requirement that a borrower request a deferment or postponement of repayment of a loan in writing. The Secretary believes that a telephone or electronic request to the institution from the borrower is sufficient to initiate the deferment/postponement process. The proposed changes reduce burden for both borrowers and institutions, and make the Federal Perkins Program regulations more consistent with the less restrictive regulations in the FFEL and Direct Loan programs.

Executive Order 12866*1. Potential Costs and Benefits*

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering these programs effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

2. Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 682.210 *Deferment*.) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Mr. Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW, Room 5121, FB-10B, Washington, DC 20202-2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities affected by these proposed regulations are small schools and loan holders that participate in the federal student loan programs.

The changes proposed in this regulation would reduce administrative burden on schools and loan holders by allowing them to process economic hardship deferments for eligible Peace Corps volunteers for more than one year at a time, and would provide schools participating in the Federal Perkins Loan Program with greater flexibility in processing deferment requests. Thus, the proposed regulations are not expected to have an adverse economic impact on small entities.

The Secretary particularly invites comments on the effect that these proposed regulations would have on small entities.

Paperwork Reduction Act of 1995

Sections 674.34 and 682.210 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program—Economic Hardship Deferments.

There is no change to the current burden for this collection. The respondents affected by the proposed regulations (Peace Corps volunteers with federal student loans who are ineligible for loan deferment or cancellation based on Peace Corps service) may currently apply for economic hardship deferments in accordance with existing regulatory requirements. The proposed changes to the economic hardship deferment criteria are not expected to increase the number of respondents or significantly reduce the amount of time needed to respond. Although the documentation requirements for Peace Corps volunteers who apply for economic hardship deferments in the three federal student loan programs will be somewhat simplified, and Peace Corps volunteers will be required to apply only once instead of annually, the Secretary does not believe that the number of volunteers with student loans who apply for economic hardship deferments is large enough to significantly alter the total burden hours for this collection.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC, 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical use;
 - Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 - Enhancing the quality, usefulness, and clarity of the information to be collected; and
 - Minimizing the burden of the collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology; e.g., permitting electronic submission of responses.
- OMB is required to make a decision concerning collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

The Federal Perkins Loan, Federal Family Education Loan, and William D. Ford Federal Direct Loan programs are not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Parts 674 and 682

Administrative practice and procedure, Colleges and universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: September 10, 1998.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.032 Stafford Loan Program; 84.032 PLUS Program; 84.032 Supplemental Loans for Students Program; 84.038 Federal Perkins Loan Program; and 84.268 William D. Ford Federal Direct Loan Program)

The Secretary proposes to amend parts 674 and 682 of title 34 of the Code of Federal Regulations as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

1. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087ii and 20 U.S.C. 421–429, unless otherwise noted.

2. Section 674.34 is amended by revising paragraphs (e) and (e)(2) to read as follows:

§ 674.34 Deferment of repayment—Federal Perkins loans and Direct Loans made on or after July 1, 1993.

* * * * *

(e) The borrower need not repay principal, and interest does not accrue, for periods of up to one year at a time (except that a deferment under paragraph (2)(ii) of this section may be granted for longer than one year at a time) that, collectively, do not exceed 3 years, during which the borrower is suffering an economic hardship, if the borrower provides documentation satisfactory to the institution showing that the borrower—

* * * * *

(2) Is receiving payment—

(i) Under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance; or

(ii) From the Peace Corps while serving as a Peace Corps volunteer;

* * * * *

3. Section 674.38 is amended by revising paragraphs (a)(1) and (d) to read as follows:

§ 674.38 Deferment procedures.

(a)(1) As a condition for receiving a deferment, a borrower shall request the deferment, and provide the institution with all information and documents required by the institution by the date that the institution establishes.

* * * * *

(d) Except for a deferment under paragraph (2)(ii) of section 674.34, the institution shall determine the

continued eligibility of a borrower for a deferment at least annually.

§ 674.39 [Amended]

4. Section 674.39, paragraph (a)(1), is amended by removing the words “in writing”.

PART 682—FEDERAL FAMILY EDUCATION LOAN PROGRAM

5. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

6. Section 682.210 is amended by revising paragraph (s)(6) introductory text and (s)(6)(ii) to read as follows:

§ 682.210 Deferment.

* * * * *

(s) * * *

(6) *Economic hardship deferment.* An eligible borrower is entitled to an economic hardship deferment for periods of up to one year at a time (except that a deferment under paragraph (s)(6)(ii)(B) of this section may be granted for longer than one year at a time) that, collectively, do not exceed 3 years, if the borrower provides documentation satisfactory to the lender showing that the borrower—

* * * * *

(ii) Is receiving payment—

(A) Under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance; or

(B) From the Peace Corps while serving as a Peace Corps volunteer;

* * * * *

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