

Federal Register

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Part II

Department of Education

34 CFR Part 668, et al.
Student Assistance General Provisions,
Federal Perkins Loan, Federal Work-
Study, Federal Supplemental Educational
Opportunity Grant, Federal Family
Education Loan, William D. Ford Federal
Direct Loan, and Federal Pell Grant
Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 675, 676, 682, 685, and 690

Student Assistance General Provisions, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, William D. Ford Federal Direct Loan, and Federal Pell Grant Programs

AGENCY: Department of Education.

ACTION: Notice of relief from regulatory provisions.

SUMMARY: The Secretary announces regulatory relief from specific regulations governing the Federal Perkins Loan, Federal Work-Study (FWS), Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Family Education Loan (FFEL), William D. Ford Federal Direct Loan (Direct Loan), and Federal Pell Grant programs, for the 1994–95, 1995–96, 1996–97, and 1997–98 award years, to assist institutions and individuals who suffered financial harm from the following natural disasters: the Texas floods in October 1994; the California floods in January and March 1995; the Illinois, Louisiana, Mississippi, and Missouri floods in May 1995; the Hurricanes in the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Florida, Alabama, Georgia, and North Carolina in September and October 1995; the Idaho, Maryland, New York, Ohio, Oregon, Pennsylvania, Virginia, Washington, and West Virginia floods in January and February 1996; and the Hurricanes in Maryland, North Carolina, Pennsylvania, Puerto Rico, Virginia, and West Virginia in September 1996.

EFFECTIVE DATE: This document takes effect December 19, 1996.

FOR FURTHER INFORMATION CONTACT: Kathy S. Gause, Senior Program Specialist, Grants Branch, Policy Development Division, Policy, Training, and Analysis Service, U.S. Department of Education, 600 Independence Avenue, S.W., (Regional Office Building 3, Room 3045), Washington, D.C. 20202–5447. Telephone (202) 708–4690. 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.

SUPPLEMENTARY INFORMATION: Many student financial aid applicants and recipients, institutions of higher education, lenders, and guaranty agencies have been adversely affected

by the natural disasters that occurred in 1994, 1995, and 1996. The Secretary recognizes the severe impact the flooding and hurricanes have had on institutions and their students located in the designated natural disaster areas. Many title IV financial aid program participants adversely affected by the natural disasters faced and continue to face problems concerning the administration of the title IV programs. Also, many title IV loan recipients continue to have problems concerning the repayment of their loans.

The title IV student financial aid programs affected by this notice are the FFEL Program which consists of the Federal Stafford Loan (Subsidized and Unsubsidized Loans) Program, the Federal Supplemental Loans for Students (SLS) Program (note: The SLS Program no longer exists, so no new loans are being made. However, this notice applies to the servicing of existing loans.), the Federal PLUS Program, and the Federal Consolidation Loan Program; the Direct Loan Program which consists of the Federal Direct Stafford/Ford Loan (Direct Subsidized Loan) Program, the Federal Direct Unsubsidized Stafford/Ford Loan (Direct Unsubsidized Loan) Program, the Federal Direct PLUS (Direct PLUS) Program, and the Federal Direct Consolidation Loan (Direct Consolidated Loan) Program; the Federal Pell Grant Program; and the Federal Perkins Loan, FWS, and FSEOG programs. To assist victims of the floods and hurricanes in their recovery, this notice provides relief to students, institutions, lenders, and guaranty agencies with respect to their obligation to comply with certain regulatory provisions under the student financial aid programs. Institutions were informed of this relief in Dear Colleague letters dated January 1995 (GEN–95–1), April 1995 (GEN–95–20), July 1995 (GEN–95–36), November 1995 (GEN–95–49), March 1996 (GEN 96–10), and September 1996 (GEN 96–18).

The Secretary has already provided certain regulatory relief to lenders and guaranty agencies in the FFEL Program under section 432(a)(6) of the HEA and 34 CFR 682.406(b) and 682.413(f). The guaranty agency directors were informed of this relief in letters issued after each disaster covered by this notice.

Covered Individuals

This notice is intended to assist institutions and individuals that were adversely affected by the following natural disasters:

(1) The floods in Texas in October 1994—*Relief applicable to the 1994–95*

award period (July 1, 1994 to June 30, 1995);

(2) The floods in California in January and March 1995—*Relief applicable to the 1994–95 award period (July 1, 1994 to June 30, 1995);*

(3) The floods in Illinois, Louisiana, Mississippi, and Missouri in May 1995—*Relief applicable to the 1994–95 award year (July 1, 1994 to June 30, 1995). However, if specifically indicated, relief may be extended into the next award year (July 1, 1995 to June 30, 1996);*

(4) The hurricanes in the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Florida, Alabama, Georgia, and North Carolina in September and October 1995—*Relief applicable to the 1995–96 award year (July 1, 1995 to June 30, 1996). However, if specifically indicated relief may be extended into the next award year (July 1, 1996 to June 30, 1997);*

(5) The floods in Idaho, Maryland, New York, Ohio, Oregon, Pennsylvania, Virginia, Washington, and West Virginia in January and February 1996—*Relief applicable to the 1995–96 award year (July 1, 1995 to June 30, 1996). However, if specifically indicated relief may be extended into the next award year (July 1, 1996 to June 30, 1997); and*

(6) The hurricanes in Maryland, North Carolina, Pennsylvania, Puerto Rico, Virginia, and West Virginia in September 1996—*Relief applicable to the 1996–97 award year (July 1, 1996 to June 30, 1997). However, if specifically indicated relief may be extended into the next award year (July 1, 1997 to June 30, 1998).*

This notice applies to institutions, lenders, and guaranty agencies that were unable to maintain normal participation and interactions with title IV participants because they were located in specific counties in these states on the date on which the President declared the existence of a major disaster. This notice of relief also applies only to individuals who suffered financial harm from the disaster and, at the time the disaster occurred, were residing, attending an institution of higher education, or employed in the counties designated as disaster areas (or, in the case of an individual who is a dependent student, whose parent or stepparent suffered financial harm from such disaster and resided or was employed in such an area at that time). This notice of regulatory relief will be applicable for awards made and collection activities conducted under the title IV programs during the periods listed above.

The following counties were designated as disaster areas:

State	Counties
Flood Disaster in October 1994	
Texas	Angelina, Austin, Bastrop, Brazos, Brazoria, Burleson, Chambers, Fayette, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jackson, Jasper, Jefferson, Lee, Liberty, Madison, Matagorda, Montgomery, Nacagdoches, Orange, Polk, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Victoria, Washington, Waller, Walker, Wharton.
Flood Disasters in January and March 1995	
California	Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernadino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba.
Flood Disasters in May 1995	
Illinois	Madison, St. Claire Louisiana Ascension, Assumption, Jefferson, LaFourche, Orleans (Ward 9), St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne.
Mississippi	Hancock, Harrison, Jackson, Pearl River.
Missouri	Benton, Boone, Cole, Franklin, Gasconade, Jefferson, Johnson, Miller, St. Charles, St. Claire, St. Genevieve, St. Louis.
Hurricane Disasters in September and October 1995	
Commonwealth of Puerto Rico U.S. Virgin Islands	
Alabama	Autauga, Baldwin, Barbour, Bullock, Butler, Calhoun, Chambers, Cherokee, Clarke, Clay, Cleburne, Coffee, Conecuh, Coosa, Covington, Crenshaw, Dale, Elmore, Escambia, Etowah, Geneva, Henry, Houston, Jefferson, Lee, Lowndes, Macon, Mobile, Montgomery, Pike, Randolph, Russell, St. Clair, Talladega, Tallapoosa.
Florida	Bay, Collier, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Lee, Liberty, Leon, Martin, Okaloosa, Palm Beach County, Santa Rosa, Walton, Wakulla, Washington.
Georgia	Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clayton, Cobb, Coweta, Dade, Dawson, De Kalb, Douglas, Fannin, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Gwinnett, Habersham, Hall, Harris, Haralson, Heard, Lumpkin, Meriwether, Murray, Muscogee, Paulding, Pickens, Pike, Polk, Quitman, Rabun, Randolph, Spalding, Stewart, Talbot, Towns, Troup, Union, Upson, Walker, White, Whitfield.
North Carolina	Ashe, Avery, Cherokee, Clay, Graham, Haywood, Jackson, Macon, Madison, Mitchell, Swain, Transylvania, Watauga, Wilkes, Yancey, Eastern Band of the Cherokee Indian Reservation.
Flood Disasters in January and February 1996	
Idaho	Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, Nez Perce Indian Reservation.
Maryland	Allegany, Carroll, Cecil, Frederick, Garrett, Washington.
New York	Albany, Allegany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Greene, Herkimer, Montgomery, Orange, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren.
Ohio	Adams, Belmont, Brown, Clermont, Columbiana, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, Washington.
Oregon	Benton, Clackamas, Clatsop, Columbia, Coos, Deschutes, Douglas, Gilliam, Hood River, Jefferson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Yamhill, Confederated Tribes of Umatilla Indian Reservation, Warm Springs Indian Reservation.
Pennsylvania	All counties.
Virginia	Alleghany, Augusta, Bath, Bland, Botetourt, Clarke, Frederick, Giles, Grayson, Highland, Loudoun, Page, Rappahanock, Rockbridge, Rockingham, Shenandoah, Warren, Washington, Wythe, City of Buena Vista, City of Covington, City of Harrisonburg, City of Waynesboro.
Washington	Adams, Asotin, Benton, Clark, Columbia, Cowlitz, Garfield, Grays Harbor, King, Kitsap, Kittitas, Klickitat, Lewis, Lincoln, Pierce, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, Walla Walla, Whitman, Yakima, Yakima Indian Reservation.
West Virginia	Berkeley, Brooke, Grant, Greenbriar, Hampshire, Hancock, Hardy, Jefferson, Marshall, Mason, Mercer, Mineral, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Raleigh, Randolph, Summers, Tucker, Tyler, Webster, Wetzel, Wood.
Hurricane Disasters in September 1996	
Maryland	Allegany, Frederick.

State	Counties
North Carolina	Alamance, Beaufort, Bertie, Bladen, Brunswick, Carteret, Chatham, Columbus, Craven, Cumberland, Duplin, Durham, Edgecombe, Franklin, Granville, Greene, Guilford, Halifax, Harnett, Henderson, Hoke, Johnston, Jones, Lee, Lenoir, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Polk, Richmond, Robeson, Rutherford, Sampson, Vance, Wake, Warren, Wayne, Wilson.
Pennsylvania	Huntingdon, Juniata, Mifflin, Montgomery, Perry.
Commonwealth of Puerto Rico	Arroyo, Bayamon, Canovanas, Carolina, Cayey, Ceiba, Guayama, Guaynabo, Gurabo, Las Piedras, Loiza, Maunabo, Ponce, Rio Grande, Salinas, San Juan, San Lorenzo, Santa Isabel, Toa Baja, Yabucoa.
Virginia	Augusta, Clarke, Danville (City), Halifax, Harrisonburg (City), Madison, Martinsville (City), Mecklenburg, Nelson, Page, Pittsylvania, Rappahannock, Rockbridge, Rockingham, Shenandoah, Staunton (City), Warren, Waynesboro (City).
West Virginia	Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton, Randolph, Tucker.

The Secretary provides the following enforcement relief from the statutes and regulations governing the student financial aid programs under title IV of the HEA:

I. 34 CFR Part 668—Student Assistance General Provisions

A. 34 CFR 668.19 Financial Aid Transcript

Under current regulations, before a student who previously attended another eligible institution may receive any title IV, HEA program funds, the institution to which the student is transferring must make an effort to obtain the student's financial aid transcript. The Secretary is waiving the requirement to obtain financial aid transcripts before disbursing funds for individuals who attended institutions covered by this notice for the 1994–95, 1995–96, 1996–97, and 1997–98 award years. If the financial aid transcript is not available as a result of damage caused by the disasters covered in this notice, the institution may disburse title IV funds. Any institution affected by this situation must document in the student's file that the financial aid transcript is unavailable due to damage stemming from the natural disaster. In addition, the student will still be expected to provide statements concerning all prior financial aid received, and the institution will be expected to retain this information in the student's file.

B. 34 CFR 668.51–668.61 Subpart E—Selection of Applicants for Verification

The Secretary is waiving verification requirements under 34 CFR 668.51–668.61 during the 1994–95, 1995–96, 1996–97, and 1997–98 award years for those applicants who are selected for verification and whose records were lost or destroyed because of the disasters covered by this notice. The institution must document in the student's file that the records are unavailable due to damage stemming from the natural disaster. For these students, Verification Status Code "S" may be used when

reporting a Federal Pell Grant disbursement on the SAR.

II. 34 CFR Part 690—Federal Pell Grant Program

34 CFR 690.83 Submission of Reports

The Secretary modifies the deadline in 34 CFR 690.83(a)(1)(i) for submitting SAR payment Vouchers (or SAR payment data for 1996–97) for an award year. The Secretary will modify this reporting date, on a "case-by-case" basis, for institutions affected by the disasters covered by this notice.

III. 34 CFR Part 674—Federal Perkins Loan Program

1. 34 CFR 674.31 Promissory Note

The terms of a student's promissory note require that repayment of a loan must begin six (6) or nine (9) months after a borrower ceases to be at least a half-time regular student and that the repayment period normally ends 10 years later. The Secretary is modifying this provision to provide that any borrower who was in an "in-school" status at the time the natural disaster occurred and was unable to complete course requirements or enroll in classes due to the disaster will continue to be in an "in-school" status until such time as the borrower withdraws or until the end of the award year in which the disaster occurred, whichever is earlier. The institution must document this reason for continued "in-school" status in the student's file.

2. 34 CFR 674.42 Contact With the Borrower

The Secretary will not require an institution to comply with the provisions of § 674.42(b). This section requires an institution to make contact with the borrower during an initial or postdeferment grace period if that grace period coincides with the disasters covered by this notice. The Secretary suspends this requirement until the institution is able to resume normal contact with the borrower. An institution must document the reason

for suspension of these activities in the borrower's file.

3. 34 CFR 674.41–674.50 Subpart C—Due Diligence

The Secretary will not enforce 34 CFR 674 Subpart C—Due Diligence. An institution may suspend the collection activities with regard to borrowers residing in the designated disaster areas who were already in default at the time of the natural disaster until the institution is able to resume normal contact with the borrower. An institution must document the reason for suspension of these activities in the borrower's file.

4. 34 CFR 674.33 Repayment

The Secretary modifies the provisions for repayment in 34 CFR 674.33 and authorizes an institution to grant a forbearance to a borrower who is in repayment at the time of the natural disaster but who is unable to continue to repay the loan due to the disaster. Interest will accrue during any period of forbearance. A borrower may request this forbearance orally, or in writing, and is not required to submit documentation to be considered eligible. The forbearance may be granted in accordance with 34 CFR 674.33(d). This period of forbearance is counted toward the 3-year maximum limit on the number of years of forbearance that may be granted to a borrower. Documentation must be maintained according to the governing regulations.

IV. 34 CFR Part 682—Federal Family Education Loan (FFEL) Program

A. 34 CFR 682.604 Processing the Borrower's Loan Proceeds and Counseling Borrowers

To assist affected individuals, the Secretary will not enforce the requirement in 34 CFR 682.604(c)(3) (i) and (ii) and 682.604(e)(3) that loan proceeds be delivered to the borrower within 45 days of the school's receipt of the check, but will instead permit the institution to deliver loan proceeds to the borrower up to 120 days from the

institution's receipt of the check. The Department still expects delivery of a borrower's loan proceeds as soon as possible.

Also, because some institutions may have to delay opening or have ceased operation for an undetermined period of time, the Secretary authorizes lenders not to disburse loan checks to institutions or to parent PLUS borrowers in the affected areas until the lenders receive revised disbursement schedules from the affected institutions. The Secretary instructs guaranty agencies and lenders to revise information on loan periods, graduation dates, and so forth, on the loan applications related to these disbursements as the information becomes available. This means that a borrower need not reapply for the loan. This also will allow a student to receive his or her loan proceeds according to a schedule that fits the institution's new academic schedule.

B. 34 CFR 682.605 Determining the Date of a Student's Withdrawal

Section 682.605 requires an institution to follow the procedures in 34 CFR 682.22(j) for determining a student's date of withdrawal. The Secretary modifies the provisions for determining withdrawal dates to permit an institution affected by a disaster to take a longer period to determine that a student has withdrawn from the institution. An affected institution may make a determination of withdrawal *within 60 days* (instead of 30 days) after the expiration of the earlier of: (a) the loan period; (b) the academic year in which the student withdrew; or (c) the educational program from which the student withdrew.

In the case of a student who does not return for the next scheduled term following a summer break, the school may make a determination of withdrawal no later than *60 days* (instead of 30 days) after the first day of the next scheduled term.

C. 34 CFR 682.607 Payment of a Refund to a Lender

The Secretary will not enforce the deadlines by which an affected institution shall pay a refund that is due to a lender, within 60 days after the student's withdrawal as determined under 34 CFR 682.22(j)(3) or within 30 days in the case of a student who does not return to the institution at the expiration of an approved leave of absence. Instead, the Secretary will require the institution to pay a refund to the lender *within 120 days* (instead of 60) after the student's withdrawal or *within 60 days* (instead of 30) after the last day of the leave of absence.

D. 34 CFR 682.610 Administrative and Fiscal Requirements for Participating Schools

The Secretary modifies the deadline in 34 CFR 682.610(c). That section requires an institution to complete and submit required Student Status Confirmation Reports (SSCRs) to the Secretary or guaranty agency within 30 days of the institution's receipt of the report. Under the modification, an institution must complete and submit these reports *within 90 days* of the institution's receipt of the report.

Current regulations require that unless a school expects to submit its next SSCR within the next 60 days, reports of changes of borrower status must be submitted within 30 days of the discovery of the change. This deadline is also modified to allow schools to report changes of borrower status *within 90 days* (instead of 30 days).

V. 34 CFR Part 685—William D. Ford Federal Direct Loan Program

A. 34 CFR 685.306 Payment of a Refund to the Secretary

The Secretary will not enforce the deadlines by which an affected institution must pay a refund that is due to the Secretary after the student's withdrawal as determined under 34 CFR 682.22(j)(3). Instead, the Secretary will require the institution to pay a refund to the Secretary *within 120 days* (instead of 60 days) after the student's withdrawal.

B. 34 CFR 685.204 Deferment and 685.207 Obligation to Repay

The Secretary is modifying the provisions 34 CFR 685.204 and 685.207, to consider each Direct Subsidized and Direct Unsubsidized loan that has not entered repayment on the date the borrower's attendance at the school was interrupted due to the disaster to have been in an "in-school" status and to continue in that status until the school resumes normal operations. This period of disaster-related nonattendance does not start a borrower's grace or repayment period.

Further, each Direct Subsidized and Direct Unsubsidized loan that was in repayment status and not in a default status on the date the borrower's attendance at the institution was interrupted due to disaster, is to be considered in an in-school deferment status during the period of disaster-related nonattendance provided the borrower qualified for an in-school deferment when the borrower's attendance was interrupted. This interim period of nonattendance should not force a borrower back into repayment. The institution must

document this reason for continued "in-school" status in the student's file.

C. 34 CFR 685.309 Administrative and Fiscal Control and Fund Accounting Requirements for Schools Participating in the Direct Loan Program

The Secretary modifies the deadline in 34 CFR 685.309(b). That section requires an institution to complete and submit required Student Status Confirmation Reports (SSCRs) to the Secretary within 30 days of the institution's receipt of the report. Under the modification, the institution must complete and submit these reports *within 90 days* of the institution's receipt of the report.

Current regulations require that unless a school expects to submit its next SSCR within the next 60 days, reports of changes of borrower status must be submitted within 30 days of the discovery of the change. This deadline is also modified to allow schools to report changes of borrower status *within 90 days* (instead of 30 days).

Waiver of Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the severe impact of the ongoing occurrences of disasters has caused national emergencies which have been recognized by Congress. The Secretary, recognizing the severe devastation of the hurricane and flood victims, finds that soliciting further public comment with respect to these regulations is unnecessary and would be contrary to the public interest under 5 U.S.C. 553(b)(B).

Regulatory Flexibility Act Certification

The Secretary certifies that this notice will not have a significant economic impact on a substantial number of small entities. Small entities affected by this notice are small institutions of higher education. This notice provides temporary regulatory relief and will not increase institutions' workload, or costs associated with administering the title IV, HEA programs. Therefore, it will not have a serious economic impact on a substantial number of small entities.

Assessment of Educational Impact

The Secretary has determined that this notice does not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

(Legal Authority: 20 U.S.C. 1082, 34 CFR 682.406(b) and 682.413(f))

(Catalog of Federal Domestic Assistance
Numbers: 84.268 William D. Ford Federal
Direct Loan Program; 84.032 Federal Family
Education Loan Program; 84.038 Federal
Perkins Loan Program; 84.007 Federal
Supplemental Educational Opportunity
Grant Program; 84.033 Federal Work-Study
Program; 84.063 Federal Pell Grant Program)

Dated: November 12, 1996.

Richard W. Riley,

Secretary of Education.

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