

Session #47



FFEL, Direct Loan, and Perkins Loan Policy Issues of Interest to Schools

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Overview of Issues

FFEL and Direct Loan Program

- ❑ “New” Teacher Loan Forgiveness Provisions
- ❑ Loan Eligibility and Certification Issues
 - Additional Unsubsidized Stafford for Dependent Students
 - Professional Judgment in Reducing or Refusing to Certify
- ❑ Late Disbursement Issues

Overview of Issues (cont.)

All Title IV Loans

- Eligibility after Total and Permanent Disability Discharge
- Eligibility after Bankruptcy Filing
- General Disaster Guidance
- HEROES Act and Notice

Overview of Issues (cont.)

Perkins Loan

- PART
- Funding
- MPN Implementation
- Initiatives
- Assignment and Cohort Calculations

“New” Teacher Loan Forgiveness Provisions

❑ H.R. 5186 – Taxpayer-Teacher Protections Act of 2004

Loan forgiveness of up to \$5,000 if teacher:

- Teaches five years in an elementary or secondary school with 30% or more Title I enrollment
- Is “highly qualified”

“New” Teacher Loan Forgiveness Provisions

- “Highly Qualified” teachers are:
 - Those who are fully certified or passed a state licensing exam and are licensed by State in which teacher teaches
 - New teachers who hold a B.A. and pass a rigorous state test demonstrating knowledge and teaching skills; secondary teachers also must complete major, graduate degree, or coursework equivalent to a major in teaching areas
 - Other teachers who demonstrate competence in subject areas in which they teach based on uniform state standards

“New” Teacher Loan Forgiveness Provisions

- ❑ Loan forgiveness up to \$17,500 if teacher:
 - Meets above requirements AND
 - Teaches special education in elementary or secondary school OR
 - Teaches math or science in secondary school

“New” Teacher Loan Forgiveness Provisions

- ❑ Teachers who began qualifying service before new law was enacted:
 - Do not have to meet the new requirements to get the \$5,000, but
 - Must meet the new requirements to get the \$17,500.

“New” Teacher Loan Forgiveness Provisions

- Immediate Implementation
- DCL summarizing provisions is under development
- Current application form to be revised

Additional Unsubsidized Loan Eligibility for Dependent Students

- ❑ Dependent Student Eligible Only If:
 - Parent ineligible for PLUS due to adverse credit
 - Parent likely precluded from borrowing PLUS under documented exceptional circumstances
- ❑ Examine use of endorser for PLUS eligibility

Additional Unsubsidized Loan Eligibility for Dependent Students

- ❑ Guidelines for certifying/originating include:
 - Parent’s unwillingness to borrow PLUS does not qualify the dependent
 - FAO’s belief that parent should not borrow PLUS does not qualify the dependent
 - Only one parent must be denied. However, if both apply and one is eligible, the dependent is ineligible

Additional Unsubsidized Loan Eligibility for Dependent Students

- ❑ Guidelines for certifying/originating include:
 - Adverse credit denial in one year is not applicable in subsequent years
 - PLUS eligibility or dependent eligibility can happen any time in academic year

Additional Unsubsidized Loan Eligibility for Dependent Students

- ❑ Documented “Exceptional” Circumstances
- ❑ Regulatory Examples; Not an Exhaustive List
 - Incarcerated Parent
 - Parent Whereabouts Unknown

Additional Unsubsidized Loan Eligibility for Dependent Students

- Parent with limited income – low earnings, public assistance, or disability benefits
 - FFEL Program – Documented evidence lender has or will deny a PLUS loan due to income-to-debt, ability to repay, or other credit standards
 - DL Program – School documents inability to pay due to income-to-debt ratio, existing debt burden, or limited income.

Exercising Professional Judgment in Declining/Reducing Loans

- ❑ Case-by-case
- ❑ Documented
- ❑ Written explanation to student of reason
- ❑ No discrimination – race, sex, color, income, religion, national origin, age, handicapped status, or choice of lender or guaranty agency

Exercising Professional Judgment in Declining/Reducing Loans

- ❑ No policy of covering school charges only
- ❑ No “mandatory” use of preferred lender
- ❑ No use of required credit checks
- ❑ No loan without Pell eligibility determination and application (if applicable); No unsub loan without subsidized eligibility and application (\$ tolerance)

Late Disbursement

34 CFR 668.164(g)

- ❑ Borrower must have had a period of eligibility before < half-time or withdrawal
- ❑ New borrower subject to 30-day delay must complete 30 days
- ❑ Late second disbursement only if successfully completed the period of enrollment
- ❑ Certification/origination must take place while borrower still enrolled and otherwise eligible; for Perkins, awarding must take place
- ❑ ISIR/SAR with official EFC
- ❑ Costs for FFEL/DL limited to documented educational costs

Late Disbursement

34 CFR 668.164(g)

- ❑ Timeframes:
 - 120 days after date of withdrawal determination
 - 120 days after date of ineligibility
 - After 120 days – with Secretary's approval if student not at fault

Late Disbursement

34 CFR 668.164(g)

- ❑ Post 120-day request:
 - School's name and OPE ID
 - Contact person's name, title, phone and fax numbers, and e-mail address
 - Student's name and SSN (and parent's name and SSN for PLUS)
 - Type and amount of Title IV to be disbursed
 - Explanation of why the disbursement was not made, including why it was not the student's fault

Late Disbursement

34 CFR 668.164(g)

- ❑ Post 120-day request:
 - For Pell Grant:
 - Award Year
 - Payment period begin and end dates
 - Date student completed the payment period or withdrew from school
 - For FFEL and Direct Loans:
 - Loan type (sub, unsub, or PLUS)
 - The date the loan was certified or originated
 - Loan period begin and end dates

Late Disbursement

34 CFR 668.164(g)

- ❑ Post 120-day request:
 - For FFEL and Direct Loans:
 - Did the student complete the loan period?
 - If the student did not complete the loan period, on what date did the student cease to be enrolled at least half-time?
 - Is this the first disbursement of the loan or is it a second or subsequent disbursement?
 - The lender's name, for FFEL
 - Award ID, for Direct Loan

Late Disbursement

34 CFR 668.164(g)

- ❑ Contact Information:
 - FAX to:
 - COD School Relations Center
 - Late Disbursement Request
 - (877) 623-5082
- ❑ FSA notifies school by e-mail

Post-TPD Discharge Eligibility

- ❑ November 1, 2000: Regulations changed eligibility for Post-TPD Discharge borrowers
- ❑ Eligibility requirements vary depending upon date of TPD Discharge
 - Before July 1, 2001
 - On or after July 1, 2001 and before July 1, 2002
 - On or after July 1, 2002
- ❑ Refer to ISIR Codes and Comments

Post-TPD Discharge Eligibility

- ❑ Discharge before July 1, 2001
 - Certification from physician that borrower can engage in substantial gainful activity (i.e., no longer TPD)
(NOTE: Need one per school)
 - Borrower statement acknowledging no discharge of new loan for pre-existing conditions unless substantial deterioration
(NOTE: Need each loan)

Post-TPD Discharge Eligibility

- ❑ Discharge on or after July 1, 2001 and before July 1, 2002 with new loan request within 3 years of TPD date:
 - Physician Certification
 - Borrower Acknowledgement Statement
 - Reaffirmation of Discharged Loan
- ❑ After 3 years from TPD date only certification and borrower acknowledgement required

Post-TPD Discharge Eligibility

❑ Reaffirmation

- If ISIR Discharge Date is within 3 years of new loan request, contact holder to identify 3 years from TPD date
- If reaffirmed, requires new promissory note or signed repayment schedule
- Do not certify/originate before holder confirms reaffirmation
- If defaulted prior to discharge, reaffirmed loan retains default status and satisfactory repayment arrangements* required

*SRA also applies during conditional period for conditional discharge

Post-TPD Discharge Eligibility

- ❑ Discharge on or after July 1, 2002
 - If final discharge granted – same as before July 1, 2001
 - If “conditional” discharge –
 - Physician certification and borrower acknowledgement for new loan
 - Borrower acknowledgement that neither new loan nor conditionally discharged loan are dischargeable now or in the future based on pre-existing condition unless substantial deterioration
 - Collection resumes on conditional loan and prior status applies

Eligibility After Bankruptcy Filing

- ❑ Bankruptcy Reform Act of 1994 – (Pub L. 103-394)
 - No denial of grant or loan to a person who has filed or received a discharge in bankruptcy

- ❑ 1998 Amendments to HEA
 - Eliminates bankruptcy discharge to borrowers in repayment for seven years; borrowers must prove undue hardship

Eligibility After Bankruptcy Filing

- ❑ Change in operational treatment for eligibility of borrowers who have filed for bankruptcy
 - Direct Loans [DLB-04-14 (May 2004), 04-17 (June 2004)]
No longer closing out MPNs for filing borrowers and requiring new MPNs; no longer rejecting disbursements after filing
 - Also applicable to FFEL and Perkins borrowers
- ❑ Changed approach based on decision that loans and disbursements under MPN are clearly identifiable by date before and after filing
- ❑ Filing borrowers in default remain ineligible without satisfactory repayment arrangements; voluntary SRA does not violate “stay of collections”

General Disaster Guidance

GEN-04-04, February 2004:

- ❑ General guidance for Federal-declared disasters
 - Supplements 2003-2004 SFA Handbook and Disaster Letter 99-28, August 1999
 - Presidential declaration necessary
 - Documentation required
 - Maintains “in-school” status for borrowers whose attendance is interrupted
 - Requires contact with ED’s case management team for borrowers in repayment or default
- ❑ GEN 04-09, September 2004: Notice to extend various school reporting deadlines for Hurricane Affected Schools

HEROES Federal Register Notice

- ❑ HEROES Bill (P.L. 108-76, Aug. 18, 03)
- ❑ Authorized ED to publish FR notice of waivers/mods to HEA & program regs for applicants & recipients of TIV who:
 - Are serving on active duty during war or military operation/national emergency
 - Are performing qualifying National Guard duty during a war or military operation/national emergency

HEROES Federal Register Notice

- Authorizes waivers/modifications to HEA & program regs for applicants and recipients of TIV who:
 - Reside or are employed in a disaster area

 - Suffered direct economic hardship because of a war or national emergency

HEROES Federal Register Notice

- ❑ FR Notice published Dec. 12, 2003
 - <http://ifap.ed.gov/fregisters/fr12122003.html>
- ❑ Excludes all military service from Title IV borrower's initial grace period
- ❑ Requires loan holders to keep affected individuals in an "in-school" status or "in-school" deferment
- ❑ Waives collection on defaulted loans while borrower is an affected individual

HEROES Federal Register Notice

- ❑ Military service does not interrupt service required for loan cancellation
- ❑ Military service does not interrupt required consecutive payments to rehabilitate or make satisfactory repayments arrangements to regain eligibility or consolidate a Title IV loan

HEROES Federal Register Notice

- Waives written request, written agreement and supporting documentation for initial periods of forbearance for Perkins borrowers
- Requires documentation beyond initial forbearance for Perkins borrowers
- Periods of forbearance for Perkins borrowers do not count against 3 year limit.

HEROES Federal Register Notice

- Waives supporting documentation for initial periods of forbearance for FFEL/DL borrowers
- Requires documentation beyond initial forbearance for FFEL/DL borrowers

HEROES Federal Register Notice

- For Perkins, FFEL and DL borrowers eligible for a military deferment:
 - Military service as an affected individual does not count against 3 year limit
 - Waives supporting documentation for initial periods of military deferment
 - Requires documentation beyond initial period of military deferment

OMB's Perkins Loan Program Assessment Rating (PART)

- ❑ Government Performance & Results Act requires all Federal programs to have measurable goals and objectives
- ❑ President's Management Council developed 5-point plan to improve efficiency & effectiveness of Federal programs
- ❑ OMB developed Program Assessment Rating tool (PART) to assess the effectiveness of Federal Programs

OMB's Perkins Loan Program Assessment Rating (PART)

- ❑ PART consists of 30 weighted questions divided into 4 sections:
 - Program Purpose and Design
 - Strategic Planning
 - Program Management
 - Program Results
- ❑ OMB issues rating for each program
- ❑ Final results released each year as part of the President's budget

OMB's Perkins Loan Program Assessment Rating (PART)

- ❑ Federal Perkins Loan Program rated ineffective
- ❑ Program was deemed redundant and duplicative due to existence of FFEL and Direct Loan Program
- ❑ Funding request was eliminated from the President's FY05 budget request
- ❑ Bringing Perkins on Budget
 - FOCUS Group: Thursday, December 2 Versailles 1 & 2, 4:45 pm

Perkins Loan Program Budget/Appropriations

- ❑ **President's FY05 Budget Request (AY 05-06)**
 - New FCC: 0
 - Cancellation: \$66,665,000
- ❑ **House FY05 Appropriations (AY 05-06)**
 - New FCC: 0
 - Cancellation: \$66,665,000
- ❑ **Senate FY05 Appropriation (AY 05-06)***
 - New FCC: \$98,764,000
 - Cancellation: \$66,665,000

*Maintains FY 2004 (AY 04-05) funding levels

Perkins Loan Program Budget/Appropriations

- ❑ Congress passed Omnibus Appropriations Bill – HR 4814 – on November 20, 2004 funding 13 Federal agencies
- ❑ House & Senate Final Conference Perkins Loan Appropriation (AY 05-06)
 - New FCC: 0
 - Cancellation: \$66,131,680

Perkins Loan Program MPN Implementation

- Implementation Guidance:
 - Dear Colleague Letter CB-03-14
 - <http://ifap.ed.gov/dpcletters/CB0314.html>
 - 2004-2005 FSA Handbook, Vol. 6, Chap.3

- Implementation date:
 - Must be used for all new loans on or after November 1, 2004

Perkins Loan Program MPN Implementation

- Perkins MPN does not change the lending process:
 - Determine borrower eligibility
 - Ensure a signed prom note covers loan
 - Provide loan disclosures/notices under Sec. 674.16(a) & Sec. 668.165(a) (can be provided electronically through a secure website)
 - Disburse, service and collect

Perkins Loan Program MPN Implementation

- Options for use of MPN:
 - School may choose annual or multi-year use
 - Annual note: Borrower signs once each year for all loans made that year
 - Multi-year: Borrower signs one MPN for all loans made until note expires
 - Borrower may choose annual note if s/he notifies school in writing

Perkins Loan Program MPN Implementation

- MPN Expiration Provisions-No further loans made under MPN after earliest of:
 - The date the school receives borrower’s written request for no further MPN loans
 - 12 months after signature date if no disbursement has been made under MPN
 - 10 years after the signature date or date of school’s receipt of MPN

Perkins Loan Program MPN Implementation

- ❑ MPN format and text cannot be changed [except bracketed text]
- ❑ MPN requires subsidiary record of disbursements and adjustments for enforcement purposes
- ❑ Use electronic MPN in accordance with ED E-signature Standards
 - Dear Colleague GEN-01-06, May 2001
 - <http://ifap.ed.gov/dpcletters/gen0106.html>

ED Perkins Loan Program Initiatives

- Proposed NSLDS Data Quality Initiative and Federal Perkins Loan Compliance Initiative
 - Identify schools with high volumes of aged defaulted loans
 - Review consistency/quality of Perkins Loan NSLDS reporting and due diligence
 - Assess administrative capability and recommend improvements/assignment

Assignment of Defaulted Perkins Loans

- ❑ IT'S EASY TO ASSIGN!!
- ❑ Assignment form redesigned for easier batch submissions
- ❑ Supporting documentation streamlined
- ❑ Partial electronic process instituted
- ❑ <http://ifap.ed.gov/dpcletters/cb0312.html>

Consolidation & Perkins Loan Cohort Default Rates

- ❑ 34 CFR 674.5(b) – Defines cohort default rate as the percentage of current and former students “*who enter repayment*” in an award year and default before the end of the following award year
- ❑ Borrowers who consolidate in their grace period do not enter repayment and aren’t included in calculation at all

Technical Assistance

We appreciate your feedback and comments. We can be reached at:

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