



Session 33

FFEL and Direct Loan Policy Issues

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FEDERAL STUDENT AID



Overview of Issues

FFEL and Direct Loan Program

- Legislative Update
- Update -“New” Teacher Loan Forgiveness Provisions
- Update – HEROES ACT
- Loan Eligibility and Certification Issues
 - Additional Unsubsidized Stafford for Dependent Students
 - Professional Judgment in Reducing or Refusing to Certify





Overview of Issues

- Loan Eligibility and Certification Issues (cont.)
 - Eligibility after Total and Permanent Disability Discharge
 - Eligibility after Bankruptcy Filing
 - Applicable Loan Limits
- General Disaster Guidance
 - Additional Hurricane Katrina Guidance





Congressional Activity

- Fiscal Year 2006 Appropriations (October 1, 2005 – September 30, 2006)
- HOUSE – H.R. 3010 (6/24/2005) – Appropriations Bill for Labor, HHS, and Education Enacted
 - 6/27/05 – H.R. 3010 Referred to Senate
- SENATE – 7/14/2005 – Senate Appropriations Committee Reports Out Senate Bill
 - Pending: Senate Floor Action
 - Continuing Resolution – Enacted 9/30/2005 – 11/18/2005





Congressional Activity

HEA REAUTHORIZATION

- HEA Extension – P.L. 109-81 (9/30/05) – Expires 12/31/05
- House – H.R. 609 – Mark-up of HEA Bill – Concluded week of 7/25/05
- Senate – S. 1614 – Mark-Up Concluded 9/8/05
- Senate – Senate Budget committee passes S. 1873 cutting 7 billion in student loan savings with HEA REAUTH. attached





Congressional Activity

Budget Reconciliation

- May become Reauthorization for Student Loan Programs
- \$11 Billion Savings Target for Education





H.R. 609

- Increases annual UG and GRAD loan limits; no change in aggregates
- Maintains variable interest rate for Stafford Loans
- Makes increased Teacher Loan Forgiveness permanent
- Reinstates expired waivers – multiple disbursement and 30-day delay
- Requires collection of 1% insurance premium in FFELP
- Reduces FFELP origination fees and DL fees progressively:
 - FFEL 3% to 1% by 2010
 - DL 4% to 1% by 2010





H.R. 609

- Prohibits repayment incentive program and waiver of fees in DL Program
- Establishes new loan forgiveness categories
- Standardizes FFEL & DL Loan repayment plans except for ICR and adds “delayed repayment plan”





H.R. 609

- Makes “active duty” military personnel independent students
- Reinstates up to 3-year military service deferment in FFEL and DL for loans first disbursed July 1, 1993
- Limits school FFELP lenders to lending to grad/professional students; all earnings except admin. expenses must be used for need-based aid





H.R. 609

Consolidation Program:

- Implements dual interest rate with choice of variable or fixed rate for applicants on/after July 1, 2006
- Eliminates single- holder rule
- Eliminates spousal consolidation
- Makes DL and FFEL terms and conditions identical
- Eliminates DL “in-school” Consolidation and FFEL “early conversion to repayment” consolidation





S. 1614

- Increases annual loan limits UG and Grad with no change in aggregates

Also:

- Increase to \$7,000 unsub limit for graduate prerequisite coursework
- Authorizes PLUS for graduate/professional students
- Maintains July 1, 2006 fixed interest rate for Stafford and PLUS loans; increases PLUS cap from 7.9% to 8.5%
- Maintains Consolidation Loan fixed interest rate
- Repeals single-holder rule





S. 1614

- Removes mandatory DL origination fee and establishes 1% up to 3% fee; 4% for PLUS loans
- Maintains current up to 3% FFELP origination fee with additional 1% for loans disbursed on/after April 1, 2006





S. 1614

- Makes no change in borrower repayment terms except new forgiveness for DL ICR in public sector job for 10 years
- Military Service deferment for up to 3 years for loans first disbursed July 1, 2001
- Places moratorium on FFELP school as lender authority, requires loan held until grace period, and requires all earnings except admin. expenses to be used for need-based aid





Update - “New” Teacher Loan Forgiveness Provisions

- P.L. 108-409 – Taxpayer-Teacher Protections Act of 2004 – enacted October 30, 2004
- DCL GEN – 04 -14 Summarizes Provisions
- Expired September 30, 2005
- Return to prior requirements and amounts in section 428J of HEA and 34 CFR 682.215 and section 460 and 34 CFR 682.217 if “new borrower” on/after October 1, 2005





Update - “New” Teacher Loan Forgiveness Provisions

- 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”





Update - “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 teacher areas
 - Other teachers who demonstrate competence in subject areas in which they teach based on uniform state standards





Update - “New” Teacher Loan Forgiveness Provisions

- 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





Update - “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





Update - “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.





Update - “New” Teacher Loan Forgiveness Provisions

- All BIA Schools are considered Eligible Low Income Schools
- Statutory interpretation of “highly qualified” changed – No longer tied to NCLB date of enactment





Update - HEROES ACT

- HEROES ACT (Public Law 108-76, August 18, 2003)
- Extended by P.L. 109-78 (9/30/05) until September 30, 2007
- Authorized ED to publish Federal Register Notice of Waivers and Modifications to HEA and Program regulations for applicants and recipients of Title IV aid who:





HEROES ACT

- Reside/employed in a disaster area
- Suffered direct economic hardship because of a war or national emergency
- Are serving on active duty during a war or other military operation or national emergency
- Are performing qualifying National Guard duty during a war or other military operation or national emergency





HEROES Federal Register Notice

- Federal Register Notice of Waivers and Modifications – December 12, 2003; also October 20, 2005 extending 12/1/03 guidance
- 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





HEROES Federal Register Notice

- Waives collection on defaulted loans while borrower is an affected individual
- Requires documentation beyond initial period of forbearance for borrowers in repayment
- Military service does not interrupt required consecutive payments to rehabilitate or make satisfactory repayment arrangements - may lapse





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.





Additional Unsubsidized Loan Eligibility for Dependent Students

- Other Recognized Circumstances
 - Eligible Dependent Child of non-U.S. citizen or non-permanent resident
 - Official Letter or Ruling from Bankruptcy Court stating no additional debt may be acquired by filer





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)





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





Post-TPD Discharge Eligibility

- Reaffirmation
 - 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





Post-TPD Discharge Eligibility

- 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





Eligibility After Bankruptcy Filing

- 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”





Applicable Loan Limits Eligibility

- One-year Program normally completed full-time in one-year = maximum 1st year limits
- Two-year Program normally completed full-time in two-years = maximum 2nd year limits





Applicable Loan Limits Eligibility

- Consecutive one-year certificate programs
 - No more than 1st year limits for each certificate program
 - No linking of separate, stand-alone programs
- Grade level for loan limits based on school academic standards; may not coincide with start of new academic year.





Applicable Loan Limits Eligibility

- Grade level progression for increased loan limits within academic year
 - Applies only to standard term programs
 - Loan limit up to difference between the two loan limits for period of increased eligibility
 - Certify / originate new loan only for period reflecting progression

OR

- Handle as adjustment of current loan if lender allows





Applicable Loan Limits Eligibility

- Prerequisite coursework:
 - pre-undergraduate degree/certificate = up to \$2,625 (sub/unsub) plus possible up to \$4,000 additional unsub
 - Post-baccalaureate required for graduate/professional degree = up to \$5,500 (sub/unsub) plus possible up to \$5,000 additional unsub
 - Associate or Baccalaureate degree required for non-graduate/professional degree program = up to \$3,500 (sub/unsub) plus possible up to \$5,000 additional unsub





Applicable Loan Limits Eligibility

- Transfer student with transfer credits or advanced standing due to prior college credit or degree/certificate not required for admission = 2nd year loan limits or higher
- Post-baccalaureate for Teacher credential or certification awarded by the State
 - Up to \$5,500 (sub/unsub) plus possible up to \$5,000 additional unsub
 - Not limited to initial certification





Applicable Loan Limits Eligibility

Graduate/Professional

- Must be admitted as graduate/professional regular student – not conditional admit
Must be program above baccalaureate degree
- May include some undergraduate course work





Applicable Loan Limits Eligibility

Graduate/Professional

- Combined Undergraduate/graduate program
 - At least three full-time years must be completed, prior to or part of program
 - School must identify undergrad/grad transition point
 - Student can't receive undergrad/grad student financial assistance for same period of enrollment





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





General Disaster Guidance

GEN-04-04, February 2004:

- Maintains “in-school” status for borrowers whose attendance is interrupted
- Provides forbearance without documentation or agreement for initial period for borrowers in repayment





Hurricane Guidance

- See <http://fsa4schools.ed.gov> and Hurricane Information on www.ed.gov for announcements
- Legislation:
 - P.L. 109-66 - Pell Grant Hurricane and Disaster Relief Act: waives Pell Grant repayments for students who withdraw due to major disaster





Hurricane Guidance

- P.L. 109-67 – Student Grand Hurricane and Disaster Relief Act: waives student repayment of Title IV grants if withdrawal due to major disaster
 - Does not waive school reimbursement
- P.L. 109-86 – Natural Disaster Student Aid Fairness Act: authorizes reallocation of 2004-05 campus-based funds for affected schools





Technical Assistance

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