

## Summary of Changes Approved September 2010 through January 2011

This summary lists changes made since the 2010 Annual Update of the *Common Manual* was printed.

Change bars denote the latest policy changes, which were approved January 20, 2011.

Changes made before the 2010 Annual Update was printed are shown in Appendix H of the Manual.

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
<b>Chapter 2: About the FFELP</b>			
2.3.C Common Forms	Adds information about this repayment program that was provided in the <i>Federal Register</i> dated July 7, 2010.	July 7, 2010.	1223/172
<b>Chapter 4: School Participation</b>			
4.1.A Establishing Eligibility	Permits the school that is required to make a good faith effort to distribute voter registration forms to comply with this requirement electronically.	Voter registration information distributed by a school on or after August 14, 2008.	1219/171
<b>Chapter 5: Borrower Eligibility</b>			
5.2.D Exceeding Loan Limits and Prior Overpayments Data Match	Reorganizes Subsection 5.2.D by creating separate subsections for prior overpayment and prior default and retains information about documentation required to prove default resolution in the new subsection for prior default.	None.	1228/173
5.2.E Prior Default Data Match			
5.3 Reinstatement of Title IV Eligibility after Default			
<b>Chapter 6: School Certification</b>			
6.5 Determining the Student's Cost of Attendance (COA)	Provides the definition of and explains how to determine current-year and prior-year charges for the purpose of determining if a school may pay minor, prior-year charges with current-year Title IV funds.	Prior-year charges paid by a school with current-year funds on or after September 8, 2009.	1213/170
Figure 6-4 Stafford Annual and Aggregate Loan Limits for Undergraduate Students	Removes information regarding proration calculations for Stafford annual loan limits.	Not applicable.	1225/172
<b>Chapter 7: Loan Origination</b>			
7.7.A Earliest Date for Disbursement	Deletes redundant and incomplete references to rules that a school must use in establishing a disbursement schedule from Manual text that addresses lender disbursement.	Upon approval by the <i>Common Manual</i> Governing Board.	1218/170
<b>Chapter 8: Loan Delivery</b>			
8.7.I Delivery Methods	Provides the definition of and explains how to determine current-year and prior-year charges for the purpose of determining if a school may pay minor, prior-year charges with current-year Title IV funds.	Prior-year charges paid by a school with current-year funds on or after September 8, 2009.	1213/170
8.8 Managing Credit Balances			

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
8.9.C Return of Unearned Loan Funds	Clarifies that if a student drops to less-than-half-time status, but is still enrolled, the school does not perform a return of Title IV funds calculation and is not required to return a Stafford or PLUS loan disbursement the school previously delivered when the student was enrolled at least half time.	Students who drop to less-than-half-time enrollment on or after the publication date of DCL GEN-00-24.	1222/171
<b>Chapter 10: Loan Servicing</b>			
10.5.B PLUS and SLS Loan First Payment Due Date 10.5.D Revised Out-of-School Dates before Conversion to Repayment	States that the 30-day payment due date extension to comply with the repayment disclosure requirement is applicable to PLUS loans.	PLUS loans that enter or reenter repayment on or after July 1, 2010.	1214/170
<b>Chapter 11: Deferment and Forbearance</b>			
11.1.I Establishing Repayment after Deferment 11.6.D Summer Bridge Extension 11.20.J Establishing Repayment after Forbearance	States that the 30-day payment due date extension to comply with the repayment disclosure requirement is applicable to PLUS loans.	PLUS loans that enter or reenter repayment on or after July 1, 2010.	1214/170
<b>Chapter 13: Claim Filing, Discharge, and Forgiveness</b>			
13.1.A Claim Filing Requirements	Removes and revises language in Subsection 13.1.A that outlines the exceptional performer designation on the Claim Form and removes the Appendix G definition of "exceptional performer."	Claims originally filed by a lender on or after October 1, 2007.	1224/172
13.8.G Total and Permanent Disability	Clarifies that if a loan was paid in full through involuntary payment within 30 days of a guarantor's receipt of a total and permanent discharge application, the guarantor may assign the loan to the Department but the guarantor must notify the current Total and Permanent Disability Servicer before assigning the loan with a zero dollar balance.	Total and permanent disability loan discharge applications received on or after October 1, 2010.	1226/173
13.8.G Total and Permanent Disability	Clarifies that the Department will refund payments received on an account after the date of the physician's certification on the loan discharge application. For an account in the three-year conditional discharge period, any payments to be refunded will be returned to the borrower at the end of that three-year period. However, under the most recent final rule changes, any payments to be refunded will be returned to the borrower when the Department approves the discharge of the loan(s) if all of the following criteria are met: <ul style="list-style-type: none"> <li>The discharge application was received by the loan holder on or after July 1, 2010.</li> <li>The account is placed in a post-discharge monitoring period.</li> </ul>	Discharge Application: Total and Permanent Disability received by the loan holder on or after July 1, 2010.	1227/173

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
13.9.A Teacher Loan Forgiveness Program	Clarifies that, in the case of a borrower with an outstanding balance on a FFELP or FDLP loan on October 1, 1998, the loan's outstanding balance must be considered paid in full or discharged as of the date the borrower obtains a new loan after October 1, 1998, in order for the new loan to qualify for teacher loan forgiveness.	Teacher loan forgiveness applications or teacher for forgiveness forbearance requests received by a lender on or after May 14, 2010, for new borrowers after October 1, 1998, unless implemented earlier by the guarantor or lender.	1216/173
13.9.C Loan Repayment Program for Civil Legal Assistance Attorneys	Adds information about this repayment program that was provided in the <i>Federal Register</i> dated July 7, 2010.	July 7, 2010.	1223/172
<b>Chapter 15: Federal Consolidation Loans</b>			
15.7 Interest Payment Rebate Fee	Provides a current address for mailing Consolidation loan rebate fees by check and a current process for remitting Consolidation loan rebate fees through the Automated Clearinghouse (ACH).	Effective for Consolidation loan rebate fee payments made by: <ul style="list-style-type: none"> <li>Automated Clearinghouse (ACH) on or after September 9, 2007.</li> <li>Check on or after October 1, 2007</li> </ul>	1217/170
<b>Chapter 16: Cohort Default Rates and Appeals</b>			
16.1 Overview of Cohort Default Rates and Terminology 16.4 School Official Cohort Default Rates, Adjustments, and Appeals 16.4.B School Appeals	Removes the exemption for some historically black colleges and universities (HBCUs) and tribally controlled and Navajo community colleges from the loss of FFELP, FDLP, or Federal Pell Grant Program eligibility.	Official FY 2003 cohort default rates.	1220/171
<b>Appendix G: Glossary</b>			
Exceptional Performer	Removes and revises language in Subsection 13.1.A that outlines the exceptional performer designation on the Claim Form and removes the Appendix G definition of "exceptional performer."	Claims originally filed by a lender on or after October 1, 2007.	1224/172
Institution of Higher Education (Institution)	Revises the definition of an institution of higher education.	July 1, 2010.	1221/171
Institution-Affiliated Organization	Clarifies that an institution-affiliated organization does not include a lender with respect to any education loan that a lender secures, makes, or otherwise extends to the school's students or their families.	July 1, 2010.	1215/170

[funds](#) to a student until the school is satisfied that the student's reported SSN is accurate. The school must notify the Department of the student's accurate SSN if the student demonstrates the accuracy of a number other than the number that the student included on the FAFSA.

[§668.36(a)(4); §668.36(b)(1) and (2)]

See [Subsection 8.7.G](#) for information regarding unverified SSNs.

## 5.2.C Selective Service Registration Data Match

Unless exempt, a male student must register with the Selective Service. When a male student submits a [Free Application for Federal Student Aid \(FAFSA\)](#), the [Department](#) will conduct a data match with the Selective Service to verify the student's registration status. The Department will notify the student and the school of the results of the data match.

[§668.37(a)(1) and (b)]

If the data match fails to confirm the male student's registration, the [school](#) must allow the student at least 30 days from the date the school was notified of the results of the data match or until the end of the [award year](#), whichever is later, to submit evidence to the school that verifies either (a) that he is registered with the Selective Service or (b) that there is a valid reason why he is not required to be registered with the Selective Service. If the school receives a student's response to a failed data match after the end of the [loan period](#), the school would be unable to certify the loan—even if the [verification documentation](#) was received within 30 days.

[§668.37]

A female student is exempt from the Selective Service registration requirement and is not subject to the corresponding data match.

For more information on Selective Service registration requirements, see the [09-10 FSA Handbook, Volume 1, Chapter 5, pp. 1-61 to 1-65](#).

## 5.2.D NSLDS Data Match

### 5.2.D Exceeding Loan Limits and Prior Overpayments Data Match

~~Another data match that is conducted w~~When a student submits a Free Application for Federal Student Aid (FAFSA), ~~is with the National Student Loan Data System (NSLDS). The Central Processing System (CPS) matches the student's information against his or her financial aid history in the National Student Loan Data System (NSLDS) to see if the student is in default on a Title IV loan, owes a Title IV overpayment, or has exceeded an applicable Stafford annual or aggregate loan limits. The CPS matches the student's FAFSA information with his or her financial aid history in the NSLDS database. The school must resolve any conflict between the NSLDS and other information prior to delivering Title IV aid. For more information on the NSLDS, see the 09-10 FSA Handbook, Volume 1, Chapter 3 and the NSLDS Reference materials provided on the Information for Financial Aid Professionals (IFAP) Website. See Subsection 6.11.E for information on resolving a situation in which a borrower inadvertently exceeds an applicable Stafford annual or aggregate loan limit.~~

#### Prior Overpayment

A borrower is ineligible for [Title IV aid](#) ~~a FFELP loan~~ if he or she is liable for an overpayment to any Title IV program. By certifying a Stafford or PLUS loan, a school certifies that the student borrower—or the [parent](#) or [dependent student](#), in the case of a [parent PLUS loan](#)—does not, to its knowledge, owe a grant overpayment with an original balance of more than \$50 to a grant program resulting from a [return of Title IV funds](#) calculation, or of \$25 or more under the [Federal Perkins Loan Program](#) or under a Title IV grant program that resulted from a circumstance other than a return of Title IV funds calculation. The tolerance does not apply to the remaining balance of an original overpayment amount that has been reduced by payments received to less than the applicable tolerance amount. In this case, even though the remaining balance of the overpayment is less than the applicable tolerance amount, the borrower is responsible for repaying the overpayment in full or making satisfactory arrangements to repay it before the borrower can regain Title IV eligibility.

[§668.22(h)(3)(ii)(B); §668.32(g)(4); §668.35(e)(3)]<sup>1</sup>

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

A school must not certify a loan for a borrower who owes a grant overpayment for which the original balance exceeded the applicable tolerance amount unless one of the following occurs:

- The school makes an adjustment to correct the overpayment in the same award year.
- The borrower repays the overpayment in full. [§668.35(e)(1)]
- The borrower makes satisfactory arrangements with the school or the Department for the repayment of the overpayment. [§668.35(e)(2)]

The school must retain documentation that clearly substantiates its determination that any overpayment has been resolved. Documentation stating that the reporting entity has “no record” of the student’s overpayment is not considered adequate.

[DPL GEN-00-18]

## 5.2.E

### **Prior Default Data Match**

When a student submits a [Free Application for Federal Student Aid \(FAFSA\)](#), the [Central Processing System \(CPS\)](#) matches the student’s information against his or her financial aid history in the [National Student Loan Data System \(NSLDS\)](#) database to see if the student is in default on a Title IV loan. The school must resolve any conflict between the NSLDS and other information prior to delivering Title IV aid. For more information on the NSLDS, see the [09-10 FSA Handbook, Volume 1, Chapter 3](#) and the [NSLDS reference materials provided on the Information for Financial Aid Professionals \(IFAP\) Website](#).

#### **Prior Default**

An individual who is in default on any Title IV loan is ineligible to receive any Title IV aid, including the benefit of a parent PLUS loan, until the default is resolved in one of the ways described below. However, a parent’s unresolved default on a Title IV loan does not adversely impact a dependent student’s eligibility for Title IV aid, except that a school must not certify a parent PLUS loan for the defaulted parent borrower.

[09-10 FSA Handbook, Volume 1, Chapter 3, pp. 1-47 to 1-48 and Chapter 7, p. 1-74]

In determining whether the student or [parent](#) borrower has ever defaulted on any Title IV loan, a school may rely on the information provided by the borrower during the loan process and on NSLDS financial aid history information unless the school receives conflicting information. The school must reconcile all conflicting information before delivering any Title IV ~~fund~~ aid to a borrower who has an unresolved default on a Title IV loan, and must retain documentation that clearly substantiates its determination that the borrower’s prior [default](#) was resolved.

Documentation stating that the reporting entity has “no record” of the borrower’s default is not considered adequate. [§668.19; DCL GEN-96-13; DPL GEN-00-12; DPL GEN-00-18]

A borrower who has defaulted on any Title IV loan is eligible for a new ~~FFELP~~ loan only if each defaulted loan has been resolved. A defaulted FFELP loan may be resolved in one of the following ways:

- The defaulted loan is paid in full. [§668.35(a)(1)]
- The defaulted loan is [discharged](#) or determined to be dischargeable in a [bankruptcy](#) action. [§668.35(h)]
- The borrower’s eligibility for Title IV ~~fund~~ aid is reinstated as a result of the borrower making satisfactory repayment arrangements with the loan holder. (For more information on reinstatement, see [Section 5.3](#), “[Reinstatement of Title IV Eligibility after Default](#)” later in this subsection). [§668.35(a)(2)]<sup>1</sup>
- The defaulted loan is rehabilitated as a result of the borrower making nine voluntary, on-time, full monthly payments of a reasonable and affordable amount, during a period of 10 consecutive months, and each loan is purchased by a [lender](#). For more information on loan [rehabilitation](#), see [Section 13.7](#). [HEA §428F(a)(1)(A); §682.405(a)(2)]
- The defaulted loan is discharged because the student for whom the Stafford or PLUS loan was obtained was unable to complete the [program of study](#) due to the school’s closing. [§682.402(d)]

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

- The defaulted loan is discharged because the borrower's eligibility for the loan was falsely certified by the school.  
[§682.402(e)]
- The defaulted loan is discharged because the borrower is determined to be the victim of the crime of identity theft.
- The borrower makes satisfactory repayment arrangements on the defaulted loan and consolidates that loan, or the borrower agrees to repay a Consolidation loan under an [income-sensitive repayment schedule](#). For more information on consolidating defaulted loans, see [Section 15.2](#).  
[§682.201(d)(3)]

Some guarantors have additional eligibility requirements and restrictions on Consolidation loans. These requirements are noted in [Appendix C](#).

#### Reinstatement of Title IV Eligibility after Default

~~A borrower with one or more defaulted Title IV loans, or defaulted Title IV loans for which a judgment has been obtained, may have his or her eligibility for Title IV aid reinstated by requesting reinstatement and making satisfactory repayment arrangements, and fulfilling those arrangements with the holder of each defaulted loan or with the holder of each defaulted loan for which a judgment has been obtained.~~  
[§668.35(a) and (b); §682.401(b)(4)]

~~A borrower who receives loan funds for which he or she is ineligible due solely to his or her error may not have Title IV eligibility reinstated until the ineligible funds are repaid in full.~~  
[§682.412]

~~To have eligibility for Title IV aid reinstated, a borrower must make six consecutive full monthly payments to the appropriate holder for each defaulted loan. These payments must be made on time (within 15 days of the payment due date), voluntarily (directly by the borrower, regardless of whether there is a judgment against the borrower), and must be reasonable and affordable. Any court-ordered payments or involuntary payments obtained by state offsets or federal Treasury offsets, wage garnishment, or income or asset execution will not count toward the six payments required for reinstatement. A lump-sum prepayment of future installments does not satisfy the requirement for six consecutive monthly payments and will not reinstate a borrower's Title IV eligibility.~~  
[§682.200(b)]

~~A borrower may reestablish Title IV eligibility only once. If a borrower has reestablished his or her eligibility and then fails to maintain satisfactory payment arrangements on that defaulted loan, or a defaulted loan for which a judgment has been obtained, the borrower may not reestablish his or her eligibility again under these provisions. An opportunity for reinstatement may be made available to a borrower regardless of whether any of the borrower's defaulted loans have been repurchased by an eligible lender.~~  
[§668.35(e); §682.200(b)]

~~After a borrower's Title IV eligibility is reinstated, the borrower must continue to maintain satisfactory payment arrangements on each loan that defaulted in order to continue to be eligible for additional Title IV funds. A borrower who makes satisfactory repayment arrangements on a defaulted loan will regain loan eligibility for the academic year in which the borrower satisfies the payment requirements to regain Title IV eligibility. Accordingly, the financial aid administrator may certify a loan for the entire academic year, as long as the student is otherwise eligible.~~  
[§682.200(b)]

~~To determine whether a borrower qualifies for reinstatement of Title IV eligibility, the guarantor will review the most recent 6-month period. Each of the six required payments must be received within 15 days of the due dates for the 6 months immediately preceding the date the guarantor receives the borrower's new loan request or request for reinstatement.~~  
[§682.200(b)]

See [Section H.4](#) for information about a statutory or regulatory waiver authorized by the HEROES Act that may impact these requirements.<sup>1</sup>

#### Documentation Required to Prove Default Resolution

If the [school](#) learns that the borrower has defaulted on a prior loan, the school must obtain, before awarding additional Title IV aid, [documentation](#) from the NSLDS, the borrower, or the [holder](#) of the loan, that the borrower has made the required payments on any defaulted loan(s). The documentation must include either a written certification from the guarantor regarding each defaulted loan or information accessed directly from a loan holder's database that a loan shown on the NSLDS as being in [default](#) is no longer in default. Access to loan data directly from a loan holder's database may be facilitated by the use of third-party Web-based products that display a loan holder's real-time data. To be used for purposes of determining a borrower's Title IV eligibility, such Web-based products must obtain data directly from the relevant guarantor's,

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

lender's, or servicer's system and must display the data without any modification. The school must retain an image of the information it obtains from the real-time Website that clearly identifies the borrower, the status of the debt, and the source of the data. For a guarantor that is not the holder of the defaulted loan(s) to guarantee a new loan, the school or the borrower must obtain documentation that the default has been resolved (such as a copy of the original [promissory note](#) stamped "paid in full," information accessed directly from a loan holder's database, or a letter from the holder of the defaulted loan(s) stating that the borrower has resolved the default). The documentation must be included with the new loan request when it is sent to the guarantor for [guarantee](#) processing, unless the information is already available to the guarantor.

[HEA §428F(b); §668.35; §682.200; §682.401(b)(4); April 1996 Supplement to DCL 96-G-287/96-L-186, Q&A #6; *NSLDS Newsletter* Number 12, June 2006]

- ▲ Schools may contact individual guarantors for more information on documenting and submitting information regarding a prior loan default. See [Section 1.5](#) for contact information.

### **5.2.E** **Department of Justice Data Match**

### **5.2.F** **Department of Justice Data Match**

A separate data match is performed by the Central Processing System (CPS) against a file provided by the Department of Justice (DOJ). This data matching program provides information regarding individuals convicted of federal or state offenses involving drug trafficking or possession of a controlled substance who have been denied Title IV program benefits by federal or state courts. This ensures that federal student aid is not awarded to individuals subject to denial of these benefits under court orders. For more information on the DOJ data match, see the [09-10 FSA Handbook, Volume 1, Chapter 1, p. 1-12](#).

### **5.2.F** **Department of Veterans Affairs Data Match**

### **5.2.G** **Department of Veterans Affairs Data Match**

If a student has indicated on the [Free Application for Federal Student Aid \(FAFSA\)](#) that he or she is an eligible veteran of the U.S. Armed Forces, the student is considered to be independent and does not have to provide parental income and asset information to apply for Title IV aid. The

Central Processing System (CPS) matches data with the Department of Veterans Affairs (VA) to confirm that an applicant who states that he or she is a veteran on the FAFSA has engaged in active duty in the U.S. Armed Forces for purposes other than training, or was a cadet or midshipman at a service academy; and was released under a condition other than dishonorable. For more information on the VA data match, see the [09-10 FSA Handbook, Application and Verification Guide, Chapter 2, p. AVG-26](#).

## **5.3** **Reinstatement of Title IV Eligibility after Default**

A borrower with one or more defaulted Title IV loans, or defaulted Title IV loans for which a judgment has been obtained, may have his or her eligibility for Title IV aid reinstated by requesting [reinstatement](#) and making [satisfactory repayment arrangements](#), and fulfilling those arrangements with the [holder](#) of each defaulted loan or with the holder of each defaulted loan for which a judgment has been obtained.  
[[§668.35\(a\) and \(b\)](#); [§682.401\(b\)\(4\)](#)]

A borrower who receives loan funds for which he or she is ineligible due solely to his or her error may not have Title IV eligibility reinstated until the ineligible funds are repaid in full.  
[[§682.412](#)]

To have eligibility for Title IV aid reinstated, a borrower must make six consecutive full monthly payments to the appropriate holder for each defaulted loan. These payments must be made on time (within 15 days of the payment due date), voluntarily (directly by the borrower, regardless of whether there is a judgment against the borrower), and must be reasonable and affordable. Any court-ordered payments or involuntary payments obtained by state offsets or federal [Treasury offsets](#), wage garnishment, or income or asset execution will not count toward the six payments required for reinstatement. A lump sum [prepayment](#) of future installments does not satisfy the requirement for six consecutive monthly payments and will not reinstate a borrower's Title IV eligibility.  
[[§682.200\(b\)](#)]

Upon receipt of the borrower's new loan request or request for reinstatement of eligibility, the guarantor will review the most recent 6-month period. Each of the six required payments must be received within 15 days of the due dates for the 6 months immediately preceding receipt of the request.  
[[§682.200\(b\) definition of Undergraduate](#)]<sup>1</sup>

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

A borrower whose Title IV eligibility is reinstated will regain loan eligibility for the academic year in which the borrower satisfies the payment requirements to regain Title IV eligibility. Accordingly, the financial aid administrator may certify a loan for the entire academic year, as long as the student is otherwise eligible. After a borrower's Title IV eligibility is reinstated, the borrower must continue to maintain satisfactory repayment arrangements on each loan that defaulted in order to continue to be eligible for additional Title IV aid. [§682.200(b) definition of Undergraduate]

A borrower may reestablish Title IV eligibility only once. If a borrower has reestablished his or her eligibility and then fails to maintain satisfactory payment arrangements on that defaulted loan, or a defaulted loan for which a judgment has been obtained, the borrower may not reestablish his or her eligibility again under these provisions. An opportunity for reinstatement may be made available to a borrower regardless of whether any of the borrower's defaulted loans have been repurchased by an eligible lender. [§668.35(c); §682.200(b) definition of Undergraduate]

See [Section H.4](#) for information about a statutory or regulatory waiver authorized by the [HEROES Act](#) that may impact these requirements.

### **5.3** **~~Prior Loan Written Off~~**

### **5.4** **Prior Loan Written Off<sup>1</sup>**

A borrower is ineligible for a FFELP loan if he or she has had a prior FFELP loan partially or totally written off by a guarantor (i.e., the guarantor has stopped all collection activity on the written-off portion). To become eligible to receive a new FFELP loan, a borrower must reaffirm the written-off loan, provide confirmation of that reaffirmation to the school, and meet the requirements of [Subsection 5.2.D](#). Reaffirmation is the borrower's legally binding acknowledgment of a loan repayment obligation that has been partially or totally written off and agreement to the reinstatement of the borrower's repayment obligation. A borrower whose prior FFELP loan has been partially or totally written off by a lender is not required to reaffirm the written-off loan as a condition of eligibility for a new FFELP loan.

The reaffirmation may include, but is not limited to, the following:

- Making a payment on the loan. [§682.201(a)(4)(ii)(B)]
- Signing a new repayment agreement or promissory note that includes the original terms and conditions applicable to the loan being reaffirmed. [§682.201(a)(4)(ii)(A)]

The reaffirmed amount must include all principal and interest accrued on the written-off portion of the loan through the date on which the borrower reaffirms his or her commitment to repay the loan. It may also include collection costs, late charges, court costs, and attorney fees. Any outstanding charges, such as interest, collection costs, late charges, court costs, or attorney fees, may be capitalized as of the date the loan is reaffirmed. [§682.201(a)(4)(i); DCL 96-L-186/96-G-287, Q&A #4, #7, #8, #9, and #11]

### **5.4** **~~Prior Loan Discharge Due to Total and Permanent Disability~~**

### **5.5** **Prior Loan Discharge Due to Total and Permanent Disability<sup>2</sup>**

In some cases, loans that have been discharged due to the borrower's total and permanent disability may affect the borrower's eligibility for new loans. Eligibility may be based on the disposition of the borrower's discharge request or the date on which that request was processed.

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

<sup>2</sup> Policy 1228 (Batch 173), approved January 20, 2011

**5.4.A****~~Prior Loan or TEACH Grant Service Obligation in a Conditional Discharge or Post-Discharge Monitoring Period Based on a Determination of Total and Permanent Disability~~****5.5.A****Prior Loan or TEACH Grant Service Obligation in a Conditional Discharge or Post-Discharge Monitoring Period Based on a Determination of Total and Permanent Disability<sup>1</sup>**

A borrower whose prior Title IV loan(s) is conditionally discharged or whose prior Title IV loan(s) or **TEACH grant** service obligation has been discharged and is in a 3-year post-discharge monitoring period based on a determination that the borrower is totally and permanently disabled, must do the following before a school may certify a new Stafford or PLUS loan for the borrower:

- Submit a request to the Department’s Conditional Discharge Disability Unit indicating that the conditionally discharged loan(s) be returned to repayment.
- Advise the school that the borrower has begun the process of returning the conditionally discharged loan(s) or loan(s) in a post-discharge monitoring period to repayment.

Before a school may certify a new loan for such a borrower, the school must confirm that the borrower has initiated the process to return the loan(s) to repayment. The school also must determine whether the status of the loan (**default** or non-default) will trigger additional requirements before it certifies a new loan for the borrower. If the loan(s) was in default prior to being conditionally discharged or placed in a post-discharge monitoring period, the school may be required to document that the borrower has either made **satisfactory repayment arrangements** with the loan holder in order to reinstate Title IV eligibility or has rehabilitated the defaulted loan(s) (see **Subsection 5.2.D**).

A borrower must do the following before he or she is eligible to receive a new Stafford or PLUS loan:

- Obtain a physician’s statement certifying that the borrower may now engage in “**substantial gainful activity**.”  
[§682.201(a)(6)(i)]
- Sign a statement acknowledging that any loan that has been conditionally discharged or is in a post-discharge monitoring period may not be discharged due to the same or any disability existing at the time the borrower applied for a total and permanent disability discharge or when the new loan is made, unless the disabling condition substantially deteriorates to the extent that the definition of total and permanent disability is met.  
[§682.201(a)(6)(ii); §682.201(a)(7)(ii)(A)]
- Sign a statement acknowledging that collection activity will resume on any conditionally discharged loans or loans that are in a post-discharge monitoring period.  
[§682.201(a)(7)(ii)(B)]
- Acknowledge that he or she is once again subject to the terms of the **TEACH grant** agreement, if the grant recipient’s service obligation has been discharged and the grant recipient is in a 3-year post-discharge monitoring period.  
[§682.201(a)(6)(iii)]

The school must not deliver any new loan funds until it confirms that the loan holder has returned to repayment the conditionally discharged loan(s) or loan(s) in a post-discharge monitoring period.  
[§682.201(a)(5)]

If a loan is in either the 3-year conditional period, or the 3-year post-discharge monitoring period, as applicable, the discharge is terminated and the loan(s) is reinstated to the status it held prior to the initial discharge determination if either of the following occur within 3 years from the date that the physician completes and certifies the discharge application:

- The borrower receives a new **TEACH grant**.
- The borrower receives a new loan under any Title IV loan program (**Federal Perkins Loan Program**, **FFELP**, or **Federal Direct Loan Program**).

*Note:* If the borrower receives a new Consolidation loan that does not include any loans that are in a conditional discharge period or the 3-year post-discharge monitoring period, neither the conditional discharge period nor the final discharge itself, as applicable, terminate.

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

If a TEACH grant or Title IV loan was certified prior to the date the physician certified the discharge application, any proceeds of such grant or loan that are disbursed after the date of the physician's certification must be returned to the Department or to the loan holder, as applicable, within 120 days of the [disbursement date\(s\)](#) to preserve the borrower's discharge eligibility.

If the borrower's conditional discharge or final discharge is terminated, the Department reinstates collection activities on any loan on which collection activity had been previously suspended based on an initial determination of the borrower's total and permanent disability. (See [Subsection 13.8.G](#) for more information regarding the total and permanent disability loan discharge and [Appendix G](#) for the definition of "totally and permanently disabled.") [[§682.402\(c\)\(4\)\(i\)](#)]

*Note:* A loan that is discharged based on a determination by the U.S. Department of Veterans Affairs that the borrower is totally and permanently disabled is not placed in a conditional discharge or post-discharge monitoring period. See [Subsection 5.4.B](#).

[[DCL GEN-09-07/FP-09-05, Q & A 14](#)]

- ▲ Schools and lenders are strongly encouraged to contact the [guarantor](#) if assistance is needed to determine or establish a borrower's eligibility after a total and permanent disability loan discharge.

## **5.4.B** **Final Discharge of a Prior Loan Based on a Determination of Total and Permanent Disability**

### **5.5.B** **Final Discharge of a Prior Loan Based on a Determination of Total and Permanent Disability<sup>1</sup>**

This subsection applies to a borrower whose loan(s) was discharged and who completed the 3-year conditional period, or the 3-year post-discharge monitoring period, as applicable, or who had a loan(s) discharged based on a U.S. Department of Veterans Affairs (VA) determination that the borrower is totally and permanently disabled.

A borrower who has received a [discharge](#) of a prior loan based on a final determination that the borrower is totally and permanently disabled must do *all of the following* to be eligible to receive a new Stafford or PLUS loan:

- Obtain a physician's statement certifying that the borrower may now engage in "[substantial gainful activity](#)." [[§682.201\(a\)\(6\)\(i\)](#)]
- Sign a statement acknowledging that any new loan the borrower receives may not be discharged due to the same or any disability existing at the time the new loan is made, unless the disabling condition substantially deteriorates to the extent that the definition of total and permanent disability is met. [[§682.201\(a\)\(6\)\(ii\)](#)]  
[[DCL GEN-09-07/FP-09-05, Q & A 18](#)]

For the purpose of receiving a new loan after a prior loan is discharged based on a determination of a borrower's total and permanent disability, a borrower must obtain the physician certification only once and the school should keep a copy of it in the student's file. However, the school must collect a new borrower acknowledgment statement from the borrower for each new loan he or she requests. [[09-10 FSA Handbook, Volume 1, Chapter 3, p. 1-51](#)]

A borrower who has had a prior loan discharged based on a determination of the borrower's total and permanent disability before July 1, 2001, or whose loan(s) was discharged and the borrower completed the 3-year conditional period, or the 3-year post-discharge monitoring period, as applicable, is not required to reaffirm the discharged obligation. (See [Subsection 13.8.G](#) for more information regarding total and permanent disability loan discharge and [Appendix G](#) for the definition of "totally and permanently disabled.")

- ▲ Schools and lenders are strongly encouraged to contact the guarantor if assistance is needed to determine or establish a borrower's eligibility after a total and permanent disability loan discharge.

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

## 5.5 Effect of Exceeding Loan Limits on Eligibility

## 5.6 Effect of Exceeding Loan Limits on Eligibility

The school may not, under any circumstances, award additional Title IV funds for a student who has exceeded applicable annual or aggregate loan limits. If the school determines that the student inadvertently violated the annual or aggregate loan limits, the school must give the student an opportunity to resolve the excess borrowing before making a final determination on the student's eligibility for additional Title IV assistance. To resolve eligibility problems created by the NSLDS reporting of excessive borrowing by a student, a school can rely upon either paper documentation or information it accesses directly from a loan holder's database. Access to information directly from a loan holder's database may be facilitated by the use of third-party Web-based products that display a loan holder's real-time data. The school must be able to verify that the loan being reviewed is the problematic loan. The school must retain an image of the information it obtains from the real-time Website that clearly identifies the borrower, the status of the debt, and the source of the data. (See Subsection 6.11.E.) [§668.35(d); NSLDS Newsletter Number 12, June 2006]

## 5.6 Effect of Bankruptcy on Eligibility

## 5.7 Effect of Bankruptcy on Eligibility

The Bankruptcy Reform Act of 1994 prevents a school or lender from denying a federal loan or grant to an applicant solely because he or she has filed a bankruptcy petition. Thus, a FFELP applicant is eligible for new loan funds despite the filing of a bankruptcy petition. [DCL GEN-95-40]

### Loan Certification and Professional Judgment

If the school has information about a previous or pending bankruptcy action by a Stafford or PLUS loan applicant, the school may not refuse to certify the loan if the applicant is otherwise eligible. Also, the school may not, solely because of the bankruptcy action, certify a loan for an amount that is less than the amount for which the applicant would otherwise be eligible. If circumstances other than the

bankruptcy exist that would cause the school to reduce the borrower's loan amount, the financial aid administrator (FAA) may use professional judgment to refuse to certify a loan or to lower the loan amount. (See Subsection 6.15.E) [§682.603(f)]

### Reaffirmation

A Stafford or PLUS loan applicant who has had education loans previously discharged in bankruptcy is not required to reaffirm those loans to regain Title IV eligibility. If a borrower defaulted before the bankruptcy action was filed, and the debt has been discharged or has been determined to be dischargeable in a bankruptcy action, the borrower is eligible for additional funds without reinstatement and without reaffirming the debt. [DCL GEN-95-40]

## 5.7 Effect of Fraud on Eligibility

## 5.8 Effect of Fraud on Eligibility<sup>1</sup>

A student or parent borrower who has been convicted of, or has pled guilty or *nolo contendere* to, a crime involving fraud in obtaining Title IV financial assistance is not eligible for additional Title IV funds until the student or parent borrower, as applicable, repays in full the funds that were obtained fraudulently. Title IV grant funds that were obtained fraudulently must be repaid to the Department; Title IV loan funds that were obtained fraudulently must be repaid to the holder of the loan. The student or parent borrower's eligibility under this provision is based on the certification provided in the Master Promissory Note (MPN). Regardless of the borrower's certification on the MPN, if either the school or the lender has conflicting information regarding the eligibility of the student or parent borrower, this discrepancy must be resolved before additional Title IV funds may be disbursed or delivered.

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

**5.8****Effect of Drug Conviction on Eligibility****5.9****Effect of Drug Conviction on Eligibility<sup>1</sup>**

As part of its consumer information disclosure requirements, a school must provide a separate, clear, and conspicuous written notice to the student about the penalty if the student is convicted of a drug-related offense that occurred while a student was enrolled in school and receiving Title IV aid. A school must provide the notice upon the student's enrollment at the school.

[HEA §485(k)(1)]

A student who is convicted of a state or federal offense involving the possession or sale of an illegal drug that occurred while the student was enrolled in school and receiving Title IV aid, is not eligible for Title IV funds. [An illegal drug is a controlled substance as defined by section 102(6) of the Controlled Substance Act and does not include alcohol and tobacco.] The Department determines the borrower's eligibility under this section based on the student's self-certification on the [Free Application for Federal Student Aid \(FAFSA\)](#). The school is notified of the student's eligibility on the [Institutional Student Information Record \(ISIR\)](#). However, if the school has conflicting information regarding a drug conviction that affects the student's eligibility, this discrepancy must be resolved.

[HEA §484(r)(1); §668.40(a); DCL GEN-06-05]

Convictions that are reversed, set aside, or removed from the student's record, or a determination arising from a juvenile court proceeding, do not affect eligibility and do not need to be reported by the student.

[§668.40(a)(2)]

A student who is convicted of a drug-related offense that occurred while the student was enrolled in school and receiving Title IV aid loses Title IV eligibility as follows:

- For the possession of illegal drugs:
  - 1st offense: one year from the date of conviction.
  - 2nd offense: two years from the date of the second conviction.
  - 3rd offense: indefinitely from the date of the third conviction.

[§668.40(b)(1)]

- For the sale of illegal drugs:
    - 1st offense: two years from the date of conviction.
    - 2nd offense: indefinitely from the date of the second conviction.
- [§668.40(b)(2)]

A school must provide a student who loses Title IV eligibility due to a drug-related conviction with a timely, separate, clear, and conspicuous written notice. The notice must advise the student of his or her loss of Title IV eligibility and the ways in which the student may regain that eligibility.

[HEA §485(k)(2)]

A student may regain eligibility at any time by successfully completing an approved drug rehabilitation program or successfully passing two unannounced drug tests conducted by an approved drug rehabilitation program, and by informing the school that he or she has done so. A student regains Title IV eligibility on the date he or she successfully completes the program, or in the case of a student who successfully passes two unannounced drug tests, on the date that the student passes the second unannounced drug test. A drug rehabilitation program is considered approved for these purposes if it includes at least two unannounced drug tests and meets one of the following criteria:

[HEA §484(r)(2)(B); §668.40(c)]

- The program received or is qualified to receive funds directly or indirectly under a federal, state, or local government program.
 

[§668.40(d)(2)(i)]
- The program is administered or recognized by a federal, state, or local government agency or court.
 

[§668.40(d)(2)(ii)]
- The program received or is qualified to receive payment directly or indirectly from a federally or state-licensed insurance company.
 

[§668.40(d)(2)(iii)]
- The program administered or recognized by a federally or state-licensed hospital, health clinic, or medical doctor.
 

[§668.40(d)(2)(iv)]

For a student whose Title IV eligibility is reinstated after a drug conviction, the maximum [loan period](#) that a school may certify is the [academic year](#) during which the student regains eligibility. However, the school may not certify eligibility prior to the date on which eligibility is regained.

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

A student who loses eligibility during a loan period is immediately ineligible to receive subsequent [disbursements](#) of FFELP funds and is required to repay any Title IV funds received after the date he or she loses eligibility. Schools are not required to recalculate a student's loan amount.

[§668.40(c)]

## **5.9 Required High School Diploma or Equivalent**

## **5.10 Required High School Diploma or Equivalent**

To be eligible for FFELP funds, the borrower, or the [dependent student](#) for whom a [parent](#) seeks a PLUS loan, must have a high school diploma or its equivalent, or must demonstrate an [ability to benefit](#) from a program of study offered by a school (see [Section 5.10](#) for more information on ability-to-benefit provisions). The following are considered equivalent to a high school diploma for establishing Title IV eligibility:

[§668.32(e)(1) and (2)]

- A General Education Development (GED) Certificate—or a [state](#) certificate issued after a student passes an approved examination that the state recognizes as an equivalent to the GED.  
[§668.32(e)(3)]
- An academic transcript in a recognized program. A school may admit a limited number of students without high school diplomas or equivalent certificates who have excelled academically in high school and met the school's admissions standards. If such a student completes a program of at least two years that is acceptable for full credit toward a bachelor's degree, the academic transcript for that program would be considered the equivalent of a high school diploma.  
[09-10 FSA Handbook, Volume 1, Chapter 1, pp. 1-5 to 1-6]

## **5.10 Ability-to-Benefit Provisions**

## **5.11 Ability-to-Benefit Provisions<sup>1</sup>**

To receive [Title IV](#) assistance, a student without a high school diploma or its equivalent must demonstrate the potential to succeed in (i.e., an ability to benefit from) a [program of study](#) offered by a school. A student who is admitted on an [ability-to-benefit \(ATB\)](#) basis must meet one of the following requirements:

[§668.32(e); §682.201(a)(8)]

- The student takes—and achieves at least a passing score as specified by the U.S. Department of Education on—an independently administered test that has been approved by the Department to establish (according to the Department's criteria) whether the student has the ability to benefit from the education or training being offered. The independent administrator for the [ATB](#) test must be an individual or organization that has been certified by the test publisher and has no fiscal interest in the school.  
[§668.141(a)(1)]
- The student obtains a passing score on a Department-approved state test or assessment.  
[§668.141(a)(1)]
- The student is [enrolled](#) in an eligible [school](#) that participates in a state-approved testing process that is approved by the Department.  
[§668.141(a)(2)]
- The student satisfactorily completes six credit hours or equivalent coursework that is applicable toward a degree or certificate offered by the school. The student is ineligible to receive Title IV aid while earning the six credit hours or their equivalent.  
[HEA §484(d)(4); DCL GEN-08-12/FP-08-10]

To determine a student's eligibility to receive Title IV aid, a school may accept a passing score on an approved, properly administered ATB test if the score is received from an approved test publisher or assessment center.

[§668.151(a)(2)]

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

A student should not be considered to have an ability to benefit if, at the time of loan **certification**, the student would not meet the requirements for employment in the student's state of residency in the occupation for which the student is training. The disqualifying factor may be a physical or mental condition, age, criminal record, or any other reason accepted by the Department. The school will not be held responsible for improper certification if it could not reasonably be expected to be aware of the student's disqualifying condition.

[§682.402(e)(13)]

## **5.10.A** **Testing ~~ATB~~ Students with Special Needs**

### **5.11.A** **Testing ATB Students with Special Needs**

If no test can be approved for students with disabilities or for students for whom English is not their native language or who are not fluent in English because a test is not reasonably available, the Department considers the following tests to be approved tests for purposes of assessing those students' ability to benefit:

[§668.149]

- For the purpose of testing students with disabilities, any modified test or testing procedure or instrument that has been developed for the purpose of evaluating the ability of disabled students to benefit from postsecondary education. The test must measure both basic verbal and quantitative skills at the secondary school level.  
[§668.149(a)(1)]
- For the purpose of testing students for whom English is not their native language or who are not fluent in English, any test in the student's native language or a language in which the student is fluent, provided the Department has not approved another test in that language and the test was not previously rejected from the approval process by the Department. The test must measure both basic verbal and quantitative skills at the secondary school level.  
[§668.149(b)]

The passing scores recommended by the test developer are considered passing scores by the Department provided that:

- For students with disabilities, the test administrator uses the procedures or instruments for which the test was designed, and maintains documentation of the

procedures and instruments used in the testing and of the scores and scoring techniques.

[§668.149(a)(2)(i) and (ii)]

- For students for whom English is not their native language or who are not fluent in English, the passing scores and the methods for determining those scores are fully documented.

[§668.149(b)(4)]

## **5.10.B** **School Liability in ATB Testing**

### **5.11.B** **School Liability in ATB Testing<sup>1</sup>**

Regulations stipulate the instances in which a **school** will be assessed a liability based on administration of the **ability-to-benefit** provisions. These instances are limited to:

- **Funds** disbursed to students whose ability to benefit from the course was determined in a test that was provided by a test administrator that was not independent of the school at the time the test was given.  
[§668.154(a)]
- Funds disbursed to students for whom the **ATB** testing process was compromised by the school in any way.  
[§668.154(b)]
- Funds disbursed to students for whom the school is unable to document that the students received passing scores on an approved test.  
[§668.154(c)]

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

## 5.11 Student Enrollment Requirements

## 5.12 Student Enrollment Requirements<sup>1</sup>

Each [eligible student](#) who is seeking a Stafford loan—or on whose behalf a PLUS loan is being sought—must meet the following enrollment requirements:

- The student must not be [enrolled](#) in either an elementary or secondary school. [[§668.32\(b\)](#)]
- The student must be [enrolled](#) or accepted for enrollment as a [regular student](#) in one of the following:
  - An eligible degree or certificate program on at least a half-time basis at a [participating school](#) approved by the Department and the [guarantor](#) (except as noted below), or the student’s coursework is partially or totally offered through distance education subject to the limitations described in [Section 5.12](#). [[§668.38](#); [§682.201\(a\)](#)]
  - A study-abroad program that is approved for credit by the participating school at which the student is enrolled, whether or not the study-abroad program is a required part of the student’s degree program (see [Subsection 5.13.B](#)). [[§668.39](#)]

A student who has previously obtained a bachelor’s or [professional degree](#) is eligible for loan assistance, provided he or she meets all applicable eligibility criteria.

There are two exceptions to the [FFELP](#) eligibility requirement that a student be enrolled or accepted for enrollment as a regular student in a degree or certificate program:

- *Preparatory Coursework*  
A student who is not enrolled in a degree or certificate program is eligible for Stafford or PLUS loans for a period of up to one year if the student is taking preparatory courses necessary for his or her enrollment in an eligible program. The courses must be part of an eligible program otherwise offered by the [school](#), although the student does not have to be enrolled in that program. For example, a student who has already

received a bachelor’s degree might need an additional 12 hours of specialized undergraduate coursework in order to enroll in a graduate program. If a student is enrolled at least half time in these prerequisite courses and the courses are part of an eligible program, the student is eligible for loans for one period of 12 consecutive months, beginning on the first day of the [loan period](#) for which the student is enrolled. [[§668.32\(a\)\(1\)\(ii\)](#)]

- *Teacher Certification or Recertification*  
A student is exempt from the degree or certificate program requirement if he or she is enrolled at least half time in a required teacher-certification program, even though the teacher-certification program does not lead to a degree or certificate awarded by the school (e.g., the certificate may instead be granted by the [state](#)). A student who is not enrolled in a formal teacher certification program but who is taking a series of courses necessary to obtain certification from the state is also exempt from the degree requirements. The program, or series of courses, must be required for elementary or secondary teacher certification or recertification in the state where the student plans to teach or in the state where the student is completing the program or series of courses. This exemption is not intended to cover optional courses that the student elects to take for professional recognition or advancement, nor does it cover courses that the school recommends but that are not required for certification or recertification. In addition, this exemption does not apply to students seeking a professional credential or certification that is required for employment as a non-teaching professional (e.g., a school administrator, nurse, or librarian), or to students [enrolled](#) in a teacher certification or recertification course that uses direct assessment rather than credit hours or clock hours to measure student progress.

The school must develop a process to identify the student as pursuing teacher certification or recertification (e.g., collect a written statement from the student or have a special classification assigned by the school), and must document that the courses are required by the state for teacher certification or recertification. A student who is enrolled in a teacher-certification or recertification program is considered a fifth-year [undergraduate student](#) (see [Section 6.11](#) for applicable loan limits). [[HEA §484\(b\)\(4\)](#); [§668.2](#); [§668.32\(a\)\(1\)\(iii\)](#); [09-10 FSA Handbook, Volume 1, Chapter 1, p. 1-5](#)]

For more information about defining a student’s enrollment status, see [Section 6.9](#).

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

## **5.12** **Use of Distance Education and** **Correspondence in Programs of Study**

## **5.13** **Use of Distance Education and** **Correspondence in Programs of Study**

A student's enrollment in [distance education](#) or [correspondence](#) courses can affect his or her eligibility for Stafford loans and [Grad PLUS loans](#), and a parent's eligibility for [parent PLUS loans](#).

### **5.12.A** **Distance Education Program of Study**

### **5.13.A** **Distance Education Program of Study**

An otherwise [eligible student](#) enrolled in a [program of study](#) offered principally through distance education is eligible for Title IV aid if each of the following applies:

- The program leads to a recognized certificate, or to an associate, bachelor's, or graduate degree.  
[HEA §484(l)(1)(A); DCL GEN-06-05]
- The school providing the program has been evaluated by an [accrediting agency](#) recognized by the Department as having the evaluation of distance education programs within its scope of recognition. The accrediting agency must determine that the school has the capability to effectively deliver distance education programs. Beginning July 1, 2006, the Department provides an 18-month waiver of the distance education evaluation component. The waiver applies to certain distance education programs that were offered as of July 1, 2006, but for which the Department did not recognize the accrediting agency as having the evaluation of distance education programs within its scope of recognition.  
[HEA §481(b)(3); §668.8(m); DCL GEN-06-05; GEN-06-17]

If a [foreign school](#) offers a program of study that includes even a single distance education course, that program of study is ineligible for Title IV aid. Distance education technologies may be used in the foreign school classroom to supplement and support instruction offered as part of an

otherwise eligible program, as long as the student and instructor are physically present in the classroom.  
[§600.51(d)(4); §668.8(m); DCL GEN-06-11]

### **5.12.B** **Correspondence Program of Study**

### **5.13.B** **Correspondence Program of Study**

An otherwise eligible student enrolled in a [correspondence](#) course is eligible to receive Title IV program assistance only if the student is enrolled in a program of study that leads to an associate, bachelor's, or graduate degree.  
[§668.38(a)]

A school is not eligible to participate in the Title IV programs if, during its most recently completed [award year](#), either of the following conditions applies:

- More than 50% of the school's courses were correspondence courses. This limitation does not apply to a school that mainly provides vocational adult education or job training defined under section 521(4)(C) of the [Carl D. Perkins Vocational and Applied Technology Education Act](#).
- 50% or more of the school's regularly enrolled students were enrolled in correspondence courses.  
[09-10 FSA Handbook, Volume 2, Chapter 1, pp. 2-8 to 2-10]

## **5.13** **Foreign Schools and Study-Abroad** **Programs**

### **5.14** **Foreign Schools and Study-Abroad** **Programs<sup>1</sup>**

Students who participate in programs of study at foreign schools or in study-abroad programs sponsored by a home school that is in the United States are eligible for FFELP loan funds in certain cases.

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

### **5.13.A** **Study at Participating Foreign Schools**

### **5.14.A** **Study at Participating Foreign Schools**

Eligible students and parents of [dependent students](#) may borrow Stafford and PLUS loans for attendance at [foreign schools](#), provided the student—or, in the case of a [parent PLUS loan](#), both the parent and the dependent student—is any one of the following:

- A U.S. citizen or national.  
[§668.33(a)(1)]
- A permanent resident of the United States.  
[§668.33(a)(2)(i)]
- An eligible noncitizen.  
[§668.33(a)(2)(ii)]

Schools located in Canada and Mexico are considered foreign schools for purposes of establishing eligibility for Stafford and PLUS loans.

### **5.13.B** **Study-Abroad Programs**

### **5.14.B** **Study-Abroad Programs**

A student who is [enrolled](#) or accepted for enrollment in a study-abroad program that is approved by the home school at which the student is enrolled may be determined eligible to receive Stafford [loan proceeds](#). In addition, a [graduate or professional student](#) or the parent of a dependent [undergraduate student](#) may be determined eligible to receive PLUS loan proceeds for the student's attendance in such a program. Eligible borrowers may receive Stafford or PLUS loan funds, as applicable, for a study-abroad program, even if such a program is not required for the student's degree or certificate.  
[HEA §484(o); §668.39]

### **5.14** **Eligibility Requirements Specific to Transfer Students**

### **5.15** **Eligibility Requirements Specific to Transfer Students**

Generally, a transfer student is eligible to receive FFELP loan funds. However, the school must assess a transfer student's eligibility for FFELP loan funds in the context of funds the student may have borrowed for previous periods of enrollment at other schools.

### **5.14.A** **Financial Aid History for Transfer Students**

### **5.15.A** **Financial Aid History for Transfer Students<sup>1</sup>**

For mid-year transfer students applying for Title IV aid, a school must request a student's financial aid history through the Transfer Monitoring Process with the [National Student Loan Data System \(NSLDS\)](#). The NSLDS information will assist the school in making the eligibility determinations described in this section. Once a school has requested information from the NSLDS, it must wait for 7 days following its request to the NSLDS before delivering Stafford or PLUS loan proceeds. However, if, before the end of the 7-day period, the school receives information from the NSLDS in response to its request or obtains information itself by directly accessing the NSLDS, the school may deliver the loan proceeds as long as the student is otherwise eligible. The school may certify or decline to certify a Stafford or PLUS loan before it receives or accesses updated information from the NSLDS.

A school is not required to respond to a request for a paper [financial aid transcript](#) for either a current-year or prior-year transfer student unless it is a request to report assistance that a student has received through the Department of Health and Human Services. See [Section 8.7](#) for more information on delivery restrictions for transfer students.

[DPL GEN-00-12; DPL GEN-01-09; 09-10 FSA Handbook, Volume 1, Chapter 3, pp. 1-46 to 1-48]

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

**5.14.B****Students Who Transfer after Full Disbursement of the Loan****5.15.B****Students Who Transfer after Full Disbursement of the Loan**

If a student transfers to another [school](#) after receiving all [disbursements](#) of a loan made for attendance at the previous school, the student or parent borrower is generally not eligible to receive a second loan during the same [period of enrollment](#). An exception to this policy is made if one of the following conditions exists:

- The [borrower](#) did not receive the maximum loan amount for which he or she is eligible, in which case the borrower may receive up to the remaining eligibility to pay for [cost of attendance \(COA\)](#) at the new school. See [Section 6.1](#) for more information regarding a student's loan eligibility after transferring.
- The student's first school returned funds for the student, in which case the borrower may receive up to the amount of the returned funds plus any remaining eligibility. The [lender](#) must report the returned funds to the [guarantor](#) so that a subsequent loan may be [guaranteed](#).
- The student advances to a higher [grade level](#) and, as a result of the grade level advancement, becomes eligible for additional Stafford loan funds.

**5.15****Multiple School Enrollment****5.16****Multiple School Enrollment<sup>1</sup>**

A student may be [enrolled](#) simultaneously on at least a half-time basis at more than one school. In this case, the student may be eligible to receive a Stafford and a [Grad PLUS loan](#), if applicable—and the [parent](#) of a dependent [undergraduate student](#) may be eligible to receive a PLUS loan—at more than one school for the same [payment period](#) or [period of enrollment](#). A Stafford or PLUS loan certified by one school is not included as [estimated financial assistance \(EFA\)](#) by another school when determining a student or

parent borrower's eligibility for a Stafford or PLUS loan for the same payment period or period of enrollment.

[09-10 FSA Handbook, Volume 3, Chapter 6, p. 3-96]

It is necessary for the two schools to coordinate with each other to ensure that the student's eligibility for a Stafford or Grad PLUS loan, if applicable—and the parent's eligibility for a [parent PLUS loan](#)—is properly determined. If one school has already certified a loan for the student, the other school is required to take the following actions:

- Eliminate the student's living costs from the [cost of attendance \(COA\)](#) because those costs were included in the COA at the first school.
- Ensure that the student does not receive loan funds in excess of the annual Stafford loan limits at that school and that the total amount of the loans received by the student for enrollment at both schools does not exceed the student's highest applicable annual Stafford loan limit.

EXAMPLE: A fourth-year student at a 4-year school may decide to enroll simultaneously in a one-year computer program at a proprietary school. If the student requests and receives a \$3,000 [base Stafford loan amount](#) for his or her final year of study at the 4-year school, he or she has remaining base Stafford loan eligibility of \$2,500 as a fourth-year student. If the student subsequently applies for aid as a first-year student at the proprietary school, the student's base first-year loan eligibility at the proprietary school must be adjusted from \$2,625 to \$2,500 (because the \$5,500 maximum base fourth-year loan eligibility from the 4-year school minus the \$3,000 received at the 4-year school equals the student's remaining eligibility). In this case, the student does not exceed [annual loan limits](#) at either school and the combined total of the student's loans does not exceed his or her highest applicable annual loan limit of \$5,500. In this scenario, if the student had borrowed the fourth-year base annual loan limit at the 4-year school, he or she would have no eligibility for a base loan amount at the proprietary school. Likewise, if the student borrowed only \$1,000 at the 4-year school, he or she would be eligible to borrow a base loan amount of \$2,625 at the proprietary school (the first-year annual loan limit).

If neither school is aware of the student's simultaneous enrollment in two different schools until after both schools have certified Stafford loans and the student receives loan funds in excess of his or her highest applicable annual Stafford loan limit, the schools must coordinate with each other to adjust the student's aid package at one or both

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

schools to eliminate the excess loan amount. If neither school is able to eliminate the excess loan amount, the excess loan amount must be reported to the lender. Refer to [Subsection 6.11.E](#) for information regarding borrowers who exceed annual loan limits. [09-10 FSA Handbook, Volume 3, Chapter 6, p. 3-97]

## 5.16 Ineligible Borrowers

### 5.17 Ineligible Borrowers

A student for whom a Stafford or PLUS loan has been guaranteed is considered ineligible to receive the [loan proceeds](#) if any of the following occurs:

- The borrower or student provided false or erroneous information.
- The borrower or student did not qualify for all or a portion of the loan (see [Section 5.1](#) for information regarding eligibility requirements).
- The borrower received [federal interest benefits](#) on a subsidized Stafford loan for which the borrower did not qualify.
- The borrower has been convicted of, or has pled guilty or *nolo contendere*, to a crime involving fraud in obtaining Title IV funds and has not repaid those funds in full.
- The student did not begin attendance in a [loan period](#) or [payment period](#) for which the loan funds were intended and the borrower did not repay loan proceeds he or she received to either the school or the lender. A student does not begin attendance if the school is unable to document the student's attendance in any class during a loan period or during a payment period within the loan period.

When a lender discovers or is notified by a school or [guarantor](#) at any time that a borrower was ineligible for any portion of a loan, the lender, in conjunction with the school and/or guarantor, must determine which party was responsible for the error: the borrower, the school, or the lender.

## 5.16.A Ineligibility Based on Borrower Error

### 5.17.A Ineligibility Based on Borrower Error<sup>1</sup>

In some situations, a [borrower](#) is considered ineligible for a loan due solely to his or her own error. The key factor in determining whether the borrower is solely responsible for his or her ineligibility is whether the borrower provided false or incorrect information in the loan process, misrepresented his or her eligibility, or otherwise acted in a way that caused the borrower to be ineligible for the loan. Examples of such misrepresentation are the misreporting of family size, income, or student or borrower default status.

#### Failure to Begin Attendance

If FFELP loan funds were delivered to, or on behalf of, a student who did not begin attendance in a loan period or payment period for which the loan funds were intended, the borrower is ineligible for those funds. A student does not begin attendance if the school is unable to document the student's attendance in any class during a loan period, or during a payment period within the loan period. Below are examples of situations in which a borrower is considered ineligible for loan funds due to borrower error:

- The school delivered loan funds to, or on behalf of, an otherwise eligible student as early as 10 days prior to the beginning of a loan period and the school later learned that the student did not begin attendance in the loan period.
- The school delivered loan funds to, or on behalf of, an otherwise eligible student as early as 10 days prior to a second or subsequent payment period in the loan period and the school later learned that the student did not begin attendance in the second or subsequent payment period.
- The lender directly disbursed funds to a student enrolled in a study-abroad or [foreign school](#) program and the student did not begin attendance in the loan period or payment period.

The school will not be assessed any liability for delivering loan funds unless the school knew, or should have known, that the borrower was ineligible to receive the funds at the time they were delivered (see [Subsection 5.16.B](#) for more information about ineligibility due to school error).

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

However, as soon as possible, but no later than 30 days after the date the school becomes aware that the student will not, or did not begin attendance, the school must return to the lender all loan funds credited to the student's account at the school and the amount of any payments made directly by, or on behalf of, the student to the school for the loan period or payment period, as applicable. See [Subsection 8.9.B](#) for more information about returning [ineligible borrower](#) loan funds.

For loan funds that a lender disbursed or a school delivered directly to a borrower for a [loan period](#) or [payment period](#) in which the student did not begin attendance, the school is not responsible for returning the funds. However, upon learning that a student will not, or did not begin attendance, a school must immediately notify the lender of the borrower's receipt of funds for which he or she was not eligible, including loan funds that a lender disbursed directly to a student enrolled in a study-abroad or [foreign school](#) program. The school should include in its notice to the lender the student's [withdrawal date](#), if applicable. For more information about required [enrollment reporting](#), see [Section 9.2](#).

The lender will issue a [final demand](#) letter to the borrower requiring the borrower to repay the full amount of the ineligible portion of the loan, including [interest benefits](#) and [special allowance](#) the lender billed to the Department. The lender must allow an [ineligible borrower](#) at least 30 days to respond from the date the final demand letter is mailed. If, at the end of the 30-day time frame, the borrower fails to comply with the terms of the final demand letter, the lender must treat the entire loan as though it were in default and file a claim payment request with the guarantor. See [Subsection 12.4.F](#) for more information about a lender's servicing requirements on ineligible loans due to borrower error.

When a borrower is solely responsible for his or her ineligibility, the borrower is not eligible for [interest benefits](#), an in-school or [grace period](#), or [deferral](#) on the ineligible loan(s). Additionally, the borrower may not consolidate or rehabilitate an ineligible loan, and may not have his or her [Title IV](#) eligibility reinstated by making [satisfactory repayment arrangements](#) on an ineligible amount. The borrower must fully repay the ineligible loan to regain Title IV eligibility. However, a borrower with an ineligible loan(s) may consolidate another eligible loan(s). [[§682.201\(d\)\(1\)\(i\)\(D\)](#); [§682.201\(d\)\(2\)](#)]

## **5.16.B** **Ineligibility Based on School Error**

## **5.17.B** **Ineligibility Based on School Error<sup>1</sup>**

In some cases, a [borrower](#) may receive loan [funds](#) for which he or she is ineligible due to a [school](#) error. These errors may include, but are not limited to:

- The school delivers funds to a borrower who has not maintained eligibility.
- The school certifies and delivers loan funds in excess of the borrower's eligibility.
- The school certifies and delivers loan funds to an ineligible borrower (for example, a borrower in [default](#) on another Title IV loan).
- The student fails to enroll in a course leading to a degree or certificate, and the course in which the student enrolls is not required for teacher certification or recertification in the [state](#) in which the school is located.
- The borrower misrepresents or misreports information that the school is required to verify, and the school fails to verify the information, resulting in the borrower's receipt of funds for which he or she is ineligible.
- The school knew that a student would not, or did not, begin attendance during the loan period or a payment period within the loan period before the school delivered loan proceeds to, or on behalf of, a student (e.g., the student notified the school that he or she would not attend or the school expelled the student).

If the [lender](#) discovers that a borrower received a loan, or portion of a loan, for which the borrower is ineligible because of a school error, the lender should contact the [guarantor](#). The lender must continue to service the loan in accordance with regulatory requirements. The guarantor will investigate the case and, if necessary, require the school to purchase any ineligible portion of the loan from the lender and repay any [interest](#) and [special allowance](#) paid by the [Department](#).

<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

Until the school repays the lender, the lender must continue to service the loan as an eligible [FFELP](#) loan. If the school is required to repay the entire loan amount, the school may request that the lender assign the loan to the school at the time the school returns the ineligible loan funds to the lender.

In these cases, the school must repay the ineligible disbursed amount plus outstanding accrued interest and [interest benefits](#) or [special allowance](#) payments that the Department paid to the lender. See [Subsection 8.9.B](#) for detailed information about returning ineligible loan funds due to school error.

## **5.16.C** **Ineligibility Based on Lender Error**

## **5.17.C** **Ineligibility Based on Lender Error<sup>1</sup>**

If the borrower receives funds for which he or she is not eligible due to a lender error, the lender may not bill the Department for interest or special allowance on the ineligible portion of the loan, and must refund to the Department any such amounts already paid. The ineligible portion of the loan is not insured by the guarantor. However, the borrower remains eligible for all benefits identified in the promissory note, including deferment and various repayment options.

An example of ineligibility due to lender error is the disbursement of funds to a student attending a foreign institution when the lender has received information, prior to the disbursement of such funds, that the student is no longer [enrolled](#) at least half time.

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<sup>1</sup> Policy 1228 (Batch 173), approved January 20, 2011

The lender may capitalize any interest accrued and not paid during this period.

[§682.407(c)(3)]

### Claim Payment

The claim payment amount includes the sum of the remaining **principal balance** and interest accrued on the loan, unpaid **collection costs** incurred by the lender and applied to the borrower's account within 30 days of the date those costs were actually incurred, and unpaid interest up to the date the lender should have filed the claim.

In the case of a partial discharge of a Consolidation loan, the claim payment includes the amount specified in the preceding paragraph for the portion of the Consolidation loan attributable to the eligible victim or eligible public servant.

[§682.407(c)(9)]

The amount payable on an approved claim includes the unpaid interest that accrues during each of the following periods:

- During the period before the claim is filed, not to exceed 60 days from the date the lender determines that the borrower qualifies for a discharge.
- During a period not to exceed 30 days following the date the lender receives a claim returned by the guarantor for additional documentation necessary for the claim to be approved by the guarantor.
- During the period required by the guarantor to approve the claim and to authorize payment or to return the claim to the lender for additional documentation, not to exceed 90 days.

[§682.407(c)(10)]

### Notifying the Borrower and Any Endorser

After being notified that the guarantor has paid a discharge claim, the lender must notify the borrower that the loan has been discharged, or partially discharged in the case of a Consolidation loan. Except in the case of a partially discharged Consolidation loan, the lender must return to the sender any payments received by the lender after the date the guarantor paid the discharge claim and notify the borrower and any **endorser** that there is no further obligation to repay the loan(s).

[§682.407(c)(11)]

## 13.8.G Total and Permanent Disability

*Note: See [Section 5.4](#) for more information about eligibility requirements that a borrower must meet in order for the borrower to receive a new loan after he or she has received a loan discharge due to total and permanent disability.*

A borrower is not eligible for discharge of a loan that has already been paid in full when the loan holder receives the borrower's total and permanent disability loan discharge request.

*Note: If a loan is paid in full through involuntary payments within 30 days of a guarantor's receipt of a total and permanent disability loan discharge application, the guarantor, after contacting the Department's Total and Permanent Disability Servicer, may assign the loan to the Department. The Department may discharge some part of the loan balance in such cases.*<sup>1</sup>

A total and permanent disability **discharge** request based on a determination by the U.S. Department of Veterans Affairs (VA) has different eligibility criteria than one that is not based on a VA determination, as outlined below.

### Discharge Requests Based on VA Determinations

A borrower is eligible for loan discharge due to total and permanent disability if the borrower provides documentation from the VA showing that the VA has determined the borrower to be unemployable due to a service-connected condition, and this documentation is acceptable to the U.S. Department of Education (the Department). The borrower is not required to provide additional documentation to support the discharge; however, the borrower is required to complete Sections 1 and 3 of the Discharge Application: Total and Permanent Disability.

If the lender believes the borrower qualifies for discharge based on its review of the VA disability documentation, the lender must forward the loan discharge application and VA documentation to the guarantor for review.

If the guarantor determines that the borrower meets the criteria for discharge based on its review of the VA documentation, the guarantor must forward the VA documentation and the loan discharge application to the Department for determination of the borrower's eligibility for loan discharge. If the guarantor determines, based on its review of the VA documentation, that the borrower is not

<sup>1</sup> Policy 1226 (Batch 173), approved January 20, 2011

- The disabled borrower, comaker, or endorser is not required to make any payments on the loan.
- The disabled borrower, comaker, or endorser is not considered delinquent or in [default](#) on the loan, unless he or she was delinquent or in default at the time the conditional discharge was granted.
- The disabled borrower, comaker, or endorser must promptly notify the Department of any changes in address or phone number.
- The disabled borrower, comaker, or endorser must notify the Department if his or her annual earnings from employment exceed 100% of the poverty line for a family of two.
- The disabled borrower, comaker, or endorser must provide the Department, upon request, with additional documentation or information related to his or her eligibility for a total and permanent disability loan discharge.  
[§682.402(c)(4)(i)(C)(ii)(E)]
- The disabled borrower, [comaker](#), or [endorser](#) must provide the Department, upon request, with additional medical evidence if the Department determines that the borrower's, comaker's, or endorser's application does not conclusively prove that the borrower, comaker, or endorser is disabled. As part of this review or at any time through the end of the conditional [discharge](#) period, the Department may arrange for an additional review of the borrower's, comaker's, or endorser's condition by an independent physician at no expense to the applicant.  
[§682.402(c)(4)(v)]
- The disabled borrower, comaker, or endorser must not receive a new [TEACH grant](#) or a new loan under the [Federal Perkins Loan Program](#), the FFELP, or the [Federal Direct Loan Program](#), except for a FFELP or Direct Consolidation loan that does not include any loans that are in a conditional discharge status.  
[§682.402(c)(4)(i)(B)]
- If any FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that are disbursed after the date of the physician's certification must be returned to the

holder within 120 days of the [disbursement date\(s\)](#) to preserve the borrower's discharge eligibility.  
[§682.402(c)(4)(i)(C)]

- If the borrower satisfies the criteria for a total and permanent disability loan discharge during and at the end of the conditional discharge period, the Department does both of the following:
  - Discharges the balance of the loan.
  - Returns to the person who made payments any that were received after the date that the physician completed and certified the borrower's loan discharge application.<sup>1</sup>

The Department also notifies the disabled borrower, comaker, or endorser, for those loans assigned to the Department, that if at any time during the 3-year conditional discharge period he or she does not continue to meet the eligibility requirements for a total and permanent disability discharge, the Department or the loan holder, as applicable, will resume collection activity on the loan but will not require the borrower to pay any interest that accrued on the loan from the date of the initial determination of total and permanent disability through the end of the conditional discharge period.  
[§682.402(c)(4)(ii)(C)(ii)(E)]

## 2. Post-Discharge Monitoring Period

If the Department makes a determination that the borrower, comaker, or endorser is totally and permanently disabled, the Department notifies the borrower, comaker, or endorser that the loan—or the comaker's or endorser's obligation on the loan—is discharged and that the loan is placed in a post-discharge monitoring period. The post-discharge monitoring period will last for 3 years after the date the Department grants the discharge. The Department's notification identifies the following conditions that apply during the 3-year post-discharge monitoring period:

- The disabled borrower, comaker, or endorser must promptly notify the Department of any changes in his or her address or phone number.
- The disabled borrower, comaker, or endorser must promptly notify the Department if his or her annual earnings from employment exceed 100% of the poverty line for a family of two.

<sup>1</sup> Policy 1227 (Batch 173), approved January 20, 2011

- The disabled borrower, comaker, or endorser must provide the Department, upon request, with documentation of his or her annual earnings from employment.
- The Department reinstates the borrower's, comaker's, or endorser's obligation to repay a loan that was discharged if any of the following apply to the disabled borrower, comaker, or endorser:
  - He or she has annual earnings from employment that exceed 100% of the poverty line for a family of two.
  - He or she receives a new TEACH grant or a new Title IV loan, except for a Federal or Direct Consolidation loan that includes loans that were not discharged.
  - He or she fails to ensure that the full amount of any disbursement of a Title IV loan or TEACH grant received prior to the discharge date that is made during the 3-year period following the discharge date is returned to the loan holder or to the Department, as applicable, within 120 days of the disbursement date.

[§682.402(c)(5)(i)(A-C); §682.402(c)(6)]

#### *NSLDS Reporting during the Conditional and Post-discharge Period for Comade Loans*

In cases where a comaker of a joint Consolidation or PLUS loan has applied for a total and permanent disability loan discharge, the lender must ensure accurate reporting to the guarantor for NSLDS purposes. The lender must report the correct status of the non-dischargeable portion to the guarantor for subsequent reporting to the NSLDS in a timely manner. The NSLDS currently reports joint Consolidation loans and comade PLUS loans under one primary borrower only. However, to ensure proper reporting during the conditional or post-discharge period, as applicable, the lender should report the non-dischargeable portion under the non-disabled borrower's name and **Social Security number (SSN)** to the guarantor. If the borrower on record with the guarantor and the NSLDS is the disabled borrower, the guarantor's records and the NSLDS must be updated to reflect the non-disabled borrower as the borrower of record. If the discharge is denied, the lender may resume reporting the full balance of the loan under the borrower currently being reported. If a final discharge is granted, the lender continues to report the non-discharged portion of the Consolidation loan under the non-disabled borrower's name and SSN.

#### *Total and Permanent Disability Loan Discharge Payment*

Federal regulations require a guarantor to determine if the borrower, **comaker**, or **endorser** meets the eligibility criteria for a total and permanent disability (TPD) **discharge**. If the guarantor determines that the borrower, comaker, or endorser meets the criteria, the guarantor will take the following action, as appropriate:

- For a loan made solely to the borrower, or a PLUS loan with an endorser where the borrower is the party applying for the loan discharge, the guarantor will pay the lender the remaining balance on the loan and assign the loan to the Department.
- If the borrower satisfies the criteria for a total and permanent disability loan discharge, the Department discharges the balance of the loan and returns to the person who made the payments any that were received after the date that the physician completed and certified the borrower's loan discharge application. The discharge and return of payments are made before the loan enters the post-discharge monitoring period. [§682.402(c)(3)(ii)]<sup>1</sup>
- For a comade (spousal) Consolidation loan, the guarantor will pay the lender the amount that represents the disabled comaker's portion of the Consolidation loan. The guarantor will forward the disability documentation to the Department for determination of the final discharge eligibility.
- For a comade PLUS loan or a PLUS loan with an endorser where the endorser is the party applying for the loan discharge, the guarantor will forward the documentation to the Department for a determination of final discharge eligibility. The guarantor will not remit a **claim** payment to the lender.

<sup>1</sup> Policy 1227 (Batch 173), approved January 20, 2011

### *Timely Filing Deadline for Total and Permanent Disability Claims*

A lender must file a disability claim within 60 days of receiving a complete loan discharge application or other form(s) approved by the Department. If a disability claim is not filed by the 60th day, the **guarantor** will still purchase the claim—unless prior servicing violations were not cured appropriately. However, the claim will be subject to an **interest** penalty, and the lender will be required to repay all **interest benefits** and **special allowance** payments for amounts received or otherwise payable after the expiration of the 60-day deadline.

[§682.402(g)(2)(i)]

### *Notification Requirements after Claim Filing or Filing of a Partial Discharge Request*

After a lender receives payment of a total and permanent disability **claim**, the lender must notify the borrower that the loan will be assigned to the Department for determination of **discharge** eligibility and no payments are due on the loan. The notification must also inform the borrower that, to remain eligible for final discharge, he or she cannot earn income from employment exceeding the poverty line for a family of two, receive any new Title IV loans (with the exception of a FFELP or Direct Consolidation loan that does not include loans to be discharged), and must ensure the full amount of any Title IV loan made on or after the date the physician completed and certified the discharge application is returned to the **holder** within 120 days of the **disbursement date**.

[§682.402(c)(5)(vi)]

After the lender receives payment of a total and permanent disability claim for a loan made solely to a single borrower or for a portion of a Consolidation loan attributable to a **comaker**, the lender must notify the borrower or comaker that the loan or a portion of the loan will be assigned to the Department for determination of eligibility for a total and permanent disability loan discharge. After the lender receives notification from the **guarantor** that the loan discharge application has been forwarded to the Department for a determination of total and permanent discharge eligibility, the lender must notify the PLUS loan borrower that the comaker's or endorser's discharge application has been forwarded to the Department.

[§682.402(c)(5)(vi)]

If the guarantor determines that the borrower, comaker, or **endorser** is not eligible for loan discharge, the guarantor will notify the lender with an explanation of the reason for the denial. The lender must notify the borrower, comaker, or endorser that the application for a disability discharge has been denied, provide the basis for the denial, and

inform the borrower, comaker, or endorser that the lender will resume collection activities on the loan.

[§682.402(c)(5)(v)]

### *Resuming Loan Servicing on Comade or Endorsed Loans*

If the Department grants a final discharge to a comaker for a portion of a Consolidation loan, the lender must resume collection activities on the remaining loan balance, collecting that balance from both the disabled and non-disabled spouses. If the Department denies the final loan discharge, the lender must refund to the guarantor the amount of the discharge payment previously received and return the loan to repayment with the corrected loan balance. No interest accrues on the disabled comaker's portion of the loan during the conditional discharge period.

If the Department grants a final discharge to a comaker of a PLUS loan, there is no reduction of the loan's principal and the lender must resume loan collection activities on the full loan amount. The disabled comaker's obligation on the loan is discharged and the lender may bill only the non-disabled comaker. If the Department denies the final discharge, the lender must resume collection activities with both comakers.

If the Department grants a final discharge for a PLUS loan endorser, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance. If the Department denies the final discharge, the lender may resume billing both the borrower and endorser, as appropriate.

### *Treatment of Payments*

If the lender receives a payment from or on behalf of the borrower after the date the physician completed and certified the discharge application but before the lender receives the claim payment, the lender must hold the payment. After the lender receives the claim payment, the lender must forward the payment to the guarantor.

[§682.402(c)(5)(vi)(B)(3)]

~~If the borrower satisfies the criteria for a total and permanent disability loan discharge during and at the end of the conditional discharge period, the balance of the loan is discharged at the end of the conditional discharge period and any payments received after the date that the physician completed and certified the borrower's loan discharge application are returned by the Department to the person who made the payments on the loan.~~

~~[§682.402(c)(4)(iii)]<sup>1</sup>~~

<sup>1</sup> Policy 1227 (Batch 173), approved January 20, 2011

## 13.9 Forgiveness

Loan **forgiveness** is the release of a borrower's or any comaker's, as applicable, obligation to repay his or her loan, either in whole or in part. Congress has authorized programs that provide loan forgiveness, as a result of public service, to qualified FFELP borrowers. These programs and their corresponding borrower eligibility criteria are outlined in [Subsections 13.9.A and 13.9.B](#). [Subsection 13.9.C](#) provides eligibility criteria regarding loan repayment for civil legal assistance attorneys. [Subsection 13.9.D](#) outlines eligibility criteria and lender activities with regard to loan forgiveness under [income-based repayment \(IBR\)](#).

[§682.215(f)]

### 13.9.A Teacher Loan Forgiveness Program

The Teacher Loan Forgiveness Program is intended to encourage individuals to enter and continue in the teaching profession in certain eligible elementary and secondary schools that serve low-income families. The amount of loan **forgiveness** for which a **borrower** is eligible depends on all of the following criteria:

- When the borrower begins his or her qualifying teaching service.
- The borrower's qualifications.
- The subject area in which the borrower teaches.

Under this program, [the Department](#) repays a maximum of \$5,000 or \$17,500, as applicable, (combined total for loans obtained under both the FFELP and FDLP) of a qualified borrower's Stafford loan obligations, and Consolidation loan obligations to the extent that a Consolidation loan repaid a borrower's qualifying Stafford loan(s). No borrower may receive benefit for the same qualifying period of teaching service under both the Teacher Loan Forgiveness Program and the Public Service Loan Forgiveness Program, the Loan Forgiveness Program for Service in Areas of National Need, or subtitle D of Title I of the National and Community Service Act of 1990 ([AmeriCorps](#)).

[§HEA 428J(g)(2); §682.216(a) and (c)(9); DCL GEN-05-02/FP-05-02; DCL GEN-08-12/FP-08-10]

A borrower who completes the qualifying teaching service may request loan forgiveness by completing a Teacher Loan Forgiveness Application and forwarding it to the lender or

[guarantor](#). The lender must forward the borrower's completed loan forgiveness application, including any supporting [documentation](#), to the guarantor no later than 60 days after its receipt. The guarantor determines the borrower's eligibility for loan forgiveness and advises the lender of its determination. The lender must notify the borrower of the guarantor's determination within 30 days of receiving that determination. If loan forgiveness is granted and the borrower has an outstanding loan balance, the lender also must provide the borrower with information regarding any new repayment terms.

[§682.216(f)(2) and (4)]

Unless instructed otherwise by the borrower, the lender must apply a teacher loan forgiveness payment received on the borrower's behalf first to any outstanding unsubsidized Federal Stafford loan balances, next to any outstanding subsidized Federal Stafford loan balances, and then to any eligible outstanding Federal Consolidation loan balances.

[§682.216(f)(5)]

Receipt of a benefit under this program does not entitle the borrower to a [refund](#) of any payments made on the loan(s).

[§682.216(d)(3)]

#### Eligibility Criteria

To be eligible for loan forgiveness under this program, a borrower must meet all of the following criteria:

- The borrower must have had no outstanding balance on a [FFELP](#) or [FDLP](#) loan on October 1, 1998, or had no outstanding balance on a [FFELP](#) or a [FDLP](#) loan on the date he or she obtained a loan after October 1, 1998. [A borrower must pay in full or obtain a full loan discharge on a \[FFELP\]\(#\) or \[FDLP\]\(#\) loan\(s\) that has an outstanding balance as of October 1, 1998, in order to qualify for teacher loan forgiveness on a subsequent loan\(s\) that the borrower obtains after October 1, 1998. In addition, if a borrower obtains a \[FFELP\]\(#\) or \[FDLP\]\(#\) loan\(s\) after October 1, 1998, while an outstanding balance remains on a loan the borrower obtained on or before October 1, 1998, the borrower must pay in full or obtain a full loan discharge on all of the borrower's outstanding loans prior to obtaining a subsequent loan in order to qualify for teacher loan forgiveness on the subsequent loan.](#)

For the purpose of the Teacher Loan Forgiveness Program, paid in full does not include paid in full through consolidation.<sup>1</sup>

<sup>1</sup>. Policy 1216 (Batch 173), approved January 20, 2011

**Example:** A borrower received a Stafford loan on September 1, 1998, and a subsequent Stafford loan on August 26, 1999. The 1998 loan is not eligible for teacher loan forgiveness because the borrower obtained the loan on or before October 1, 1998. The loan made on August 26, 1999, is not eligible for teacher loan forgiveness because the borrower had an outstanding balance on a FFELP or FDLP loan obtained on or before October 1, 1998, as of the date the borrower obtained the newer loan. In this example, the borrower paid both loans in full on June 3, 2002. The borrower obtained a subsequent Stafford loan on January 6, 2004. The 2004 Stafford loan is eligible for teacher loan forgiveness, provided all other eligibility criteria are met, because on the date that the borrower obtained the 2004 loan, the 1998 and 1999 loans were paid in full. If, however, the borrower paid in full the 1998 loan but did not pay in full the 1999 loan before the borrower obtained the subsequent loan on January 6, 2004, the 2004 loan would not be eligible for teacher loan forgiveness.<sup>1</sup>

[§682.216(a)]

- The borrower must have been employed as a full-time teacher for 5 consecutive, complete **academic years** at a qualifying school or location operated by an eligible educational service agency (see definitions of *qualifying school* and *educational service agency* later in this subsection) or a combination of these entities, as certified by the chief administrative officer(s) at the qualifying school(s) or educational service agencies. [HEA §428J(c)(3); §682.216(a); DCL GEN-08-12/FP-08-10]
  - Any consecutive 5-year period of qualifying service may be counted for teacher loan forgiveness purposes.
  - Teaching at a qualifying school may be counted toward the required 5 consecutive complete **academic years** only if at least one year of teaching service was after the 1997-1998 academic year.
  - Teaching at an eligible educational service agency may be counted toward the required 5 consecutive complete academic years only if the 5-year period includes teaching service at an eligible education service agency after the 2007-2008 academic year.

See [Section H.4](#) for information about a statutory or regulatory waiver authorized by the **HEROES Act** that may impact these requirements.

- If the school where the borrower is employed meets the eligibility criteria of a *qualifying school* for any year of the borrower's employment, all subsequent years continue to qualify the borrower even if the school does not meet the criteria. However, if the borrower is initially employed by a school that does not meet the criteria and the school later qualifies, the borrower's 5 qualifying years of service begin when the school meets the eligibility criteria. [§682.216(c)(2)]
- A borrower who is in **default** on a loan(s) for which the borrower seeks forgiveness must have made **satisfactory repayment arrangements** on the defaulted loan(s) to reinstate **Title IV** aid eligibility. See [Subsection 5.2.D](#). [§682.216(c)(10)]
- The loan for which **forgiveness** is sought must have been made before the end of the 5th year of qualifying teaching service. [§682.216(a)]

#### Interruptions in Qualifying Teaching Service

A lender should not consider the time that a **borrower** is on active duty as a result of a military mobilization as an interruption in the borrower's qualifying teaching service. This applies to a borrower who is a member of a reserve component of the Armed Forces and is called or ordered to active duty for more than 30 days, and to a borrower who is a regular active duty member of the Armed Forces and is reassigned to a different duty station for more than 30 days.

Completion of one-half of an **academic year** is considered to be one academic year if the borrower's employer considers the borrower to have fulfilled his or her contract requirements for the academic year for the purposes of salary increases, tenure, and retirement, and the borrower is unable to complete the academic year due to any one of the following:

- A return to postsecondary education on at least a half-time basis in a program directly related to the borrower's teaching service.
- A condition covered under the Family and Medical Leave Act of 1993.
- An order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces.

<sup>1</sup> Policy 1216 (Batch 173), approved January 20, 2011