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Enactment of the "Taxpayer-Teacher Protection Act of 2004" (P. L. 108-409; 118 Stat. 2299)

Posted on 12-03-2004

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GEN-04-14

**SUBJECT: Enactment of the "Taxpayer-Teacher Protection Act of 2004"
(P. L. 108-409; 118 Stat. 2299)**

SUMMARY: This letter contains information on changes made to the Higher Education Act to provide increased Federal Stafford Loan forgiveness for certain Elementary and Secondary School Teachers.

REFERENCE:
 Sections 428J and 460 of the HEA.
 34 CFR 682.215 and 685.217

Dear Colleague:

On October 30, 2004, President Bush signed the "Taxpayer-Teacher Protection Act of 2004" (P. L. 108-409). This Act authorizes up to \$17,500 in loan forgiveness for new Federal Stafford Loan borrowers under the Federal Family Education Loan (FFEL) Program and Federal Direct Loan Program who meet certain criteria. This Dear Colleague Letter discusses the teacher loan forgiveness provisions of P. L. 108-409. The new law also modifies the special allowance rates for certain FFEL loans made or purchased with tax-exempt funds. Information concerning the special allowance changes will be provided in a separate letter to the holders of loans made with tax-exempt funds that are affected by these changes.

P. L. 108-409 changed the requirements for teacher loan forgiveness applicable to the previously authorized level of \$5,000 and established provisions under which new Stafford Loan borrowers may qualify for teacher loan forgiveness of up to \$17,500 under sections 428J and 460(c) of the Higher Education Act of 1965 (HEA). The increased amount of teacher loan forgiveness is only available to an individual who had no outstanding balance of principal or interest owing on any loan made, insured or guaranteed under Title IV of the HEA prior to October 1, 1998 and has borrowed eligible loans prior to October 1, 2005.

For a Stafford loan borrower to qualify for loan forgiveness of up to \$17,500, the borrower must be employed full-time for five consecutive years as a highly qualified secondary school teacher of science or math or a highly qualified elementary or secondary school special education teacher. The definition of "highly qualified teacher" is contained in section 9101 of the Elementary and Secondary Education Act of 1965 and is provided as an enclosure to this letter.

A special education teacher in an elementary school or secondary school for purposes of loan forgiveness is a special education teacher whose primary responsibility is to provide special education to children with disabilities, as those terms are defined in section 602 of the Individuals with Disabilities Education Act. The chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed must certify that the borrower is teaching children with disabilities that correspond with the borrower's special education training, and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

As under prior law, the borrower must teach in an elementary or secondary school that-

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- is in a school district that qualifies for funds under Title I of the Elementary and Secondary Education Act of 1965, as amended;
- has been selected by the U.S. Department of Education based on a determination that more than 30 percent of the school's total enrollment is made up of children who qualify for services provided under Title I; and
- is listed in the annual *Directory of Designated Low-Income Schools* for teacher cancellation benefits. (See website address at <http://studentaid.ed.gov/PORTALSWebApp/students/english/cancelperk.jsp?tab=repaying>)

An otherwise eligible borrower who has already received loan forgiveness under the prior requirements is eligible to receive further loan forgiveness, up to the difference between \$17,500 and the amount previously forgiven, once the borrower has completed the required five years of teaching service as a highly qualified special education teacher or as a highly qualified secondary school math or science teacher.

For a new Stafford loan borrower to qualify for loan forgiveness of up to the previously authorized level of \$5,000 after the date of enactment of P. L. 108-409, the borrower must now be a highly qualified teacher, as defined in section 9101 of the Elementary and Secondary Education Act of 1965, and employed full-time for five years in an elementary or secondary school that meets the above standards for inclusion in the annual *Directory of Designated Low-Income Schools*. Please note that a borrower who commenced teaching service under the requirements that existed under prior law, and who continues to meet those requirements, will remain eligible for up to \$5,000 in loan forgiveness without meeting the highly qualified teacher standard.

Except for those specific statutory provisions that have changed, as discussed in this letter, the regulations implementing the FFEL (34 CFR 682.215) and Direct Loan (34 CFR 685.217) teacher loan forgiveness programs remain applicable. A revised "Teacher Loan Forgiveness" application form is currently being developed and will be made available shortly. If you have any questions on the matters discussed in this letter please contact our Customer Service Call Center at 1-800-433-7327. After hours calls will be accepted by an automated voice response system. Callers leaving their name and phone number will receive a return call the next business day.

Sincerely,

Sally L. Stroup
Assistant Secretary for
Postsecondary Education

Enclosure

Definition of a Highly Qualified Teacher

(23) HIGHLY QUALIFIED.—The term "highly qualified"—

(A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that—

- (i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and
- (ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

(B) when used with respect to—

- (i) an elementary school teacher who is new to the profession, means that the teacher—
 - (I) holds at least a bachelor's degree; and
 - (II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or
- (ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by—
 - (I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or
 - (II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and

(C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and—

- (i) has met the applicable standard in clause (i) or

(ii) of subparagraph (B), which includes an option for a test; or

(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that—

(I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;

(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

(III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;

(IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;

(V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;

(VI) is made available to the public upon request; and

(VII) may involve multiple, objective measures of teacher competency.

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