

Questions and Answers
Sept. 18, 2008 USA Funds® Webcast
Higher Education Opportunity Act

Question: Is the limit to a single loan rehabilitation for each loan retroactive to those loans rehabilitated prior to Aug. 14, 2008 — the date of enactment — or does it apply only to those loans rehabilitated on or after that date?

Answer: Our current interpretation is:

- Borrowers who had entered into a rehabilitation agreement with a guarantor prior to the date of enactment (Aug. 14, 2008) are able to rehabilitate a previously rehabilitated defaulted loan.
- Borrowers who had not entered into a rehabilitation agreement with a guarantor prior to the date of enactment may not rehabilitate a previously rehabilitated defaulted loan.

Question: Regarding revenue sharing: What if your payment plan company is partnered with a lender that appears on a preferred lender list?

Answer: In the preamble to the final regulations published Nov. 1, 2007, the Secretary of Education stated that “she believes that contracted services between financial institutions and schools in non-student aid-related areas will not be affected by these regulations as long as the arrangements are negotiated in good faith and are not undertaken to secure Federal Family Education Loan Program loan applications or limit a borrower’s choice.” (See p. 61976 of the *Federal Register*.) As long as the school’s selection of the lender is based on the objective factors provided in the HEOA, and not in any way tied to the selection of that lender or affiliated company, we do not believe this would constitute a banned revenue sharing agreement. We encourage you to consult with your institution’s legal staff to make a final decision on this issue.

Question: By what date does a school have to have a code of conduct? Has NASFAA developed one that schools can adopt?

Answer: The effective date of this requirement was the date of enactment – Aug. 14, 2008. Schools are expected to make a good-faith effort to comply. To our knowledge NASFAA has not developed a standard code of conduct to be used by schools; however, you may wish to contact NASFAA directly for information on this topic.

Question: What if the school can find only one lender to provide private loans for its students?

Answer: The Department of Education addressed this topic for FFELP loans in Dear Colleague Letter GEN-08-06. In that letter, the Department stated that schools that were unable to identify the minimum required number of lenders to create a preferred lender list “may provide the names of the lenders that have indicated that they would provide FFELP loans to the school’s students and their parents. In providing this information, the school must make it clear that it is not endorsing the lenders, and the borrower can choose any FFELP lender that will make loans to the borrower for attendance at that institution.”

Although this guidance does not specifically relate to private loan administration, in the absence of other guidance provided by the Department, we believe schools that follow this direction for private loan administration have made a good faith effort to comply with the preferred lender list requirements.

Question: What if the lender the student or parent chooses does not do business with the school?

Answer: The school must advise the student or parent that his or her chosen lender has opted not to do business with the school and ask the student or parent to choose another lender.

Question: Because of the cost of printing materials, we do not update them each year unless necessary. We, of course, update Web information as needed. Our printed materials are more generic. Now we are going to be required to notify borrowers of the maximum federal grant aid in print?

Answer: The language in the HEOA states that this information must be disclosed “on such covered institution’s or institution-affiliated organization’s website and in all informational materials.” “Informational materials” are further defined to be “publications, mailings, or electronic messages or materials that are distributed to prospective or current students of a covered institution and families of such students; and describe or discuss the financial aid opportunities available to students” So, yes, it would appear that the school will be required to update the printed materials as well as its Web-based materials with specific information required in statute.

These provisions, however, have a prospective effective date of the earlier of 18 months after enactment or the date that final regulations are published by the Board of Governors of the Federal Reserve Board.

Question: Has anyone seen a draft of the form mentioned on the previous slide, regarding self-certification?

Answer: We assume you are referring to the self-certification form for private education loans. The private loan lender may not consummate a private loan with a student who is enrolled in an institution of higher education until it receives a signed self-certification form from the student.

The form itself is not yet available, and we are not aware of anyone who has seen a draft of the form. The Department is required to develop this form in consultation with the Board of Governors of the Federal Reserve System. The form must meet the requirements of the Truth in Lending Act and must also be developed in a standardized format that can be made available to the student in either paper or electronic format, based on the request of the student, and contain the following:

- The student may qualify for other aid (Title IV, state or institutional) that can be used instead of or in addition to the private loan funds.

- The student is encouraged to discuss the availability of other aid with his or her financial aid administrator(s).
- The private loan may affect the student’s eligibility for free or low-cost aid.
- The information the student is required to provide on the form is available from his or her financial aid administrator(s).
- The form must include a place to provide:
 - The student’s COA.
 - The student’s EFC if the student completed a FAFSA.
 - The student’s EFA as determined by the school.
 - The difference between the student’s COA and EFA.
 - The sum of (a) the student’s EFC and (b) the difference between his or her COA and EFA.
 - The student’s ink or electronic signature.

Schools and private loan applicants will not be able to comply with this requirement until the Department develops and disseminates this form.

Question: What is the date the schools must have the ISBN and retail price of books on the schedule?

Answer: By July 1, 2010, the school is required to provide the International Standard Book Number and retail price of any required and recommended textbooks and other materials for each listed course on the school’s internet course schedule. However, if the ISBN is not available for any textbook or other materials, the school must include the author, title, publisher, and copyright date for each. If the school determines that disclosure of this information is not “practicable” it must then note “To Be Determined” in place of this information.

Question: When can we start doing exit counseling online?

Answer: Schools have been permitted to offer both online entrance and exit counseling to their students for several years. USA Funds offers online entrance and exit counseling tools for both Stafford and Grad PLUS borrowers, and is currently updating those tools to fully comply with the newest provisions. Required text changes will be completed in November; customization changes and enhancements will be completed a short time later.

Question: What are the effective dates for those provisions noted on slides 32-34; are they effective immediately?

Answer: The effective dates are as follows:

- Definition of Institution of Higher Education – effective July 1, 2010.
- Financial Aid Officer’s use of professional judgment for dependent students whose parents do not support the student and refuse to complete a FAFSA, and for students in distance education programs – effective Aug. 14, 2008.
- Ability to Benefit definition – effective Aug. 14, 2008.
- Teach-out plans – effective Aug. 14, 2008.

- ECASLA correction to unsubsidized Stafford amounts for teacher certification programs and preparatory coursework – effective for loans first disbursed on or after July 1, 2008.
- Students with Drug Convictions – effective July 1, 2010.
- Students with Intellectual Disabilities – August 14, 2008.

Question: With regards to the deferment on parent PLUS loans, is there a maximum period for which the parent can receive deferment based on the student's enrollment? Is it only for undergraduate study or can this deferment also be requested for periods when the student is enrolled in graduate school, if applicable?

Answer: Section 424 of the HEA now states:

“(1) Commencement of Repayment. – Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral -

(A)(i) during **any period** during which the parent borrower or the graduate or professional student borrower meets the conditions required for a deferral under section 428(a)(2)(C) or 428(b)(1)(M); and

(ii) upon request of the parent borrower, during **any period** during which the student on whose behalf the loan was borrowed by the parent borrower meets the conditions required for a deferral under section 427(a)(2)(C)(i)(I) or 428(b)(1)(M)(i)(I); and

(B)(i) in the case of a parent borrower, upon request of the parent borrower, during the 6-month period beginning on the later of –

(I) the day after the date the student on whose behalf the loan was borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(II) if the parent borrower is also a student, the day after the date such parent borrower ceases to carry at least one-half the normal full-time academic workload; and

(ii) in the case of a graduate or professional student borrower, during the 6-month period beginning on the date after such student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution.”

(Emphasis provided.)

The fact that Congress added the phrase “any period” to the deferment language indicates that the parent may be deferred for *any period* during which the parent is enrolled at least half time, the Grad PLUS borrower may be deferred for *any period* during which the student is enrolled at least half time, and the parent may be deferred, upon request, for *any period* during which the student for whom the loan was borrowed is enrolled at least half time. Also note that the language does not appear to restrict the “grace period” to only the initial period of enrollment, but states that the six-month period follows the date the parent or student ceases to be enrolled at least half time.

Question: Where can we find the list of occupations that meet the service in areas of national need forgiveness program? Where can we get a list of the Areas of National Need?

Answer: Additional information on this program is available in the USA Funds’ HEOA matrix that is posted on the USA Funds’ Web site. The occupations are as follows.

Subject to the availability of appropriations, this program provides loan forgiveness of up to

\$2,000 per year of service for a maximum of \$10,000 in FFELP loans, except for some PLUS and Consolidation loans, if the borrower provides a specified length of service in an area defined as being 'national need' as follows:

- Child welfare workers
- Dentists
- Early childhood educators
- Foreign language specialists
- Highly qualified teachers serving students who have limited English proficiency, low-income communities, underrepresented populations
- Individual employed in applied sciences, technology, engineering or mathematics Librarians
- Nurses
- Nutrition professionals
- Medical specialists
- Mental health professionals
- Public sector employees
- Occupational therapists
- School counselors
- Speech-language pathologists and audiologists
- Superintendents, principals, other education administrators

Each of these terms is defined in statute. The borrower must be employed full time in the defined area of need, and must not be in default on the loan for which he or she is seeking loan forgiveness. Parent PLUS Loans and Consolidation loans that repaid parent PLUS Loans are not eligible for this type of loan forgiveness

Again, loan forgiveness funding is subject to appropriations and forgiveness is granted on a first-come, first-served basis.

Question: On the subject of PLUS loan deferment, your slides indicate that the student does not have to request the in-school deferment, but another webinar indicated a student does have to request it. Which is correct?

Answer: The HEA states:

“(1) Commencement of Repayment. – Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral -

(A)(i) **during any period during which** the parent borrower or **the graduate or professional student borrower meets the conditions required for a deferral** under section 428(a)(2)(C) or 428(b)(1)(M); and

(ii) upon request of the parent borrower, during any period during which the student on whose behalf the loan was borrowed by the parent borrower meets the conditions required for a deferral under section 427(a)(2)(C)(i)(I) or 428(b)(1)(M)(i)(I); and

(B)(i) in the case of a parent borrower, upon request of the parent borrower, during the 6-month period beginning on the later of –

- (I) the day after the date the student on whose behalf the loan was borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution);
or
(II) if the parent borrower is also a student, the day after the date such parent borrower ceases to carry at least one-half the normal full-time academic workload; and
(ii) **in the case of a graduate or professional student borrower, during the 6-month period beginning on the date after such student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).**” (Emphasis provided.)

There is no requirement for the graduate or professional student borrower to request either the in-school deferment or the six-month “grace” period as there is for the parent-borrower (as noted in (B)(i) above, underlined phrase). Therefore we (as well as many others) interpret this language to mean that a graduate or professional student who has obtained a PLUS loan is not required to request either the in-school deferment or the subsequent six-month grace period.

Question: In reference to the 18 semesters of Pell Grant eligibility, does that mean the full-time equivalent?

Answer: The new language reads as follows:

The period during which a student may receive Federal Pell Grants shall not exceed 18 semesters, or the equivalent of 18 semesters, as determined by the Secretary by regulation. Such regulations shall provide, with respect to a student who received a Federal Pell Grant for a term but was enrolled at a fraction of full-time, that only that same fraction of such semester or equivalent shall count towards such duration limits. The provisions of this paragraph shall apply only to a student who receives a Federal Pell Grant for the first time on or after July 1, 2008.

Question: Can you please clarify that the maximum Pell Grant and loan amounts available under Title IV must be published on the school’s Web site and in all of the school’s financial aid materials, or is one or the other acceptable?

Answer: If your school uses both methods of disclosure, the required information must be disclosed in each type of communication.

Question: In reference to veterans’ benefits, is that all VA educational programs, for example, for dependents and reservists?

Answer: The programs that are to be excluded from estimated financial assistance are those defined in Section 480(c) of the HEA, as follows:

- Chapter 2, United States Code, title 10: Reserve Officer Training Corps scholarship.
- Chapter 106, United States Code, title 10: Selective Reserve.
- Chapter 107, United States Code, title 10: Selective Reserve Educational Assistance Program.
- Chapter 2, United States Code, title 37: Reserve Officer Training Corps Program.
- Chapter 30, United States Code, title 38: Montgomery GI Bill—active duty.
- Chapter 31, United States Code, title 38: Vocational Rehabilitation.
- Chapter 32, United States Code, title 38: Post-Vietnam Era Veterans’ Educational Assistance Program.
- Chapter 35, United States Code, title 38: Dependents Educational Assistance Program.

- Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits).
- Public Law 96–342, section 903: Educational Assistance Pilot Program.

Question: Can you please define “intellectual disability”?

Answer: The term “student with an intellectual disability” is defined in Section 706 of the Higher Education Act of 1965, as amended, as follows:

“(2) STUDENT WITH AN INTELLECTUAL DISABILITY – The term ‘student with an intellectual disability’ means a student –

- (A) with mental retardation or a cognitive impairment, characterized by significant limitations in –
 - (i) intellectual and cognitive functioning; and
 - (ii) adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(B) who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act.”

Question: Regarding the provision on Students with Intellectual Disabilities, is this as it relates to drug charges or just students with disabilities?

Answer: Based on the information provided in the previous answer, the requirements are believed to be applicable only to those individuals who meet the definition in HEA Section 706.

Question: Where can I get more information on the Department’s Public Service Loan Forgiveness Program.

Answer: Information on the Direct Loan Public Service Loan Forgiveness Program can be found in 34CFR 685.219.