



Publication Date: May 2002

DCL ID: GEN-02-03

New Total and Permanent Disability Discharge Procedures for Title IV Loans - Effective July 1, 2002

May 2002

**GEN-02-03**

**CB-02-08**

**G-02-334**

**L-02-228**

**SUBJECT: New Total and Permanent Disability Discharge Procedures for Title IV Loans - Effective July 1, 2002**

**SUMMARY:** This letter discusses implementation of the regulatory changes for total and permanent disability discharges in the Federal Perkins Loan, Federal Family Education Loan (FFEL), and the William D. Ford Federal Direct Loan programs. The final regulations were published on November 1, 2000. While some of the provisions went into effect on July 1, 2001, most of the regulatory changes become effective July 1, 2002. This letter provides guidance to Perkins school lenders, FFEL lenders, and guaranty agencies on the new procedures for processing total and permanent disability discharge requests.

Dear Colleague:

To address weaknesses in the procedures for granting total and permanent disability discharges on federal student loans identified in a June 1999 report issued by the Department's Inspector General, the Department conducted a negotiated rulemaking process with representatives from the higher education community from January to May 2000. All members of the negotiating committee could not reach agreement on the proposed regulatory changes, and the Department published proposed regulations for public comment on August 2, 2000.

After considering the public comments received on the proposed regulations and making changes where appropriate, the Department published final regulations on November 1, 2000, that significantly revise the process for granting disability discharges. In addition, as part of those regulations, the definition of total and permanent disability was changed, removing the requirement that a borrower be unable to attend school. This revised definition became effective July 1, 2001.

Under the changed definition, a borrower is totally and permanently disabled if the borrower: "is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death" [34 C.F.R. §§674.51(s), 682.200]. The final regulations also made significant changes to the process for evaluating disability discharge applications. Those changes will go into effect on July 1, 2002.

This Dear Colleague Letter provides a general overview of the disability discharge regulations and procedures that go into effect on July 1, 2002. In addition, Attachments 1 and 2 to this letter provide guidance specific to Perkins school lenders and FFEL lenders and guarantors. Attachment 3 outlines the role of the Department in the new process.

### **I. Overview of Regulatory Changes**

The regulatory changes revising the process for granting total and permanent disability discharges are contained in 34 C.F.R.

§674. 61(b) of the Perkins regulations, 34 C.F.R. §§682.402(c) and 682.402(r) of the FFEL regulations, and 34 C.F.R. §685.213 of the Direct Loan regulations. Under the new regulations, the disability discharge procedures are as follows:

1. The borrower applies to the loan holder (i.e., the current owner of the loan) for a disability discharge. For Perkins Loans, the loan holder is the Perkins school lender. For FFEL loans, the loan holder is a lender or, if the loan has gone into default, a guaranty agency. For Direct Loans and other Title IV loans assigned to the Department, the loan holder is the U.S. Department of Education.

The loan holder must make a preliminary determination as to whether the borrower meets the criteria for a total and permanent disability discharge. For Perkins loans, the preliminary determination is made by the school. In the FFEL Program, the current loan holder makes the determination. For Direct Loans, the preliminary determination is made by Direct Loan staff. For other loans held by the Department, the preliminary determination is made by the Department's Federal Student Aid (FSA) Collections. In addition, for FFEL loans, the guaranty agency conducts an independent evaluation of the discharge request after the FFEL lender makes a preliminary determination that the borrower qualifies for the discharge, except in the case where the guaranty agency is the current loan holder and the borrower submitted the discharge request directly to the guaranty agency.

2. If during the preliminary determination a loan holder, guaranty agency or the Department determines that the borrower does not meet the criteria for a disability discharge, the discharge request is denied, the loan is returned to its prior status and, as appropriate, collection activity or regular servicing resumes on the loan.

3. For Perkins Loans, if the school determines that a borrower meets the criteria for a disability discharge, it must assign the loan to the Department's Disability Discharge Unit. For FFEL loans, the loan is assigned to the Department's Disability Discharge Unit if both the loan holder and the guaranty agency determine that a borrower meets the criteria for a total and permanent disability discharge.

4. The Department reviews all assigned loans with discharge applications to affirm that the borrower meets the criteria for a discharge. If we affirm that the borrower meets the criteria for a total and permanent disability discharge, the loan is placed in a conditional discharge status for three years. During this conditional discharge period, the borrower is not required to make payments and interest does not accrue.

5. During this conditional discharge period, we will monitor whether the borrower has been able to work and earn money or has received a new Title IV loan in order to ensure that the borrower continues to qualify for the total and permanent disability discharge. At the end of the conditional discharge period, we will make a determination that the borrower has met the definition of total and permanent disability if he or she has not had annual earnings from work during the conditional discharge period in excess of the poverty level for a family of two, and has not received any new Title IV loans during the period. If these conditions are met throughout the conditional discharge period, we will grant a final discharge.

6. In some cases, a borrower may have become totally and permanently disabled, as determined by a physician, three or more years before the loan is assigned. In these cases, the initial determination of eligibility - based on the borrower's medical documentation - and the final determination of eligibility - based on the borrower's earnings and subsequent Title IV loan activity - will be conducted at the same time and we may immediately grant a final discharge.

During the discharge process, borrowers will be given a phone number to call and speak with a representative if they have any questions about their discharge requests. Borrowers will also be told that they may contact our Student Loan Ombudsman for assistance in resolving disputes. However, as with the current total and permanent disability discharge process, there is no formal appeals process for a borrower who is denied a discharge.

## **II. Application Availability and Effective Date For Use**

Currently, disability discharge requests in the FFEL and Direct Loan Program are processed using the form titled "Loan Discharge Application: Total and Permanent Disability" [OMB Number 1845-0015]. Perkins school lenders do not currently use a Department of Education form for processing disability discharge requests, although they have a comparable application process. We have developed a new total and permanent disability discharge application for use in all three of the Title IV loan programs. This form is currently under review by the Office of Management and budget. After this new total and permanent disability discharge application form is approved by OMB in the next few weeks, we will make it immediately available to the financial aid community by posting it to the Information for Financial Aid Professionals (IFAP) web site as an attachment to a Dear Colleague Letter. The new disability discharge application must be provided to all

borrowers who request total and permanent disability discharges on or after July 1, 2002. However, program participants may use the previous form for borrowers who were in the discharge process prior to July 1, 2002, but must follow the new standards and procedures for all disability discharge determinations made on or after July 1, 2002.

### III. Triggering Date for Implementation of New Procedures

**The new standards and procedures for granting total and permanent disability discharges resulting from the November 1, 2000 final regulations that are discussed in this letter go into effect on July 1, 2002.**

For all disability discharge requests approved on or after July 1, 2002 based on the previously approved total and permanent disability discharge form (or a school form for Perkins borrowers), the loan holder must, in the preliminary determination letter, inform the borrower that the regulations governing disability discharges have changed and explain the new total and permanent disability eligibility criteria and discharge process.

### IV. Department's Expectations for Holders' Preliminary Determinations

We expect loan holders and guaranty agencies to conduct rigorous evaluations of disability discharge requests. If the borrower's medical documentation does not support the conclusion that the borrower is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death, the discharge request should be denied. Loan holders and guarantors should follow the guidance for reviewing disability claims that was provided in Dear Guaranty Agency Director Letter 99-G-324, dated November 1999. This guidance states that loan holders are expected to:

1. Require additional documentation to support a borrower's application if the information provided by the borrower is not definitive, is illegible, or is incomplete.
2. Require the physician to affirm certification of disability if the diagnosis does not appear to satisfy the standard for discharge. If it appears that the physician has used a less rigorous standard in certifying the borrower's disability, loan holders should clarify the definition of "total and permanent disability" with the physician.

Loan holders may want to seek the assistance of a qualified physician to evaluate total and permanent disability discharge requests, as appropriate. Loan holders should also report to the Department's Office of Inspector General any questionable patterns related to physicians' certifying signatures or state licensing numbers regarding the legitimacy of the disability discharge request.

The Attachments to this letter provide more detailed information on the new eligibility criteria and procedures for granting total and permanent disability discharges.

We would like to thank the student financial aid community for its assistance in developing these new procedures and designing the new total and permanent disability discharge form. We look forward to continuing to work with you to ensure that only those borrowers who are eligible will continue to receive total and permanent disability discharges on their Title IV loans. Thank you for your cooperation in implementing these new safeguards and your continued support of the federal student financial assistance programs.

Sincerely,

Jeffrey R. Andrade  
Deputy Assistant Secretary for  
Policy, Planning, and Innovation  
Office of Postsecondary Education

Greg Woods  
Chief Operating Officer  
Federal Student Aid

Attachment 1: Federal Perkins Loan Program  
Attachment 2: FFEL Program  
Attachment 3: Department of Education

Attachments/Enclosures:

[Attachment 1: Federal Perkins Loan Program in PDF Format, Size 15KB, pages 4](#)

[Attachment 1: Federal Perkins Loan Program in MS Word Format, Size 48KB, pages 4](#)

[Attachment 2: FFEL Program in PDF Format, Size 18KB, pages 5](#)

[Attachment 2: FFEL Program in MS Word Format, Size 35KB, pages 5](#)

[Attachment 3: Department of Education in PDF Format, Size 14KB, pages 3](#)

[Attachment 3: Department of Education in MS Word Format, Size 34KB, pages 3](#)

[Home](#) | [Privacy Statement](#) | [Help](#)  
Copyright © 2000, IFAP. All rights reserved.

## FEDERAL PERKINS LOAN PROGRAM

### (I) REVIEW PROCESS

Under the new total and permanent disability discharge procedures, a Perkins school lender (the school) is expected to conduct rigorous reviews of disability discharge requests. During this review period, the school must cease collection activities against the borrower, and, if the school denies the discharge claim, consider the loan to have been in forbearance (or deferment, if applicable) during the review period.

#### A. School Lender Notification

The school must provide information to eligible applicants on the process for granting the total and permanent disability discharge. If the discharge application is incomplete or if there is a need for additional supporting medical documentation, it must also notify the borrower and request this information. After determining whether or not a borrower meets the criteria for a total and permanent disability discharge, the school must notify the borrower of its decision.

1. If the school denies the borrower's request for a discharge it must inform the borrower of the denial and the reason the request has been denied.
2. If the school makes a preliminary determination that the borrower meets the criteria for a disability discharge, it should notify the borrower that the loan will be assigned to the Department for a review of the discharge request and an initial determination of eligibility for the discharge. If the Department determines that the borrower is not eligible, the Department will notify the borrower of the denial and explain the reason for denying the application. The Department will then begin collection activity on the loan. If the Department makes an initial determination that the borrower meets the criteria for a disability discharge, the Department will place the loan in a conditional discharge status, for three years from the date the borrower became totally and permanently disabled, as certified by a physician. During the conditional discharge period, interest will not accrue on the loan and the borrower is not obligated to make payments on the loan. If, throughout the conditional discharge period, the borrower remains eligible for the discharge (i.e., he or she does not take out any additional Title IV loans and does not have annual earnings from work in excess of the poverty level for a family of two) the Department will grant the borrower a final discharge.

The school's notification to the borrower should explain these procedures for reviewing disability discharge requests, and inform the borrower that the Department will be requesting information on the borrower's income from employment during the conditional discharge period. The school should also tell the borrower that no further payments should be made on the loan unless the borrower is otherwise instructed by the Department [34 C.F.R. §674.61(b)(3) – (b)(9)].

### (II) ASSIGNMENT PROCESS

After making a preliminary determination that a borrower meets the criteria for a disability discharge, the school must assign the loan to the Department [34 C.F.R §674.61(b)(3)]. When assigning loans for purposes of a total and permanent disability discharge, the school must use ED Form 553, the same form that is used to assign defaulted loans. This form is available on IFAP as an attachment to Dear Colleague Letter CB-02-05.

## **A. Use of ED Form 553**

Detailed instructions for completing ED Form 553 are provided in Dear Colleague Letter CB-02-05. Institutions should follow these instructions for disability discharge assignments, with the following modifications:

1. Leave Item 41 blank (Date of default), unless the loan is in default.
2. Leave Item 47 blank (Date loan was accelerated or became fully mature), unless the loan has been accelerated or has become fully mature.
3. Next to Item 54 ("Other") insert the words "Disability Discharge" to indicate that the loan is being assigned to the Department for determination of eligibility for a total and permanent disability discharge.
4. Completion of Section E ("Cancellation and Deferment Information") is optional.

## **B. Attachments**

A school is not required to submit the same supporting documentation for a total and permanent disability discharge assignment as it is required to submit for a defaulted loan assignment. However, the school is required to retain any loan related documentation that it does not submit until the Department approves a final discharge on the loan or the loan has been paid in full. The following documents must be submitted with the completed ED Form 553:

1. A completed Loan Discharge Application: Total and Permanent Disability, signed by both the borrower (or the borrower's representative) and the borrower's physician.
2. Any supporting medical documentation provided by the borrower or obtained by the school during the review process.
3. A listing of any payments (amounts and payment date) received on or after the date the borrower became totally and permanently disabled, as certified by a physician in Section 3 of the total and permanent disability discharge form.
4. The original promissory note or indemnification agreement if the promissory note is not available.
5. Judgment documentation (if applicable).
6. Bankruptcy documentation (if applicable).

## **C. Mailing Address**

Total and permanent disability assignment submissions should be sent to the Department at the following address:

Conditional Total and Permanent Disability Assignments  
U.S. Department of Education  
c/o AFSA Data Corporation  
501 Blecker Street  
Utica, New York 13501

## **D. NSLDS Reporting**

Before assigning the loan to the Department, the school must update the NSLDS record for the loan, using Loan Status Code “AE”, to reflect the assignment. In reporting the assignment to NSLDS, the school must report to NSLDS the same date for the “Date of Loan Status” that the school reports as the “Certification Date” on ED Form 553.

As with the current assignment process, when a school assigns a loan to the Department, the school reports to NSLDS a code number for the entity that will receive the loan. These loans will be assigned to a newly established Disability Discharge Operating Unit. An entity code for this unit has not yet been designated. We will advise schools of the new entity code as soon as it is available.

After the loan has been assigned, the Department will be responsible for further NSLDS reporting on the loan (see Attachment 3, “Department of Education”).

## **E. Credit Bureau Reporting**

After assignment to the Department, the school should use the Standard Metro formats for reporting these loans to credit bureau organizations using an “88” code to denote that a claim has been filed with the Department. Upon notification by the Department that the assignment has been accepted, the school should delete the loan record using the “DA” reporting code.

After the loan has been assigned, the Department will be responsible for further credit bureau reporting on the loan (see Attachment 3, Section (III) A.).

## **(III) TREATMENT OF PAYMENTS**

### **A. Payments Received After the Loan Has Been Assigned**

If a school receives payments from or on behalf of the borrower after the loan has been assigned to the Department, the school must forward that payment to the Department at the address provided in Section (II) C of this Attachment. The payment should be accompanied by a listing with the borrower’s name, social security number, source of payment if known (i.e. borrower, parent, etc), payment amount, payment date and date of assignment to the Department for total and permanent disability discharge purposes. The Department will credit the payment to the borrower’s account.

At the time the school forwards the payment to the Department, the school must notify the borrower or other party who sent the payment that there is no obligation to make further payments while the loan is held by the Department in a conditional discharge status, unless the Department directs the borrower otherwise [34 C.F.R. §674. 61(b)(10)].

### **B. Payments Received On or after the Date of Disability and Before the Loan Has Been Assigned**

After the Department approves a final discharge on a loan, the Department will notify the school of the discharge and require the school to return to the borrower any payments on the loan the school received on or after the date the borrower became totally and permanently disabled but before the loan was assigned [34 C.F.R. §674. 61(b)(1)]. The listing of these payments is submitted by the school at the time the loan is assigned, and is described in Section (II) B.3 of this Attachment. Returning payments to the borrower

will result in a decrease in the institution's Federal Perkins Loan Fund. The Department will provide instructions to schools on how to report the decrease on the FISAP.

## Attachment 2

# FFEL PROGRAM

## (I) LOAN HOLDER PROCEDURES

FFEL loan holders must use the following procedures in processing total and permanent disability discharge requests. If the guaranty agency is the loan holder, the disability discharge request is submitted by the borrower directly to the guaranty agency. For these loans, the guaranty agency is responsible for sending the notices described in Sections (I) B.1 and (I) B.2 of this Attachment to the borrower.

### A. Review Process

Under the total and permanent disability discharge procedures, an FFEL loan holder is expected to conduct rigorous reviews of disability discharge requests. If the physician's certification is not received or the holder determines that the borrower is not totally and permanently disabled, the loan holder must resume collection activities that were suspended because it was evaluating the borrower's application or awaiting the physician's certification. Otherwise collection activities remain suspended by the loan holder and guaranty agency throughout the loan holder claim payment process and the guaranty agency's assignment of the loan to the Department [34 C.F.R. §682.402(c)(4)].

### B. Filing a Claim

If the FFEL holder makes a preliminary determination that the borrower meets the criteria for a total and permanent disability discharge based on the certified discharge form and any supporting documentation, it must file a claim with the guaranty agency within 60 days after making that determination [34 C.F.R. §682.402(c)(4)]. If the guaranty agency denies the claim, it must notify the loan holder of the reason for the denial. Depending on the outcome of the guaranty agency's review, the loan holder must take one of the following actions:

1. If the claim is denied, the loan holder must promptly notify the borrower and explain why the claim has been denied. The loan holder must inform the borrower that it will resume collection activities and that it may capitalize accrued interest that was not paid while collection efforts were suspended [34 C.F.R. §682.402(c)(5) and (c)(7)].
2. If the claim is paid, the loan holder must notify the borrower that the guaranty agency has made a preliminary determination that the borrower meets the eligibility criteria for a disability discharge. The notification should inform the borrower that the loan will be assigned to the Department of Education for a review of the request and an initial determination of eligibility for the discharge [34 C.F.R. §682.402(c)(8)]. If the Department determines that the borrower is not eligible, the Department will notify the borrower and begin collection activity on the loan [34 C.F.R. §682.402(c)(12)]. If the Department makes an initial determination that the borrower meets the criteria for a disability discharge, the Department will place the loan in a conditional discharge status, for three years from the date the borrower became totally and permanently disabled, as certified by a physician. During the conditional discharge period, interest will not accrue on the loan for which the discharge is sought and the borrower is not obligated to make payments on the loan. If, throughout the conditional discharge period, the borrower remains eligible for the discharge (does not take out any additional Title IV loans and does not have annual earnings from work in excess of the poverty level for a family of two) the Department will grant the borrower a final discharge.

The loan holder's notification to the borrower should explain these procedures for reviewing disability discharge, and inform the borrower that the Department will be requesting information on the borrower's income from employment during the conditional discharge period [34 C.F.R. §§682.402(c)(13) – (c)(15)].

### **C. Payments Received After A Claim Has Been Paid**

If an FFEL holder receives any payment from or on behalf of the borrower after the guaranty agency has paid the claim, the loan holder must forward that payment to the guaranty agency. At the time the loan holder forwards the payment to the guaranty agency, the loan holder must notify the borrower or other party who sent the payment that there is no obligation to make further payments, unless the Department directs the borrower otherwise [34 C.F.R. §682.402(c)(9)].

## **(II) GUARANTY AGENCY PROCEDURES**

Guaranty agencies may receive disability applications in claim packages filed by loan holders, or directly from borrowers whose loans are already held by the agency. In the latter case, the agency must suspend any collection activities on the loan, such as administrative wage garnishment or litigation, while it is evaluating the borrower's application. The agency must also inactivate the loan from the Treasury Offset Program on the weekly update tape.

### **A. Review Process**

If a borrower who has filed an application for a disability discharge also has previously filed a closed school or false certification discharge request that is being reviewed by the guaranty agency, the agency should conclude that review, to the extent that it covers the same loans for which the disability discharge has been requested, before it undertakes consideration of the disability discharge request. A guaranty agency should continue its review of a borrower's discharge request on any loan for which a judgment has been secured or on which a bankruptcy filing has taken place and assign the loan to the Department, as appropriate.

When the guaranty agency receives a borrower's application for a disability discharge, it must review the application as it has done in the past to ensure that the application is complete and that the condition certified by the physician meets the standard for discharge, and that no supporting documentation or other information of which the agency is aware conflicts with the physician's certification. If the guaranty agency questions the physician's certification for any reason, the Department expects the guaranty agency to contact the physician to obtain clarification and to resolve the apparent conflict [34 C.F.R. §682.402(c)(6)].

If the guaranty agency makes a preliminary determination that the borrower meets the criteria for a total and permanent disability discharge, it assigns the loan to the Department by following the assignment process outlined in Section (II) D of this Attachment [34 C.F.R. §682.402(c)(11)].

**Extended time period for reviewing loan holder claims:** Under current regulations, a guaranty agency has 45 days to pay or return a disability claim submitted by a loan holder. As of the date of this letter, a proposal to increase this time period to 90 days is being considered. The Department will publish a Notice of Proposed Rulemaking proposing this change later this year. Because we believe it is important to allow guaranty agencies more time to rigorously scrutinize disability claims, we will not hold a guaranty agency liable for not meeting the current 45 day requirement if it pays or returns a disability claim filed by a loan holder within 90 days.

## **B. Denying or Approving a Claim**

Depending on the outcome of its review of a claim submitted by an FFEL holder, the guaranty agency will take one of the following actions:

1. If the claim is denied, the agency must return the claim package to the loan holder and explain why it has denied the claim [34 C.F.R. §682.402(c)(7)].
2. If the agency makes a preliminary determination that the borrower meets the criteria for a disability discharge, it must pay the FFEL holder's claim and assign the loan to the Department [34 C.F.R. §682.402(c)(6) and (c)(11)].

## **C. Requesting Reimbursement**

The new disability rules have no effect on the way that guaranty agencies request reimbursement for disability claims paid to loan holders. Guaranty agencies should continue to follow the normal procedures for requesting reimbursement from the Department.

## **D. Assignment**

After paying a loan holder's disability claim and receiving the reimbursement payment the guaranty agency assigns the loan to the Department. When assigning a loan, the agency must:

1. Use the current electronic and hard copy file formats and provide all data normally associated with loan subrogation.
2. Include the appropriate assignment letter and tape transmittal form, identifying the assignment as a "disability assignment."
3. Fill in Tape Positions 427-434 ("Date of Default") with spaces, if the loan is not in default
4. Attach the disability discharge application and any other supporting medical documentation provided by the borrower or obtained by the loan holder or guaranty agency during the review process.
5. Attach the promissory note and any judgment, bankruptcy, or indemnification agreement, as applicable.
6. Include a listing of any payments (amounts and payment date) received on or after the date the borrower became totally and permanently disabled, as certified by the physician in Section 3 of the Total and Permanent Disability Discharge Form. The listing should include payments received from any source, including those made by Treasury Offset.

## **E. Mailing Address**

Total and permanent disability assignment submissions should be sent to the Department at the following address:

Conditional Total and Permanent Disability Assignments  
U.S. Department of Education  
c/o AFSA Data Corporation  
501 Blecker Street  
Utica, New York 13501

## **F. Credit Bureau Reporting**

After assignment to the Department, a guaranty agency should use the Standard Metro formats for reporting these loans to credit bureau organizations, using an “88” code to indicate that a claim has been filed with the Department. Upon notification by the Department that the assignment has been accepted, the agency should delete the loan record using the “DA” reporting code.

After the loan has been assigned, the Department will be responsible for further credit bureau reporting on the loan (see Attachment 3, Section (III) A.).

## **G. NSLDS Reporting**

After receipt of a disability reimbursement payment and after verifying that the loan had previously been reported to NSLDS, the guaranty agency should continue the current practice of reporting the loan to NSLDS as “DI” or “DS” with a \$0 balance. The date of discharge reported by the guaranty agency as part of the NSLDS reporting transaction will determine how the Department reports these accounts to NSLDS following assignment. If the date of discharge is after July 1, 2002, the Department will replace the \$0 balance with the outstanding loan amount. As under the current assignment process, when a guaranty agency assigns a loan to the Department, the guaranty agency reports to NSLDS a code number for the entity that will receive the loan. These loans will be assigned to a newly established Disability Discharge Operating Unit. An entity code for this unit has not yet been designated. We will advise guaranty agencies of the new entity code as soon as it is available.

After the loan has been assigned, the Department will be responsible for further NSLDS reporting on the loan (see Attachment 3, Section (III) B.).

## **H. Payments Received After Assignment**

If the guaranty agency receives any payment from or on behalf of the borrower after the loan has been assigned it must forward that payment to the Department at the address provided in Section (II) E of this Attachment. The submission should be accompanied by a listing with the borrower's name, social security number, source of payment if known (i.e. borrower, parent, etc), payment amount, payment date and date of assignment to the Department for total and permanent disability discharge purposes. The Department will credit the payment to the borrower's account.

At the time the agency forwards the payment to the Department, the agency must notify the borrower or the sender of the payment that there is no obligation to make further payments while the loan is held by the Department in a conditional discharge status, unless the Department directs the borrower otherwise. If the Department makes a final determination to discharge the loan, it will return to the borrower any payments received on the loan on or after the date the borrower became totally and permanently disabled [34 C.F.R. §§682.402(r)(2) – (r)(3)].

## **I. Financial Reporting**

As stated in Section (II) C of this Attachment, the new disability rules have no effect on the way guaranty agencies request or are paid reimbursement on disability claims paid to loan holders. A certain number of loans assigned to the Department as disability claims, however, may either not be approved by the Department, or may become ineligible for final discharge during the conditional discharge period. Although these loans will not be returned to the guaranty agency

nor will the reimbursement amount change, the Department believes that it may be necessary to adjust guaranty agency financial reports in some manner to reflect the change in status of these claims to ensure consistency between NSLDS and financial reporting records. The Department plans to work with the guaranty agencies in the near future to determine the best way to reflect the changed status of these loans in guaranty agencies financial reports.

## U.S. DEPARTMENT OF EDUCATION

### (I) INITIAL REVIEW

The Department's Disability Discharge Operating Unit will conduct an initial review of all discharge requests that have been assigned by a Perkins school lender or a guaranty agency or transferred from the Direct Loan Servicer or FSA Collections.

The Operating Unit will review the discharge request packages for completeness. Any incomplete packages will be returned to the holder of the loan for resubmission. Any questionable preliminary determinations (e.g., a borrower that clearly does not meet the definition) may also be returned to the holder. The Department will monitor determinations made by loan holders to ensure that holders and guaranty agencies are properly reviewing the applications they receive.

In many cases a borrower will have submitted disability discharge requests to more than one loan holder. The Operating Unit will, to the extent possible, conduct a consolidated review of all discharge requests for a borrower to determine the borrower's eligibility for discharge.

If necessary, the Operating Unit will contact the physician or prior holder for any additional information it believes is necessary to make an initial determination of the borrower's eligibility for a discharge. The initial and final review of an application will be combined if, at the time the loan is assigned or transferred, three years has elapsed since the date that the borrower became totally and permanently disabled, as certified by the physician.

#### A. Borrower Notification of Eligibility for Conditional Discharge

The Operating Unit will send a letter to the borrower indicating that the loan has been assigned to the U.S. Department of Education. Unless the Department already was the holder of the loan, a copy of the letter will also be sent to the prior loan holder. The letter will provide the borrower and the prior holder:

1. A notification that the Department has determined that the borrower is eligible for a conditional discharge.
2. A description of the conditional discharge period and the eligibility requirements for receiving a final discharge.
3. A request for information on the borrower's earnings from employment during the conditional discharge period.
4. Instructions to the borrower to inform the Department of any change in address or phone number or annual earnings from employment and the need to provide the Department with additional information or documentation that may be necessary to support his or her eligibility for the final discharge.
5. A notice that failure to provide income information as requested will disqualify the borrower for a final discharge and will move the loan into full repayment status.
6. A contact number should the borrower have questions.

[34 C.F.R. §§674.61(b)(6), 682.402(c)(13), 685.213(a)(1)(i)]

## **B. Borrower Notification of Ineligibility for Conditional Discharge**

The Operating Unit will send a letter to the borrower indicating that the loan has been assigned to the U.S. Department of Education. Unless the Department already was the holder of the loan, the Department will send a copy of the letter to the prior loan holder. The letter will include a notice to the borrower that, after further review, the Department has determined that the borrower is ineligible for the disability discharge and the reason for the ineligibility. The letter will inform the borrower that the Department will continue to hold the loan and that the borrower's loan will be returned to repayment status or for collection. The borrower will also be notified how to resume payments on the loan. The borrower will be given a phone number to call and speak with a representative if the borrower has questions regarding the disability discharge request [34 C.F.R. §§674.61(b)(5), 682.402(c)(12)].

## **(II) CONDITIONAL DISCHARGE PERIOD**

When a loan is placed into a conditional discharge status, it will be entered into a tracking system with a date of disability identified for monitoring during the conditional discharge period.

### **A. Loan Monitoring**

The Department will:

1. Request income information annually from the borrower during the conditional period. If a borrower fails to provide the requested information, the borrower will lose eligibility for the discharge.
2. Conduct ongoing monitoring of NSLDS for receipt of new Title IV loans by the borrower.
3. Review the borrower's income against the poverty level on an annual basis.

The poverty level guidelines are updated annually by the U.S. Department of Health and Human Services (HHS). The poverty level guidelines are posted on the HHS web site at the following address:

<http://aspe.hhs.gov/poverty/poverty.htm>

## **B. Borrower Notification of Eligibility for Final Discharge**

Following the close of the borrower's conditional discharge period, the Operating Unit will notify the borrower that, based on its review of the borrower's loan history and receipt of income information for the conditional discharge period, the borrower is eligible for a final disability discharge. The Operating Unit will also send a copy of the letter to the prior loan holder. The letter will include information on the future refund of payments, if any, that were made on or after the date the borrower became totally and permanently disabled. The borrower will be given a phone number to call and speak with a representative if the borrower has questions regarding the disability discharge request [34 C.F.R. §§674.61(b)(8), 682.402(c)(15), 685.213(a)(2)].

## **C. Borrower Notification of Ineligibility for Final Discharge**

The Operating Unit will notify the borrower if it determines that the borrower has become ineligible for a total and permanent disability discharge during the conditional discharge period. The notice will explain the reason for the borrower's ineligibility and advise the borrower that the loan will be returned to repayment or collection status. The borrower will also be notified how to resume payments on the loan. The borrower will be given a phone number to call and speak with a representative if the borrower has questions regarding the disability discharge request [34 C.F.R. §§674.61(b)(9), 682.402(c)(16), 685.213(a)(3)].

### **(III) REPORTING**

#### **A. Credit Bureau Reporting**

Upon assignment of the loan to the Department, the Operating Unit will report the loan to national credit bureau organizations using Standard Metro Formats to reflect the change in ownership. For a defaulted loan last reported with an "88" code, the Operating Unit will report a code "93". For non-defaulted loans, the Operating Unit will report a code "11".

After its initial report to credit bureau organizations to reflect the change in ownership of the loan and the status of the loan upon assignment, the Operating Unit will not make further reports on the loan until such time as the loan is finally discharged or the borrower is disqualified and is returned to repayment or collection status.

#### **B. National Student Loan Data System (NSLDS) Reporting**

Upon assignment of a loan to the Department, the guaranty agency will report the loan to NSLDS by using a "DI" or "DS" code with a \$0 balance, with a claim payment date and a date of loan status on or after July 1, 2002. The Operating Unit, after its initial determination of eligibility, will reenter in the NSLDS system the outstanding balance last reported on the loan or otherwise prevent deletion of the outstanding balance on the loan in the NSLDS system.

Upon assignment from a Perkins school lender of a Perkins loan that was reported by the school to NSLDS with an "AE" code, the Operating Unit will report the loan to NSLDS, after its initial determination of eligibility, using the "DI" or "DS" code with an outstanding balance.

A loan with a "DI" or "DS" code and a positive outstanding principal balance and a date of loan status on or after July 1, 2002 will denote a loan in the conditional discharge period. The loan will remain in the conditional discharge status until:

1. A final discharge is granted, which is reflected by setting the outstanding balance on the loan to zero; or
2. The borrower loses eligibility for a final discharge and the loan is placed back into repayment, which is reflected by reporting the loan with its previous NSLDS Loan Status Code.