

**Federal Perkins Student Loan Program
Summary of Final Regulations
Federal Register dated October 28, 2009**

The following document summarizes final regulations relating to the Higher Education Act of 1965, as amended by the Higher Education Opportunity Act of 2008 (HEOA) as they apply to the institution and lender requirements for the Federal Perkins Loan Program. The complete text is available as follows:

HTML format:	http://ifap.ed.gov/fregisters/FR102809InstitutionandLenderrequirements.html
PDF format:	http://ifap.ed.gov/fregisters/attachments/FR102809InstitutionandLenderrequirements.pdf

Effective date: The effective date for the changes included in this Federal Register is July 1, 2010. However, based on the Secretary's authority under section 482(c) (2) (A) of the Higher Education Act, schools may, at their discretion, choose to implement the following provisions as of August 14, 2008 (date of enactment).

Section 674.12(a) and (b) – Loan Maximums

New annual limits:

- \$5,500 for a student who is enrolled in a program of undergraduate education
- \$8,000 for a graduate or professional student.

New aggregate limits:

- \$27,500 for a student who has successfully completed two years of a program leading to a bachelor's degree but who has not received the degree
- \$60,000 for a graduate or professional student
- \$11,000 for any other student.

Section 674.33(d) – Forbearance –Eliminates the requirement that a borrower make a "written" request to obtain a forbearance on his or her Perkins loan. It does not, however, eliminate the requirement to obtain supporting documentation. From ED:

Schools are still required to obtain supporting documentation for forbearances. The HEOA only eliminates the requirement that the forbearance request be in writing, and requires schools to confirm the forbearance agreement with the borrower and record the terms of the forbearance in the borrower's file. The new language does not change the requirement that the forbearance be granted "on such terms as are otherwise consistent with the regulations issued by the Secretary." The current regulations continue to require that a forbearance be granted "Upon receipt of . . . supporting documentation" [674.33(d) (2)].

Schools must confirm the terms of the forbearance by sending a notice to the borrower and recording the terms of the forbearance in the borrower's file.

Section 674.39(a) (2) – Loan rehabilitation – Reduces the number of consecutive on-time, monthly payments a borrower must make to successfully rehabilitate a defaulted Perkins loan from 12 to 9.

Section 674.42(b) – Exit Interview –Adds several new requirements to current exit counseling provisions. These changes include providing borrowers with information on applicable repayment plans, the effects of consolidation on Perkins loan, new cancellation provisions, the tax benefits that may be available, and more. Since these changes are fairly extensive, please refer to the requirements in 674.42(b) for additional information. (See page 55661 of the October 28, 2009 Federal Register).

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Section 674.51 – Special Definitions (for cancellations)

ED has added new definitions to be used in conjunction with the newly added cancellation benefits.

☛ ALL FUNDS	Canc Code
• Firefighters * 15%, 15%, 20%, 20%, 30% (5 Yrs)	F4
• Attorney in Public Defender Office * 15%, 15%, 20%, 20%, 30% (5 Yrs)	A4
• Librarian * 15%, 15%, 20%, 20%, 30% (5 Yrs)	B4
• Faculty Member at Tribal College or University * 15%, 15%, 20%, 20%, 30% (5 Yrs)	C4
• Speech/Language Pathologist * 15%, 15%, 20%, 20%, 30% (5 Yrs)	T4
• Staff at State Licensed or Regulated Pre-K/Child Care Program * 15% per year up to 100% (7 Yrs)	P4
• Military Service in Area of Hostilities * 15%, 15%, 20%, 20%, 30% (5 Yrs)	M4

Important Notes:

Eligible years of service - A borrower may qualify for one of the new Perkins cancellations for a year of service that “includes August 14, 2008.” A year of eligible service that began on August 15, 2007 and ended on August 14, 2008, would qualify a borrower for one year of cancellation benefits. The regulations have been amended to read, “for service that includes August 14, 2008 or begins on or after that date.”

Firefighter - EMT/Firefighter service would qualify for cancellation under the new firefighter cancellation provision. Percentages of time performing EMT duties and fire suppression duties do not need to be considered in granting loan cancellation. Both types of firefighter service are covered under the definition of “firefighter” in 674.51(k). For an EMT to qualify for a medical technician cancellation, the borrower would have to work 100% of the time as an EMT.

Public Defender - Pursuant to the Criminal Justice Act, the Office of Defender Services of the Administrative Office of the U.S. Courts provides information on its Web site that lists these Community Defender and Federal Public Defender Organizations. The Directory can be found at the following address: http://www.fd.org/odstb_def.htm. Click on the link for “Federal Public and Community Defender Directory”. This Directory is updated daily.

Military Cancellation – The cancellation rate is changed to 15%, 15%, 20%, 20%, and 30%. If a Perkins borrower has already received two years of military cancellation at the 12.5% rate now qualifies for a third military cancellation, the borrower would receive cancellation at the 20% rate (rather than having to go back and start over at the 15% rate). The remaining 5% in this scenario would have to be paid by the borrower.

Tribal Colleges and Universities - The Department provides a list of Tribal Colleges and Universities on its Web site at <http://www.ed.gov/about/inits/list/whhc/edlite-tclist.html#MN>. This list can be used as a resource when establishing a borrower’s eligibility for cancellation under this provision.

Cancellation for service in an early childhood education program – 674.58 has been amended to include not only service for a full-time staff member in a Head Start program, but also for a pre-kindergarten program or child care program. Below, we have included definitions of a pre-kindergarten program and a child care program as defined by the new regulations.

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(c)(2) – A prekindergarten program is a state-funded program that serves children from birth through age six and addresses the children’s cognitive (including language, early literacy, and early mathematics) social, emotional, and physical development.

(c)(3) - A child care program is a program that is licensed or regulated by the State and provides child care services for fewer than 24 hours per day per child, unless care in excess of 24 consecutive hours is needed due to the nature of the parent’s work.

Educational Service Agency - Campus Partners contacted ED to clarify the definition of “educational service agency” (ESA). From Brian Smith at ED:

“An ESA is not a school district. ESA’s generally provide educational services to schools in more than one school district. A good resource for information on ESA’s is the Web site for the Association of Educational Service Agencies (AESA). Their web site includes a map that identifies educational service agencies on a state-by-state basis. The map is available at:

http://www.aesa.us/esa_links.html

The state listings provide a good overview of the types of services ESA’s provide. They can provide anything from administrative services, such as managing payrolls or providing food service for school cafeterias, to educational services such as providing specialized classes in schools, or operating stand-alone specialized schools that serve students from different school districts.

Educational service agencies are authorized by State law. State education agencies will know what ESA’s operate in their States. It will be the responsibility of the States to determine which of their ESA’s qualify for inclusion on the Directory of Designated Low-Income Schools, just as they currently determine which elementary and secondary schools in their State qualify for inclusion on the Directory.”

Sections 674.53, 674.57, 674.58, and 674.59 – New cancellation provisions

These regulations expand the existing cancellation provisions for certain teachers, Head Start employees, law enforcement employees, and military personnel.

Cancellation benefits have been extended to the following public service professions:

- Full-time fire fighters with a local, State, or Federal fire department or fire district,
- Full-time faculty members at a Tribal College or University,
- Librarians with a master’s degree in library science who are employed in an elementary or secondary school that qualifies for Title I funding, or in a public library that serves a geographic area that includes one or more Title I schools, and
- Full-time speech-language pathologists with a master’s degree who are working exclusively with Title I-eligible schools.

**Federal Perkins Student Loan Program
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The following section details new total and permanent disability requirements for Federal Perkins loans. The complete text is available as follows:

HTML format:	http://ifap.ed.gov/fregisters/FR102909FFELPerkinsDirectLoanFinal.html
PDF format:	http://ifap.ed.gov/fregisters/attachments/FR102909FFELPerkinsDirectLoanFinal.pdf

Effective date: The new definition of totally and permanently disabled and the new discharge process is effective for discharge applications **received on or after July 1, 2010**. Discharge applications from borrowers (other than VA), that are received prior to July 1, 2010 will be processed under the current regulations.

Section 674.61 - Total and Permanent Disability – New definition of total and permanent disability in section 674.51(aa) (1).

Old definition: The condition of an individual who is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or to result in death.

New definition: The condition of an individual who (1) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that—

- (i) Can be expected to result in death;
 - (ii) Has lasted for a continuous period of not less than 60 months; or
 - (iii) Can be expected to last for a continuous period of not less than 60 months; or
- (2) Has been determined by the Secretary of Veterans Affairs to be unemployable due to a service connected disability. (See *Dear Colleague Letter GEN-09-07* (<http://ifap.ed.gov/dpccletters/GEN0907.html>)).

Discharge process:

- Borrowers must complete the Loan Discharge Application for Total and Permanent Disability
- Must submit with 90 days of the date the physician certifies the application
- Review the application and assign the loan to ED if the certification supports TPD

New!

- The new regulations have established two separate loan discharge processes –
 - 1) For veterans who have been determined by the VA to be unemployable due to a service-connected disability, and
 - 2) Borrowers who are unable to engage in substantial gainful activity (the general discharge process).
- If ED determines the borrower meets the eligibility requirements for TPD, ED will grant a final discharge. At this same time, ED will notify the borrower that the loan obligation will be reinstated if, within 3 years from the discharge date, the borrower,
 - 1) receives a new Title IV loan or TEACH Grant
 - 2) has earnings from employment that exceed the poverty line amount for a family of two
 - 3) fails to ensure that the full amount of any Title IV loan or TEACH Grant disbursement made after the discharge date is returned to the loan holder (or to ED) within 120 days of disbursement.