

(b) *The regulations.* (1) The area is established as a Naval Air Station small boat operations and training area.

(2) All persons, vessels, and other craft are prohibited from entering the waters described in paragraph (a) of this section for any reason. All vessels and craft, including pleasure vessels and craft (sailing, motorized, and/or rowed or self-propelled), private and commercial fishing vessels, other commercial vessels, barges, and all other vessels and craft, except vessels owned or operated by the United States and/or a Federal, State, or local law enforcement agency are restricted from entering, transiting, anchoring, drifting or otherwise navigating within the area described in paragraph (a) of this section.

(3) The regulations in this section shall be enforced by the Commanding Officer, Naval Air Station Pensacola and/or such persons or agencies he/she may designate.

Dated: November 1, 2005.

**Gerald W. Barnes,**

*Chief, Operations Division, Directorate of Civil Works.*

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## DEPARTMENT OF EDUCATION

### 34 CFR Parts 673, 674, 675, and 676

#### **Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant Programs, and the General Provisions for These Programs**

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice regarding reallocation of campus-based aid and waivers of statutory and regulatory provisions pursuant to the Natural Disaster Student Aid Fairness Act, Public Law 109-86.

**SUMMARY:** The Natural Disaster Student Aid Fairness Act (Aid Fairness Act), Public Law 109-86, signed by the President on October 7, 2005, provides, in part, that the Secretary must reallocate unexpended Federal Perkins Loan (Perkins), Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) program funds (campus-based funds) to institutions of higher education that are located in areas affected by Hurricane Katrina or Hurricane Rita or that have enrolled eligible students who were affected by Hurricane Katrina or Hurricane Rita. In this notice, we announce the reallocation process for institutions of higher education that

have enrolled students affected by Hurricane Katrina or Hurricane Rita and waivers or modifications of relevant statutory and regulatory provisions. We will be addressing the reallocation of additional campus-based funds for institutions that are located in an area affected by a Gulf hurricane disaster through a separate process.

**FOR FURTHER INFORMATION CONTACT:** John Kolotos, U.S. Department of Education, 400 Maryland Avenue, SW., UCP, room 113F2, Washington, DC 20202. Telephone: (202) 377-4027, FAX: (202) 275-4552, or by e-mail at [john.kolotos@ed.gov](mailto:john.kolotos@ed.gov).

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 2(b) of the Aid Fairness Act requires the Secretary to reallocate to certain eligible institutions of higher education (institutions) any unexpended campus-based funds from the 2004-2005 award year as supplemental allocations for the 2005-2006 award year. An institution is eligible to receive a reallocation if the institution participates in the program for which excess allocations are being reallocated and (1) is located in an area affected by a Gulf hurricane disaster or (2) has accepted for enrollment any affected students, as defined in the following paragraph, in academic year 2005-2006. The Aid Fairness Act further authorizes the Secretary to determine the manner in which excess allocations will be reallocated and authorizes the Secretary to waive or modify any statutory or regulatory provisions relating to reallocations.

The Aid Fairness Act defines an *affected student* as an individual who has applied for, or received, student financial assistance under title IV of the Higher Education Act of 1965, as amended (HEA), and who (1) was enrolled or accepted for enrollment, as of August 29, 2005, at an institution in an area affected by a Gulf hurricane disaster; (2) was a dependent student enrolled or accepted for enrollment at an institution that is not in an area affected by a Gulf hurricane disaster, but whose parents resided or were employed, as of August 29, 2005, in an area affected by a Gulf hurricane

disaster; or (3) suffered direct economic hardship as a direct result of a Gulf hurricane disaster, as determined by the Secretary.

An area affected by a Gulf hurricane disaster is any county or parish in Alabama, Louisiana, Mississippi, and Texas declared by FEMA as Major Disaster Areas designated for Individual Assistance. A listing of those counties and parishes is posted on the Department's "Information for Financial Aid Professionals" (IFAP) Web site at <http://www.ifap.ed.gov>.

##### **Reallocation for Institutions Enrolling Affected Students**

In this notice, we are addressing the reallocation of campus-based funds for *only* those institutions that participate in at least one of the campus-based programs and that accepted affected students for enrollment in academic year 2005-2006, including institutions located in an area affected by a Gulf hurricane disaster that enrolled affected students. We will be addressing the reallocation of additional campus-based funds for institutions that participate in at least one of the campus-based programs and that are located in an area affected by a Gulf hurricane disaster through a separate process.

##### **Criteria for Determining Economic Hardship**

As provided in the Aid Fairness Act in the definition of "affected student," the Secretary has determined that a student has "suffered direct economic hardship as a direct result of a Gulf hurricane disaster" if the student (or if a dependent student, the student's parents) lost a domicile, income, or other means of support as a result of a Gulf hurricane disaster.

##### **Procedures for Reallocation of Campus-Based Funds**

Institutions that participate in at least one of the campus-based programs and that have accepted for enrollment any affected students may submit a request to the Secretary for reallocation of excess campus-based funds, using the Reallocation Request Form described below. We will be sending to institutions that participate in one or more of the campus-based programs an e-mail message that will include, as an attachment, a Reallocation Request Form. Any of these institutions that have enrolled affected students and are requesting reallocation of funds must complete this form and submit it to the Department via FAX at the number that will be included in the e-mail message. The e-mail message also will specify the deadline date by which requests must

be received by the Department in order for an institution to be considered for reallocated funds.

*An institution's Reallocation Request Form must include the following information:*

(a) The number of students enrolled at the institution who were enrolled or accepted for enrollment for the 2005–2006 academic year at an institution located in an area affected by a Gulf hurricane disaster, whether or not those students have applied for or are recipients of Federal student aid.

(b) The number of affected students enrolled at the institution who have applied for Federal student aid, as evidenced by a 2005–2006 Student Aid Report (SAR) or Institutional Student Information Record (ISIR), received by the institution.

(c) The total amount of campus-based reallocated funds the institution estimates it will be able to expend in the 2005–2006 award year.

We advise institutions that, based on the amount of total funds available for reallocation, it is possible that the amount received by an institution that has enrolled fewer than 20 affected students would be minimal when compared to the time and effort institutions might need to prepare and submit a request.

The Secretary also will be posting an announcement on the Department's IFAP Web site providing information on the process institutions will need to follow to submit their requests.

#### **Use of Reallocated Campus-Based Funds**

An institution does not have to use the reallocated funds it receives directly for affected students, but it must use the funds to make campus-based awards to eligible students or for other statutorily allowed purposes. Any reallocated funds an institution receives must be included in the total program funds used for the purpose of calculating carry-forward amounts, carry-back amounts, Job Location and Development amounts, and campus-based administrative cost allowances.

#### **Statutory and Regulatory Waivers**

As noted earlier in this notice, the Aid Fairness Act authorizes the Secretary to waive or modify certain statutory or regulatory requirements pertaining to the reallocated campus-based funds. Under that authority:

(1) The Secretary will not require an institution to provide a non-Federal share or capital contribution under 34 CFR 674.8, 675.26, and 676.21 to match the reallocated campus-based funds.

(2) In its notification to an institution of the amount of its reallocated funds, the Secretary will identify the dollar amount associated with each of the campus-based programs for which reallocated funds are being provided to the institution. However, the Secretary will waive the funds transfer limitations of 34 CFR 674.18, 675.18, and 676.18, and allow the institution to transfer up to 100 percent of the reallocated funds it receives under any of the programs to either the FSEOG or FWS program, provided that the institution participates in the program(s) to which the funds are transferred. However, the institution cannot transfer any of the reallocated FSEOG or FWS funds to its Perkins Loan program.

(3) Normally, under 34 CFR 673.4, an institution may use reallocated FWS funds only to pay students performing community service activities. However, an institution is not required to use any reallocated FWS funds it receives under this process for community service purposes. Nor is the institution required to use the amount of its FWS reallocation in calculating the seven percent community service requirement.

#### **Documenting Requests for, and Use of, Reallocated Campus-Based Funds**

An institution that requests supplemental campus-based funds under this reallocation process must maintain documentation supporting its request, including a list of the names of the affected students included in the institution's request. In addition, the institution must maintain information that documents how each affected student qualifies under one of the three

elements of the definition of "affected student" described in this notice.

The Secretary also reminds institutions that they are responsible for accounting properly for any funds received and expended under the Title IV, HEA programs, including any funds received as a result of hurricane related statutory, regulatory, or administrative provisions. Each institution that receives such funds is alerted that the Secretary may request a separate accounting or report of its use of those funds.

#### **Electronic Access to This Document**

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loans)

**Program Authority:** 20 U.S.C. 1070a, 1070b–1070b–4, 1070c–1070c–4, 1071–1087–2, 1087a–1087j, 1087aa–1087ii, 1094, and 1099c; 42 U.S.C. 2751–2756b; Pub. L. 109–86.

Dated: November 2, 2005.

**Sally L. Stroup,**

*Assistant Secretary for Postsecondary Education.*

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