

College Cost Reduction and Access Act
(DCL GEN-08-01 and FP-08-01)

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or after July 1 of each year through June 30 of the next year. This change does not affect any prior loans made to these or any other borrowers as the terms and interest rates of those prior loans remain unchanged. These reduced interest rates apply only to subsidized loans; any unsubsidized Stafford Loan for the same undergraduate borrower would continue to be made at the current fixed interest rate of 6.8 percent.

Military Service Deferment

The CCRAA modifies the military service deferment for borrowers in the FFEL, Direct Loan and Federal Perkins Loan programs who are called to active duty during a war or other military operation or national emergency. This deferment was originally added to the HEA by the Higher Education Reconciliation Act of 2005 (HERA). Under the HERA, the military service deferment had a maximum time limit of three years and was available only for loans first disbursed on or after July 1, 2001.

Effective October 1, 2007, the CCRAA eliminates the three-year limit for this deferment, and removes the provision that limited the availability of the deferment to loans first disbursed on or after July 1, 2001. Eligible borrowers may now receive the deferment on all outstanding title IV loans in repayment on October 1, 2007, for all periods of active duty service that include that date or begin on or after that date. A borrower whose deferment eligibility had expired due to the prior three-year limitation and who was still serving on eligible active duty on or after October 1, 2007, may receive the deferment retroactively from the date the prior deferment expired until the end of the borrower's active duty service.

Lenders and schools may apply these changes to an eligible borrower who is currently receiving the military deferment or received the deferment for a period that included October 1, 2007 without receiving a new deferment request from the borrower or the borrower's representative. If expanded deferment benefits are granted in this manner, however, the lender or school must send a notice to the borrower explaining the additional benefits and providing the borrower an opportunity to decline the deferment. The Department will implement this practice in the Direct Loan Program.

Lenders and schools are reminded that the military service deferment is available only to borrowers who are called to active duty during a war or other military operation or national emergency. Moreover, the military service deferment may not be granted for a period that will result in a refund to the borrower of payments previously paid on the loan.

The CCRAA also extended the time period covered by military service deferments. *Effective October 1, 2007, the deferment period for any borrower whose qualifying active duty service includes October 1, 2007, or begins on or after that date, is extended for an additional 180 days following the date the borrower is demobilized from that active duty service.* This additional 180-day deferment period is available each time a borrower is demobilized at the conclusion of an eligible active duty service that supports the military deferment.

Lenders and schools may grant this additional deferment period based on any documentation received supporting the borrower's military service deferment that

identifies an end-of-military service date for the borrower. The additional 180-day deferment period cannot be granted unless the lender or school has documentation of that date since the lender or school would not otherwise have a basis for establishing the beginning of the 180-day period. The Department will be implementing these requirements in the Direct Loan Program.

Active Duty Student Deferment

The CCRAA created a new deferment in the FFEL, Direct Loan, and Federal Perkins Loan programs for members of the National Guard or Armed Forces Reserve, and members of the Armed Forces who are in a retired status, who are called or ordered to active duty service. *Effective October 1, 2007, these borrowers may receive a deferment on repayment of their title IV loans for up to 13-months following their completion of active duty military service if they were enrolled in a postsecondary institution at the time of, or within six months prior to, their activation.* The deferment period for these borrowers expires at the earlier of a borrower's re-enrollment in school or the end of the 13-month period.

Unlike a borrower receiving the Military Service Deferment, a borrower receiving the Active Duty Student Deferment is *not* required to have been activated during a war or other military operation, or national emergency, or performing qualifying National Guard service during a war or other military operation or national emergency. The term "active duty" has the same meaning as it has in section 101(d)(1) of title 10, United States Code, but does not include active duty for training or attendance at a service school.

Under the CCRAA, members of the National Guard may qualify for this deferment for:

- Title 32 Full-Time National Guard Duty under which a Governor is authorized, with the approval of the President or the U.S. Secretary of Defense, to order a member to State active duty and the activities of the National Guard are paid for by federal funds; or

- State active duty under which a Governor activates National Guard personnel based on State statute or policy, and the activities of the National Guard are paid for by State funds.

Until the Department issues regulations implementing this deferment, for purposes of this deferment the term "enrolled" means at least half-time enrollment and "active duty" must include at least 30 consecutive days of service, excluding training. Eligible National Guard service does not include employment in a full-time, permanent position in the National Guard unless the borrower employed in such a position is reassigned as part of a Title 32 call to State active duty.

Many borrowers who are eligible for this deferment may have also received the Military Service Deferment. If a borrower has already received the Military Service Deferment, a lender or school may grant the 13-month deferment to a borrower without an additional request from the borrower or the borrower's representative if the lender has documentation that: (1) demonstrates that the borrower was a member of National Guard or reserves or was in a retired status from the Armed Forces when entering active duty military service; (2) establishes an end-of-military service date; and (3) establishes the borrower's enrollment

status at an eligible institution prior to the borrower's military activation. If the 13-month deferment is granted without a separate request from the borrower, the lender must send a notice to the borrower advising the borrower of the deferment and providing the borrower the opportunity to decline the deferment. The 180-day extended military service deferment period and 13-month post-active duty service deferment periods will run concurrently for such a borrower. The Department will apply these policies in the Direct Loan program.

Economic Hardship Deferment

Under the HEA, a FFEL, Direct Loan, or Federal Perkins Loan borrower may qualify for an economic hardship deferment if the borrower's income does not exceed the greater of an amount tied to the poverty line standard or the minimum wage rate. *Effective for all economic hardship deferment requests made on or after October 1, 2007, the definition of economic hardship in section 435(o)(1) of the HEA is amended to change the poverty line standard from 100 percent for a family of 2 to 150 percent of the poverty line applicable to the borrower's family size.*

In addition, the CCRAA eliminates the provision of the HEA under which a borrower could be considered to have an economic hardship if the borrower was working full-time and had a Federal educational debt burden that equaled or exceeded 20 percent of the borrower's adjusted gross income. However, the CCRAA did not eliminate the Secretary's authority to establish, by regulation, additional criteria for an economic hardship deferment based on the borrower's income and debt-to-income ratio.

Accordingly, until the Department issues new regulations to implement the CCRAA, the regulations at 34 CFR 674.34(e)(4) and (5) and 682.210(s)(6)(iv) and (v) that establish an income and debt-to-income criteria for the economic hardship deferment remain in effect. The applicable poverty line standard for purposes of these regulatory provisions, however, is the new poverty line standard (150 percent of the poverty line applicable to the borrower's family size).

An economic hardship deferment may be granted for a maximum of three years with a re-evaluation of the borrower's eligibility every 12 months. A borrower currently receiving an economic hardship deferment may continue to receive the deferment, but is subject to the new poverty line standard at the borrower's next scheduled re-evaluation of eligibility.

Income-based Repayment for FFEL and Direct Loan Borrowers

Effective July 1, 2009, the CCRAA establishes a new income-based repayment (IBR) plan for borrowers in the FFEL and Direct Loan programs. The income-sensitive repayment plan in the FFEL program and the income-contingent repayment plan in the Direct Loan program will continue to be available to borrowers. The Department will be developing regulations to implement the new IBR plan through a negotiated rulemaking process.

Borrower Eligibility

The IBR repayment plan is available to all borrowers who have a partial financial hardship, except for a FFEL or Direct Loan parent PLUS Loan borrower or a FFEL or Direct

Loan Consolidation Loan borrower who repaid a parent PLUS loan through the Consolidation Loan.

Under the CCRAA, a "partial financial hardship" means a situation in which the annual amount due on all of the borrower's eligible FFEL and Direct Loans (as calculated under a standard repayment plan based on a 10-year repayment period) exceeds 15 percent of the result obtained by calculating, on at least an annual basis, the difference between the borrower's (and spouse's, if applicable) adjusted gross income and 150 percent of the poverty line applicable to the borrower's family's size.

If a borrower meets this threshold, the borrower may elect to pay the loan under an IBR plan and have his or her monthly loan payments limited to no more than 15 percent of the amount by which the borrower's (and, if applicable, the borrower's spouse's) adjusted gross income exceeds 150 percent of the poverty line applicable to the borrower's family size, divided by 12. The maximum repayment period for a borrower with a partial financial hardship may exceed 10 years.

Application of Borrower Payments and Treatment of Unpaid Interest and Principal under IBR

A loan holder is required to apply a borrower's monthly payments first to the accrued interest due on the loan, then to fees due on the loan, and then to loan principal.

Any accrued interest on a subsidized Stafford Loan that is not covered by the borrower's payment is paid by the Secretary for a period not to exceed three years from the date the borrower elects IBR, excluding any period during which the borrower receives an economic hardship

deferment on the loan. Any interest accruing on unsubsidized Stafford Loans or on subsidized Stafford Loans after the expiration of the three-year subsidy period is capitalized at the time the borrower elects to leave IBR or no longer has a partial financial hardship. Any unpaid principal not covered by the borrower's payment is deferred.

Payment Amount when a Borrower Leaves IBR or No Longer has a Partial Financial Hardship

A borrower who is paying under IBR may elect to stop paying under this plan at any time and repay under the FFEL or Direct Loan standard repayment plan. If a borrower elects to leave IBR or no longer has a partial financial hardship, the borrower's monthly repayment amount is recalculated. The maximum monthly amount that the borrower can be required to repay as a result of this recalculation is the amount a borrower would have paid under a FFEL or Direct Loan standard repayment plan based on a 10-year repayment period on all the borrower's non-parent PLUS, FFEL and Direct Loans that were outstanding in repayment at the time the borrower elected IBR. The borrower's total repayment period based on the recalculated payment amount may exceed 10 years.

Loan Forgiveness Related to IBR

The CCRAA authorizes the Secretary to repay or cancel any outstanding balance of principal and interest on a borrower's non-parent PLUS, FFEL or Direct Loans after a period prescribed by the Secretary not to exceed 25 years if the borrower elected to participate in IBR at any time, and the borrower meets one of the following requirements:

- The borrower has paid a reduced monthly payment amount under a partial financial hardship, or a reduced recalculated monthly payment amount after leaving IBR or after the borrower no longer has a partial financial hardship.

- The borrower paid a monthly payment amount that was not less than the amount the borrower would have paid under a FFEL or Direct Loan standard repayment plan based on a 10-year repayment period on all the borrower's non-parent PLUS FFEL and Direct Loans that were outstanding in repayment at the time the borrower elected IBR.

- The borrower paid a monthly payment amount that was not less than the amount required under a FFEL or Direct Loan standard repayment plan with a 10-year repayment period on all the borrower's non-parent PLUS, FFEL and Direct Loans.

- The borrower paid Direct Loans under an income-contingent repayment plan.

- The borrower has been in deferment due to an economic hardship.

Finally, the CCRAA requires the Secretary to establish procedures for making an annual determination of the borrower's eligibility for IBR, including verification of annual income, the annual amount due on the total amount of loans made, and other procedures needed to implement this plan.

Graduate/Professional PLUS Borrower Eligibility for Income Contingent Repayment in the Direct Loan Program

Effective July 1, 2009, graduate and professional student PLUS borrowers in the Direct Loan program will be

eligible to use the income-contingent repayment (ICR) plan. Direct Loan parent PLUS borrowers will not be eligible for the ICR repayment plan.

Maximum Repayment Period under Direct Loan Income-Contingent Repayment

Effective October 1, 2007, the CCRAA amended section 455(e) of the HEA to modify the maximum period of time for which an income-contingent repayment plan may be in effect for a borrower. As amended, the HEA now specifies that in calculating the maximum 25-year period a borrower may repay under ICR, as provided under section 455(d)(1)(D) of the HEA, the maximum repayment period will include any period in which the borrower is:

- Repaying a loan under ICR and is not in default on that loan;
- Repaying under ICR and is in an economic hardship deferment;
- Making a reduced monthly payment under the new IBR plan or a recalculated reduced monthly payment after electing to leave IBR or after the borrower no longer has a partial financial hardship;
- Making monthly payments that are not less than an amount the borrower would pay under a standard repayment plan based on a 10-year repayment period at the time the borrower elected IBR; or
- Making monthly payments that are not less than the amount required under a standard repayment plan with a 10-year repayment period.

Loan Forgiveness for Public Service Employees

Effective October 1, 2007, the CCRAA creates a new loan forgiveness program for public service employees. Under this program the Secretary will forgive the remaining outstanding balance of principal and accrued interest on an eligible Direct Loan for a borrower who is not in default and who makes 120 monthly payments on the loan after October 1, 2007. The borrower must be employed full-time in a public service job during the same period in which the qualifying payments are made and at the time that the cancellation is granted.

For purposes of the loan forgiveness program, eligible Direct Loans include Federal Direct Stafford Loans, Federal Direct Unsubsidized Stafford Loans, Federal Direct PLUS Loans (for parents or graduate/professional students), and Federal Direct Consolidation Loans.

Under the CCRAA, effective July 1, 2008, a FFEL borrower may consolidate his or her FFEL loans into a Direct Consolidation Loan if the borrower intends to be eligible to use the public service loan forgiveness program. However, payments made on those FFEL loans prior to their consolidation into the Direct Loan Program do not count toward the 120 month requirement.

The CCRAA defines the term "public service job" to mean a full-time job in: emergency management, government, military service, public safety, law enforcement; public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a non-profit organization), public child care, public service for individuals with disabilities and the elderly, public

health, social work in a public child or family service agency, public education (including early childhood education), public library sciences, school-based library sciences and other school-based services; or at a non-profit organization under section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Code, or teaching full-time as a faculty member at a Tribal College or University, and other faculty teaching in high-needs areas, as determined by the Secretary.

To qualify for loan forgiveness, the borrower must have made the required 120 monthly payments on the Direct Loan for which forgiveness is sought under one of the following repayment plans, or a combination of these plans. The qualifying repayment plans include:

- An income-based repayment plan;
- An income-contingent repayment plan;
- A Direct Loan standard repayment plan based on a 10-year repayment period; or
- Any Direct Loan repayment plan or as a Direct Consolidation Loan if the monthly payment amounts paid are not less than those that would have been paid under a Direct Loan standard repayment plan based on a 10-year repayment plan.

While parent PLUS borrowers are eligible for the public service loan forgiveness, they are NOT eligible for the income-based and income-contingent repayment plans. Additionally, a borrower who pays only, or primarily, under a 10-year standard repayment plan or under another repayment plan in amounts consistent with a 10-year

standard repayment is unlikely to have a remaining balance for loan forgiveness after making 120 payments on the loan.

Grants to Students

§§401(a) & (b), 402C(f), and 420L

Federal Pell Grant Increases

The CCRAA extends the authority for Federal Pell Grant funding through fiscal year 2017, and appropriates mandatory funding for fiscal years 2008 through 2017 (the mandatory funding amounts are in addition to the discretionary funding amounts that are provided in the annual appropriations bill for the Department).

The CCRAA requires that the mandatory funds be used to increase the maximum Federal Pell Grant award, as established in the annual appropriations act, by the following amounts:

- \$490 for the 2008-09 and 2009-10 award years
- \$690 for the 2010-11 and 2011-12 award years
- \$1,090 for the 2012-13 award year

For the 2008-2009 award year, we anticipate that the maximum Pell Grant will be \$4,731. This is a combined amount that includes the mandatory amounts discussed above with the \$4,241 maximum award provided under the recently enacted appropriations bill. The Department will issue a payment schedule shortly reflecting this award level.

The annual amount that would be added to the maximum Pell Grant each award year from mandatory funds as described above may be increased or decreased. If the

FFEL Lender and Guaranty Agency Provisions

§§428(b)(1), 428(c)(6), 428I, 435(p), 438(b)(2), 438(d)(2), 458(b), and 499

Reduction of Special Allowance Payment Rates to FFEL Loan Holders

Effective for loans first disbursed on or after October 1, 2007, the special allowance payment (SAP) rates are reduced. Different factors are used to calculate SAP for loans held by eligible not-for-profit loan holders and loans held by all other eligible lenders.

For loans held by an Eligible Not-for-Profit Holder the SAP factors are as follows:

- Stafford Loans during in-school, grace and deferment periods: factor reduced to 1.34 percent;
- Stafford Loans in repayment status (other than in deferment): factor reduced to 1.94 percent;
- PLUS Loans: factor reduced to 1.94 percent;
- Consolidation Loans: factor reduced to 2.24 percent.

For loans held by all other eligible lenders, the SAP factors are as follows:

- Stafford Loans during in-school, grace and deferment period: factor reduced to 1.19 percent;
- Stafford Loans in repayment (other than in deferment): factor reduced to 1.79 percent;
- PLUS Loans: factor reduced to 1.79 percent;

- Consolidation Loans: factor reduced to 2.09 percent.

The CCRAA defines the term "eligible not-for-profit holder." That definition, and other parts of the CCRAA relating to SAP, were also amended by the Third Higher Education Extension Act of 2007, Pub.L. 110-109. In this discussion of the changes to SAP, references to provisions added by the CCRAA include revisions made by the Pub.L. 110-109.

The term "eligible not-for-profit holder" is now defined as an eligible lender under section 435(d) of the HEA (except for a school lender) that is:

- A State, or a political subdivision, agency, or other instrumentality of a State, including those entities that are eligible to issue tax-exempt bonds described in 26 CFR §1.103-1 or section 144(b) of the Internal Revenue Code (the Code) of 1986;

- An entity described under section 150(d)(2) of the Code authorized to issue tax-exempt bonds that has not made an election under section 150(d)(3) of the Code;

- A non-profit entity described in section 501(c)(3) of the Code; or

- A trustee acting as an eligible lender (ELT) on behalf of a governmental or non-profit entity otherwise described above, regardless of whether the entity is an eligible lender under section 435(d) of the HEA in its own right.

An eligible lender that is a governmental or non-profit entity listed above qualifies as an eligible not-for-profit holder if that entity acted as an eligible

lender on the date of enactment of the CCRAA, September 27, 2007. A State may elect, in accordance with regulations to be issued by the Department, to waive this requirement for a new eligible not-for-profit holder (but not for a trustee for such a holder) if the State determines that such a waiver is necessary to fulfill a public purpose for the State.

An ELT may qualify as an eligible not-for-profit holder with respect to loans it holds on behalf of a governmental or non-profit entity listed above, regardless of whether that entity qualifies as an eligible lender in its own right, only if, on September 27, 2007, that entity held sole beneficial ownership interest in a FFEL program loan eligible for special allowance payments.

An otherwise eligible not-for-profit that is a governmental or non-profit entity may not be owned or controlled, in whole or in part, by a for-profit entity. An ELT acting on behalf of a governmental or non-profit entity cannot qualify as an eligible not-for-profit holder with respect to loans held on behalf of such an entity if that entity is owned or controlled by a for-profit entity. Whether held by a governmental or non-profit lender or by an ELT, loans qualify for the higher SAP rate only if a governmental or non-profit entity has sole beneficial ownership interest in those loans and any income from those loans. The pledge or grant of a security interest to any party in a loan or income from a loan to provide security for a debt obligation issued by a governmental or non-profit entity, does not give beneficial ownership in the loan to a for-profit entity, nor does such a pledge or grant of a security interest in a loan give a for-profit

entity either ownership in or control over that governmental or non-profit entity. If an eligible not-for-profit holder sells a loan on which the Secretary is paying the higher SAP to an entity that is not an eligible not-for-profit holder, that loan no longer qualifies for the higher SAP as of the date of the sale. In this context, the transfer from one trust to another would be considered a sale for the purposes of determining eligibility for the higher SAP. A loan transferred from one trust to another continues to qualify for the higher SAP rate only if, after the transfer, the loan continues to be held by an entity that qualifies as an eligible not-for-profit holder.

On December 28, 2007, the Department published a Dear Colleague Letter FP-07-12 (<http://ifap.ed.gov/dpcletters/FP0712.html>) which provided guidance on the procedures that will be used for a loan holder to request designation as an eligible not-for-profit holder for purposes of receiving SAP at the rate set for such holders. These procedures will govern the payment of SAP until the Secretary publishes final regulations governing the definition of the term "not-for-profit eligible loan holder", as required by the CCRAA, within one year of enactment.

Increased Loan Fees from FFEL Lenders

The CCRAA increased the amount of the loan fee the Secretary collects from all FFEL lenders under section 438(d) of the HEA from 0.50 percent to 1.0 percent of the principal amount of each loan. *The increased fee applies to all loans for which the first disbursement is made on or after October 1, 2007.* The CCRAA also specifies that the fee may not be collected from the borrower.