

U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250

<b>DEPARTMENTAL REGULATION</b>		<b>Number:</b> 4050-537
<b>SUBJECT:</b> Repayment of Student Loans	<b>DATE:</b> September 1, 2004	
	<b>OPI:</b> Office of Human Resources Management	

1 PURPOSE

The authority to repay student loans is one of several flexibilities available to agencies to attract individuals to the Federal service, or to retain those highly qualified personnel. Student loan repayments should not be used to retain employees who leave for positions in other Federal agencies, nor to recruit employees from other Federal agencies.

2 AUTHORITY

This policy constitutes the U.S. Department of Agriculture's (USDA) Repayment of Student Loans Plan. This Plan meets the requirements set forth in 5 United States Code (U.S.C.) Section 5379 and 5 Code of Federal Regulations (CFR) Part 537.

3 REFERENCES AND RESOURCES

- a Public Law 108-136, National Defense Authorization Act for Fiscal Year 2004
- b Public Law 108-123, Federal Employee Student Loan Assistance Act, November 11, 2003
- c Public Law 101-510, National Defense Authorization Act for Fiscal Year 1991, November 9, 1990, codified as 5 U.S.C. 5379
- d Public Law 89-329, Higher Education Act of 1965, November 8, 1965, codified as 20 U.S.C. 1071 to 1099 and amended by Public Law 105-224, October 7, 1998, codified as 20 U.S.C. 1087aa to 1087gg
- e Public Health Service Act codified as 42 U.S.C. 292, et seq.
- f 5 CFR Part 537
- g National Finance Center Bulletin, Title I, Payroll/Personnel Manual, 01-15, September 21, 2001
- h Internet sites: <http://www.opm.gov/oca/pay/StudentLoan/>  
<http://www.hqnet.usda.gov/intranet/refer.htm>

<http://www.nfc.usda.gov>

<http://www.opm.gov/fedregis/html/archive.htm>

FR, Jun 22, 2000, Vol. 65, No.120, pages 38791 to 38794

FR, Jan 11, 2001, Vol. 66, No. 8, pages 2789 to 2793

FR, Mar 16, 2001, Vol. 66, No. 52, pages 15202 to 15203

FR, Jul 31, 2001, Vol. 66, No. 147, pages 39405 to 39406

FR, Apr 20, 2004, Vol 69, No. 76, page 21039

#### 4 SPECIAL INSTRUCTION/CANCELLATIONS

This regulation supersedes and modifies DR 4050-537, dated, April 2, 2002.

#### 5 RESPONSIBILITIES

The Director, Office of Human Resources Management (OHRM) is responsible for setting policy and providing overall technical guidance and direction for the Department's Repayment of Student Loans Plan. OHRM will provide staff assistance and monitor compliance with Departmental policy, hereafter referred to as "the Plan."

#### 6 DELEGATIONS OF AUTHORITY

Under the Plan, the General Officers and agency heads listed in Part 2, subpart D of title 7 of the Code of Federal Regulations are delegated the authority to review and approve repayment of student loans. The repayments may be all or part of any outstanding federally insured student loan or loans previously taken out by a candidate who has been appointed to a job or to retain a current employee of the agency. The General Officers and agency heads, are responsible for ensuring that the repayments are granted in accordance with the requirements set forth in the Plan. Redelegations are encouraged and should be consistent with selection authority.

#### 7 DEFINITIONS

- a Agency. As used in this document means agencies, service and program offices of the Department whose head reports to the Secretary, an Under Secretary, or an Assistant Secretary.
- b Employees. Candidates who have been appointed to jobs and are highly qualified, or current employees, except employees serving under Schedule C or noncareer Senior Executive Service appointments, are eligible for student loan repayments, if all other conditions are met.
- c Student Loan. A loan made, insured or guaranteed under parts B, D, or E of Title IV of the Higher Education Act of 1965 or a health education assistance loan made or insured under part A of Title VII of the Public Health Service Act, or under part E of Title VIII of that Act. A list of the qualifying student loans can be

found at the Internet site listed under “References” (<http://www.opm.gov/oca/pay/StudentLoan/>). Since updates to this list will occur, the site should be checked before making any decisions to grant student loan repayments.

## 8 REQUIREMENTS

Employees who hold the following kinds of appointments are eligible to receive repayments for student loans:

- a Temporary employees serving on appointments leading to conversion to term of at least 3 years or permanent appointments, or
- b Term employees with at least 3 years left on their appointment; or
- c Permanent employees; or
- d Employees serving on excepted appointments with conversion to term, career, or career- conditional appointments (including, but not limited to, Career Intern or Presidential Management Intern appointments).

## 9 PAYMENT

- a Criteria
  - (1) Loan repayments must be based on a written determination that, in the absence of offering loan repayment benefits, it would be difficult to either fill the position with a highly qualified candidate or to retain a highly qualified employee in that position.
  - (2) Each determination for recruitment purposes (including the amount to be paid) must be made before the employee actually enters on duty in the position for which he or she was recruited.
  - (3) Payments authorized in order to recruit or retain an employee must be based upon a written determination that the high or unique qualifications of the employee or special need of the agency for the employee’s services makes it essential to retain the employee and that in the absence of offering student loan repayment benefits, the employee would be likely to accept or leave for employment outside the Federal service. This determination must be based on a written description of the extent to which the employee’s declination of a job offer or departure of an employee would affect the agency’s ability to carry out an activity or perform a function that is deemed essential to an agency’s mission.

- (4) Agencies should develop written criteria for granting student loan repayments. These criteria can stipulate occupations, grade levels, geographic areas, licenses, certifications, degrees, special experience, and, other specifications needed to recruit employees or retain highly qualified employees in the Federal service.
  - (5) An employee who receives a student loan repayment and moves to another Federal agency or other USDA agency or Staff Office is not obligated to repay the benefit, unless the employee has agreed to make a repayment in this circumstance. The gaining agency is not obligated to reimburse the losing agency for the amount of the student loan repayment.
  - (6) Management officials must adhere to merit system principles and take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in government service.
  - (7) See Appendix A, for a Sample Recommendation of Approval for Repayment of Student Loan.
- b Conditions for Payment. Payments will be at the discretion of the individual authorized to make the determination and are subject to limitations, or conditions mutually agreed to in writing, between the agency and the employee. Payments may be applied only to the indebtedness outstanding at the time the agency and the employee enter into the service agreement, and may not begin before the employee enters on duty with the agency. Student loan repayment benefits must be in addition to basic pay and any other form of compensation otherwise payable to the employee involved. Payments will be made by the National Finance Center (NFC) directly to the holder of the loan by electronic funds transfer.
- c Tax Withholdings. Tax withholdings must be deducted or applied at the time any payment is made. Tax withholding may not be spread out over time. Since these tax implications could create a financial hardship for the recipient of the repayment benefit, agencies can lessen the impact of tax withholding on a employee's paycheck in one of the following ways:
- (1) Agencies can make smaller payments at periodic intervals through the fiscal year or subsequent years, rather than issue payments under this part in one lump sum;
  - (2) Employees can write a check to the paying agency to cover the tax liability rather than have the tax liability withheld from the employee's paycheck;
  - (3) Agencies can deduct the amount of taxes to be withheld from the loan repayment benefit before issuing payment to the holder of the loan;

- (4) Please consult the Student Loan Repayment and National Finance Center (NFC) Internet sites for the latest information from the Internal Revenue Service regarding tax liabilities and payment procedures. See also NFC Bulletin, Title I, 01-15, dated September 21, 2001.
- d Loans to be repaid. Before authorizing loan repayments, an agency must verify with the holder of the loan that the employee has an outstanding student loan that qualifies for repayment. Agencies should verify remaining balances with the holders of the loan to ensure that loans are not overpaid. An agency may repay more than one loan as long as the loan repayments do not exceed the limit. The amount paid by the agency is limited to \$10,000 per employee per calendar year or a total career payment of \$60,000 per employee.
- e Size of payments. In determining the size of the loan payments, an agency should take into consideration the employee's value to the agency, and how far in advance the agency can commit funds. If budgetary considerations are an issue, agencies have the discretion to determine the repayment benefit amount given to an employee each year. This type of arrangement must be included in the written service agreement with the employee. The amount paid by the agency is limited to \$10,000 per employee per calendar year, or a total career payment of \$60,000 per employee.
- f Employee responsibility. The employee will be responsible for making timely loan payments on the portion of the loan(s) that continues to be the employee's responsibility. Payments do not exempt an employee from his or her responsibility and/or liability for any loan(s) the individual has taken out. The employee will also be responsible for any income tax obligations resulting from the loan repayment benefit.
- g Service Agreements. Before any loan repayments may be made an employee must sign a written agreement to complete a specified period of employment with the agency and to reimburse the agency for loan repayment benefits if the employee is separated involuntarily on account of misconduct or failure to maintain an acceptable level of performance, or the employee leaves the agency voluntarily. This agreement may also specify any other employment conditions the agency considers to be appropriate, such as, but not limited to, the employee's position and the duties he or she is expected to perform, work schedule, or level of performance.
- (1) The minimum period of employment to be established under a service agreement must be 3 years, regardless of the amount of loan repayment authorized. Agencies can state in their service agreements that increases or renewals of payments made under this part can be made without requiring the employee to enter into a new service agreement, or agencies can require an additional period of service, in the service agreement.

- (2) If the employee fails to reimburse the agency for the amount owed, a sum equal to the amount of the loan repayment must be recovered from the employee under USDA's regulations for collection by offset from an indebted government employee under the authority of title 5 U.S.C. §5514 and 5 CFR Part 550 Subpart K, or through the appropriate provisions governing debt collection if the individual is no longer a Federal employee.
- (3) There is no requirement to refund the loan repayment when the employee fails to complete a period of employment established under a service agreement because the employee is involuntarily separated for reasons other than misconduct or failure to maintain an acceptable level of performance or the employee leaves the agency voluntarily to enter into the service of any other agency, unless reimbursement to the paying agency is otherwise specified in the service agreement.
- (4) Any amount repaid, or recovered from any employee will be credited to the appropriation account from which the amount involved was originally paid. If possible, any amount so credited will be merged with other sums in such account and will be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.
- (5) General officers and agency heads, designated above, and their specific designees, are delegated the authority to waive in whole or in part, a right of recovery of an employee's debt if he or she determines that recovery would be against equity and good conscience or against the public interest. The delegation includes payments to or on behalf of employees, or former employees, in full or in part, without regard to amount.
- (6) A service agreement made under this part in no way constitutes a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service. This language should be stated in the service agreement
- (7) See Appendix B, for Sample Agreement for Repayment of Student Loan.

10 REPORTS AND RECORDS

- a No later than November 15 of each year, Mission Areas and Staff Offices must provide OHRM/Personnel Policy and Partnership Division the following information for the previous fiscal year (See Appendix C):
  - (1) The number of employees given student loan repayments;
  - (2) The pay plan, series, grade, step, salary, title, and location of the employees who received student loan repayments;
  - (3) The total amount of the student loan paid to each employee; and
  - (4) The total amount of student loan repayments made by the Mission Area or Staff Office.
  
- b Each Mission Area and Staff Office must keep a record of each student loan repayment determination and have the records available for review when requested. These records may be destroyed 3 years after the loan has been repaid, or after the Office of Personnel Management has evaluated the program, whichever is later.

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APPENDIX A

**SAMPLE RECOMMENDATION AND APPROVAL  
OF THE REPAYMENT OF STUDENT LOAN(S)**

1. Agency Name		2. Agency Code	3. Case No.	4. Personnel Office Identifier
5. Name of Employee		6. Social Security No.		7. Duty Station Code
8. Position Title		9. Location ( <i>City, State</i> )		10. Pay Plan/series/grade/step
11. Salary	12. Organization		13. Effective Date	
14. Accounting Code	15. Mail Check to ( <i>if applicable</i> )			

**The following information must be attached, for review by the recommending and approving officials for a student loan repayment:**

- A written justification outlining the difficulty experienced or expected in filling the position if a student loan is not repaid, and
- A written determination that unusually high or unique qualifications of the employee or a special need of the agency exists.

**Or**

- A written determination that the employee is likely to leave the Federal Government if the loan is not repaid, and
- A written description of the extent to which the employee's departure would affect the agency.
- In addition, the proposed amount of the loan repayment, along with the rationale for the amount proposed.

17. Recommended Amount \$		
Signature of Recommending Official	Title	Date
18. Approved Amount \$		
Signature of Recommending Official	Title	Date



**SAMPLE RECOMMENDATION AND APPROVAL  
OF THE REPAYMENT OF STUDENT LOAN(S)**

*Comments/Changes:*

Signature of Approving Official	Title	Date
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*Comments/changes:*

### **Privacy Act Statement**

Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal Government furnish a social security number or tax identification number. This is an amendment to title 31, Section 7701. Furnishing the social security number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application. If your agency uses the information furnished on this form for purposes other than those indicated above, it may provide you with an additional statement reflecting those purposes.

APPENDIX B

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**SAMPLE SERVICE AGREEMENT FOR A RECEIPT  
OF REPAYMENT OF STUDENT LOAN(S)**

In return for the repayment of my student loan(s) as described below, I hereby agree to remain an employee of the U.S. Department of Agriculture (USDA) - (the agency)

for the period beginning\_\_\_\_\_ following the effective date of the student loan repayment, unless I am separated for reasons beyond my control and which are acceptable to the above named agency. The amount of the repayment of student loan I will be receiving under this agreement is\_\_\_\_\_.

I agree that if I do not remain in the agency and maintain an acceptable level of performance for the above specified period I will repay to the agency the total amount of student loan repayment benefits I have received. I understand that this service agreement does not constitute a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service. I understand that under such circumstances these monies are recoverable from me as a debt due the United States Government, and the agency is not responsible for making your loan payments and any late fees you are charged.

Signature	Date
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APPENDIX C

**REPORTS AND RECORDS**

- a No later than November 15 of each year, Mission Areas and Staff Offices must provide OHRM/PPPD the following information for the previous fiscal year:
- (1) The number of employees given student loan repayments\_\_\_\_\_
  - (2) The pay plan, series, grade, step, salary and title of the employees who received student loan repayments (list below):
  
  - (3) The total amount of the student loan paid to each employee (list name of each student and amount received below):
  
  - (4) The total amount of student loan repayments made by the agencies, service and program offices \_\_\_\_\_.
- b OHRM will request Race, Sex, National Origin, and Disability information from the National Finance Center data base. This information will be reviewed and evaluated to determine if there are any disparities or issued related to protected groups by grade, salary, title location, amount paid, or between Mission Areas or Staff Offices.
- c Each Mission Area and Staff Office must keep a record of each student loan repayment determination and have the record available for review when requested. These records may be destroyed after 3 years after the loan is repaid.