

Issue 6
Proposed Regulatory Language
Team II—School-based Loan Issues

Origin: HEOA section 488(b)

Issue: Exit Counseling

Statutory cites: HEA Section 485(b)(1)(A)

Regulatory cites: §§674.42(b); 682.604(g); and 685.304(b)

DCL GEN-08-12 cite: Pages 96 - 97

Summary of issue: The HEOA modified the HEA to require each eligible institution, through financial aid offices or otherwise, to conduct exit counseling for borrowers receiving loans made, insured or guaranteed under the FFEL Program (except for Consolidation Loans or Federal PLUS loans made to parent borrowers) or loans made under the Direct Loan Program (other than Federal Direct Consolidation Loans or Federal Direct PLUS loans made to parent borrowers) or made under the Perkins Loan Program prior to the completion of the borrower's course of study or the borrower's departure from the institution. Many of the exit counseling requirements are similar to existing exit counseling requirements required by the Department's regulations at 34 CFR §§ 674.42(b), 682.604(g), and 685.304(b).

The exit counseling must include:

- Information on repayment plans which includes a description of the different features of each plan and samples showing average anticipated monthly payments with the difference in interest paid and total payments shown with each plan;
- Debt management strategies to assist the borrower in repaying the debt;
- Options the borrower has to prepay each loan or pay each loan on a shorter schedule or to change repayment plans;
- Information on loan forgiveness and cancellation provisions and the conditions under which the borrower may obtain full or partial forgiveness or cancellation of principal and interest;
- Information on forbearance provisions and a general description of terms and conditions under which the borrower may defer repayment of principal or interest or be granted forbearance;
- Information on the consequences of default on a loan which includes adverse credit reports and delinquent debt collection procedures under Federal law and litigation;
- Information with respect to Consolidation Loans to discharge FFEL, Direct Loan, and Perkins Loan program loans which includes—

1. The effects of the consolidation on total interest to be paid, fees, and length of repayment;
 2. The effect on a borrower's underlying loan benefits, which includes grace periods, loan forgiveness, cancellation and deferment;
 3. The option the borrower has to prepay the loan or to change repayment plans; and
 4. That borrower benefit programs may vary depending on the lender;
- A general description of the types of tax benefits that might be available to borrowers; and
 - Information on how a borrower can use NSLDS to get information on the status of their loans.

Regulatory language:

Perkins

§ 674.42 Contact with the borrower.

(b) *Exit interview.* (1) An institution must ensure that exit counseling is conducted with each borrower either in person, by audiovisual presentation, or by interactive electronic means. The institution must ensure that exit counseling is conducted shortly before the borrower ceases at least half-time study at the institution. As an alternative, in the case of a student enrolled in a correspondence program or a study-abroad program that the institution approves for credit, the borrower may be provided with written counseling material by mail within 30

days after the borrower completes the program. If a borrower withdraws from the institution without the institution's prior knowledge or fails to complete an exit counseling session as required, the institution must ensure that exit counseling is provided through either interactive electronic means or by mailing counseling materials to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from the institution or failed to complete exit counseling as required.

(2) The exit counseling must--

(i) Inform the student as to the average anticipated monthly repayment amount based on the student's indebtedness or on the average indebtedness of students who have obtained Perkins loans for attendance at the institution or in the borrower's program of study;

(ii) Explain the options the borrower has to prepay each loan or pay each loan on a shorter schedule; and

(iii) Review for the borrower available repayment options (e.g. loan consolidation and refinancing, the borrower has to consolidate a Federal Perkins Loan, including the consequences of consolidating a Federal Perkins Loan. Information on the consequences of loan consolidation must include, at a minimum--

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The option of the borrower to prepay the loan or to change repayment plans; and

(D) That borrower benefit programs vary among different lenders.

(~~iii~~v) ~~Suggest to the borrower debt-management strategies that would~~ are designed to facilitate repayment;

(v) Explain the use of a Master Promissory Note;

(~~iv~~i) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming;

(vii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(viii) Emphasize that the borrower is obligated to repay the full amount of the loan even if the borrower has not completed the program, has not completed the program within the regular time for program completion, is unable to obtain employment upon completion, or is otherwise dissatisfied with or ~~does~~ not receive the educational or other services that the borrower purchased from the institution;

~~(ixvii)~~ Review for the borrower the conditions under which the borrower may defer repayment or obtain partial cancellation of a loan; Provide

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or cancellation of principal and interest, defer repayment of principal or interest or be granted an extension of the repayment period or a forbearance on a title IV loan; and

(B) A copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA.

~~(xviii)~~ Require the borrower to provide current information concerning name, address, social security number, references, and driver's license number, the borrower's expected permanent address, the address of the borrower's next of kin, as well as the name and address of the borrower's expected employer;

~~(ixi)~~ Review for the borrower information on the availability of the Student Loan Ombudsman's office; and

(xii) Inform the borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information;

(xiii) A general description of the types of tax benefits that may be available to borrowers.

(3) If exit counseling is conducted through interactive electronic means, the institution must take

reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the exit counseling.

(4) The institution must maintain documentation substantiating the institution's compliance with this section for each borrower.

FFEL

§ 682.604 Processing the borrower's loan proceeds and counseling borrowers.

(g) *Exit counseling.* (1) A school must ensure that exit counseling is conducted with each Stafford loan borrower and student PLUS Loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that this counseling is conducted shortly before the student borrower ceases at least half-time study at the school, and that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, written counseling materials may be provided by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must ensure that exit counseling is provided through either

interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(2) The exit counseling must—

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Stafford loans, **PLUS Loans,** or student borrowers who have obtained **both** Stafford and PLUS loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;

(ii) Review for the student borrower available repayment **plan** options, including standard, graduated, extended, income sensitive and income-based repayment plans, **including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments under each plan;**

(iii) Explain to the borrower the option of the borrower to prepay each loan, pay each loan on a shorter schedule, and to change repayment plans; and

(iv) Provide information on the effects of —and loan consolidation including, at a minimum—

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The option of the borrower to prepay the loan or to change repayment plans; and

(D) That borrower benefit programs may vary among different lenders.;

~~(vii)~~ Suggest to the student borrower **Include** debt-management strategies that would **are** that would **designed to** facilitate repayment;

~~(vi)~~ Include the matters described in paragraph (f) ~~(62) (i)~~, **(f) (6) (ii), and** through (f) ~~(62) (iv)~~ of this section;

(vii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

~~(viii)~~ **Provide**

(A) a general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of principal and interest, defer repayment of principal or interest or be granted forbearance on a title IV loan, Review for the student borrower the conditions under which the student borrower may defer or forbear repayment or obtain a full or partial

~~forgiveness or discharge of a loan~~including **including**
forgiveness benefits or discharge benefits available to a
FFEL borrower who consolidates his or her loan into the
Direct Loan program; **and**

**(B) —include A a copy, either in print or by
electronic means, of the information the Secretary makes
available pursuant to HEA section 485(d).**

~~(ixvi)~~ Require the student borrower to provide current
information concerning name, address, social security
number, references, and driver's license number and State
of issuance, as well as the student borrower's expected
permanent address, the address of the student borrower's
next of kin, and the name and address of the student
borrower's expected employer (if known). The school must
ensure that this information is provided to the guaranty
agency or agencies listed in the student borrower's records
within 60 days after the student borrower provides the
information;

~~(ixvii)~~ Review for the student borrower information on
the availability of the Student Loan Ombudsman's office;
and

~~(viiiixi)~~ Inform the student borrower of the
availability of title IV loan information in the National
Student Loan Data System (NSLDS) **and how NSLDS can be used
to obtain title IV loan status information; and**

**(xiii) —A general description of the types of tax
benefits that may be available to borrowers.**

(3) If exit counseling is conducted by electronic interactive means, the school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the counseling.

(4) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

Direct Loan

§ 685.304 Counseling borrowers.

(b) *Exit counseling.* (1) A school must ensure that exit counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan borrower **and student** **Direct PLUS Loan borrower** shortly before the student borrower ceases at least half-time study at the school.

(2) The exit counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, the student borrower may be provided with written counseling materials within 30 days after the student borrower completes the program.

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, exit counseling must be provided either through interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(4) The exit counseling must--

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Direct Subsidized Loans and Direct Unsubsidized Loans, **student borrowers who have obtained only Direct PLUS Loans**, or student borrowers who have obtained Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;

(ii) Review for the student borrower available repayment **plan** options including the standard repayment, extended repayment, graduated repayment, income contingent repayment plans, and income-based repayment plans, ~~and loan consolidation;~~ **including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments under each plan;**

(iii) Explain to the borrower the option of the borrower to prepay each loan, pay each loan on a shorter schedule, and to change repayment plans;

(iv) Provide information on the effects of loan consolidation including, at a minimum—

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The option of the borrower to prepay the loan or to change repayment plans; and

(D) That borrower benefit programs may vary among different lenders.;

(~~iv~~ii) ~~Suggest to the student borrower~~ Include debt-management strategies that ~~would~~ are designed to facilitate repayment;

(iv~~i~~) Explain to the student borrower how to contact the party servicing the student borrower's Direct Loans;

(v~~ii~~) Meet the requirements described in paragraphs (a) (~~3~~4) (i), (ii), (~~iii~~), and (v) of this section;

(viii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

~~(vii)~~ Provide-

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of principal and interest, defer repayment of principal or interest or be granted forbearance on a title IV loan; and

(B) include A a copy, either in print or by electronic means, of the information the Secretary makes available pursuant to HEA section 485(d) of the HEA. ~~Review for the student borrower the conditions under which the student borrower may defer or forbear repayment or obtain a full or partial forgiveness or discharge of a loan;~~

~~(vii)~~ Review for the student borrower information on the availability of the Department's Student Loan Ombudsman's office;

~~(viii)~~ Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS); and how NSLDS can be used to obtain title IV loan status information; and

(xii) A general description of the types of tax benefits that may be available to borrowers.

~~(ix)~~ Require the student borrower to provide current information concerning name, address, social security number, references, and driver's license number

and State of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known).

(5) The school must ensure that the information required in paragraph (b) (4) (~~ix~~iii) of this section is provided to the Secretary within 60 days after the student borrower provides the information.

(6) If exit counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the exit counseling.

(7) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.