

Issue 12

**Proposed Regulatory Language
Team II—School-based Loan Issues**

Origin: HEOA section 465

Issue: Expansion of Teacher, Head Start,
and Law Enforcement Cancellation
Categories

Statutory Cite: HEA section 465(a)

Regulatory Cite: §§674.53, 674.57, 674.58

DCL page reference: Page 135

Summary of Issue: The HEOA expanded the existing teacher, Head Start, and law enforcement cancellation categories. These cancellations categories have been expanded to include:

- A teacher in a designated low-income elementary or secondary school who is employed by, or working in a school operated by, an educational service agency;
- Full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, including a system administered by an educational service agency;

- Full-time staff members in a pre-kindergarten or childcare program that is licensed or regulated by the State;
- Full-time attorneys employed in Federal Public Defender Organizations or Community Defender Organizations, established in accordance with Section 3006A(g) (2) of Title 18, U.S.C.

Current borrowers with outstanding balances on loans already in repayment and for all new borrowers with eligible service performed on or after August 14, 2008, in these expanded cancellation categories, will qualify a borrower for cancellation, regardless of whether information on the expansion of the cancellation category appears on the borrower's promissory note.

Sec. 674.51 Special definitions.

The following definitions apply to this subpart:

(a) *Academic year or its equivalent for elementary and secondary schools and special education:* (1) One complete school year, or two half years from different school years, excluding summer sessions, that are complete and consecutive and generally fall within a 12-month period.

(2) If such a school has a year-round program of instruction, the Secretary considers a minimum of nine consecutive months to be the equivalent of an academic year.

(b) *Academic year or its equivalent for institutions of higher education:* A period of time in which a full-time student is expected to complete--

(1) The equivalent of 2 semesters, 2 trimesters, or 3 quarters at an institution using credit hours; or

(2) At least 900 clock hours of training for each program at an institution using clock hours.

(c) *Title I Children:* Children of ages 5 through 17 who are counted under section 1124(c)(1) of the Elementary and Secondary Education Act of 1965, as amended.

(d) ~~Children and youth with disabilities~~ **Child with a Disability:** ~~A~~ C~~children and~~ or youth from ages 3 through 21, inclusive, who requires s special education and related services because **he or she has** ~~they have~~ disabilities as defined in section ~~602(a)(1)~~ **602(3)** of the Individuals with Disabilities Education Act.

(e) Community Defender Organizations: A defender organization established in accordance with section 3006A(g)(2) of title 18, United States Code.

(f) Early intervention services: Those services defined in section 672(2) of the Individuals with Disabilities Education Act that are provided to infants and toddlers with disabilities.

(g) Educational service agency: A regional public multi-service agency authorized by State law to develop, manage, and provide services or programs to local educational agencies as defined in section 9101 of the Elementary and Secondary Education Act.

(h) *Elementary school:* A school that provides elementary education, including education below grade 1, as determined by--

- (1) State law; or
- (2) The Secretary, if the school is not in a State.

(i) *Federal Public Defender Organization: A defender organization established in accordance with section 3006A(g)(2) of title 18, United States Code.*

(j) *Faculty member: An educator or tenured individual who is employed by a Tribal College or University, as that term is defined in section 316 of the HEA, to teach, research, or perform administrative functions, such as deans and department heads. An educator may be an instructor, lecturer, lab faculty, assistant professor, associate professor or full professor.*

(k) *Firefighter: A firefighter is an individual that is employed and provides the following services-*

- (1) *Extinguishes destructive fires;*
- (2) *Provides community disaster support and, as a first responder, provides emergency medical services;*
- (3) *Conducts search and rescue; and*
- (4) *Provides hazardous materials mitigation (HAZMAT).*

(l) *Handicapped children: Children of ages 3 through 21 inclusive who require special education and related services because they are--*

- (1) Mentally retarded;
- (2) Hard of hearing;
- (3) Deaf;
- (4) Speech and language impaired;
- (5) Visually handicapped;
- (6) Seriously emotionally disturbed;
- (7) Orthopedically impaired;
- (8) Specific learning disabled; or
- (9) Otherwise health impaired.

~~(lm)~~ *High-risk children*: Individuals under the age of 21 who are low- income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

~~(mn)~~ *Infants and or toddlers with a disabilities*: An ~~infants and or toddlers~~ from birth to age 2, inclusive, who need early intervention services for specified reasons, as defined in section ~~672(1)~~ 632(5)(A) of the Individuals with Disabilities Education Act.

~~(no)~~ **Librarian: A librarian is an information professional trained in library and information science.**

~~(op)~~ *Local educational agency*: (1) A public board of education or other public authority legally constituted within a State to administer, direct, or perform a service function for public elementary or secondary schools in a city, county, township, school district, other political subdivision of a State; or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(2) Any other public institution or agency having administrative control and direction of a public elementary or secondary school.

~~(pg)~~ *Low-income communities*: Communities in which there is a high concentration of children eligible to be counted under title I of the Elementary and Secondary Education Act of 1965, as amended.

(~~er~~) **Master's Degree: A postgraduate academic degree awarded after the completion of an academic program of one to six years in duration.**

(~~rs~~) *Medical technician*: An allied health professional (working in fields such as therapy, dental hygiene, medical technology, or nutrition) who is certified, registered, or licensed by the appropriate State agency in the State in which he or she provides health care services. An allied health professional is someone who assists, facilitates, or complements the work of physicians and other specialists in the health care system.

(~~st~~) *Nurse*: A licensed practical nurse, a registered nurse, or other individual who is licensed by the appropriate State agency to provide nursing services.

(~~tu~~) *Qualified professional provider of early intervention services*: A provider of services as defined in section ~~672(2)~~ **632** of the Individuals with Disabilities Education Act.

(~~uv~~) *Secondary school*: (1) A school that provides secondary education, as determined by--

(i) State law; or

(ii) The Secretary, if the school is not in a State.

(2) However, State laws notwithstanding, secondary education does not include any education beyond grade 12.

(~~vw~~) *State education agency*: (1) The State board of education; or

(2) An agency or official designated by the Governor or by State law as being primarily responsible for the State supervision of public elementary and secondary schools.

(~~wx~~) **Speech Language Pathologist: An individual who studies disorders that affect a person's speech, language,**

cognition, voice, swallowing and the rehabilitative or corrective treatment of physical or cognitive deficits/disorders resulting in difficulty with communication, swallowing, or both.

(~~y~~) *Teacher*: (1) A teacher is a person who provides--

(i) Direct classroom teaching;

(ii) Classroom-type teaching in a non-classroom setting; or

(iii) Educational services to students directly related to classroom teaching such as school librarians or school guidance counselors.

(2) A supervisor, administrator, researcher, or curriculum specialist is not a teacher unless he or she primarily provides direct and personal educational services to students.

(3) An individual who provides one of the following services does not qualify as a teacher unless that individual is licensed, certified, or registered by the appropriate State education agency for that area in which he or she is providing related special educational services, and the services provided by the individual are part of the educational curriculum for handicapped children:

(i) Speech and language pathology and audiology;

(ii) Physical therapy;

(iii) Occupational therapy;

(iv) Psychological and counseling services; or

(v) Recreational therapy.

(~~yz~~) *Teaching in a field of expertise*: The majority of classes taught are in the borrower's field of expertise.

(~~z~~aa) *Total and permanent disability*: 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 result in death.

(~~aa~~bb) A Tribal College or University means an institution that-

(i) Qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Assistance Act of 1978 (25 U.S.C. 640a note; or

(ii) Is cited in section 532 of the Equity in Education Land Grant Status Act of 1994 (7 U.S.C. 301 note).

Sec. 674.53 Teacher cancellation--Federal Perkins, NDSL and Defense loans.

(a) *Cancellation for full-time teaching in an elementary or secondary school serving low-income students.* (1)(i) An institution must cancel up to 100 percent of the outstanding loan balance on a Federal Perkins loan or an NDSL made on or after July 23, 1992, for full-time teaching in a public or other nonprofit elementary or secondary school.

(ii) An institution must cancel up to 100 percent of the outstanding loan balance on a Federal Perkins, NDSL or Defense loan made prior to July 23, 1992, for teaching service performed on or after October 7, 1998, if the cancellation benefits provided under this section are not included in the terms of the borrower's promissory note.

(iii) An institution must cancel up to 100 percent of the outstanding balance of a Federal Perkins, NDSL, or Defense loan for teaching service performed on or after August 14, 2008, in an educational service agency.

(2) The borrower must be teaching full-time in a public or other nonprofit elementary or secondary school that--

(i) Is in a school district that qualified for funds, in that year, under **part A of** title I of the Elementary and Secondary Education Act of 1965, as amended; and

(ii) Has been selected by the Secretary based on a determination that more than 30 percent of the school's **or educational service agency's** total enrollment is made up of title I children.

(3) For each academic year, the Secretary notifies participating institutions of the schools **and educational service agencies** selected under paragraph (a) of this section.

(4) (i) The Secretary selects schools **and educational service agencies** under paragraph (a)(1) of this section based on a ranking by the State education agency.

(ii) The State education agency shall base its ranking of the schools **and educational service agencies** on objective standards and methods. These standards must take into account the numbers and percentages of title I children attending those schools **and educational service agencies**.

~~(iii) For each academic year, the Secretary notifies participating institutions of the schools selected under paragraph (a) of this section.~~

(5) The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Affairs

(BIA) or operated on Indian reservations by Indian tribal groups under contract with BIA to qualify as schools serving low-income students.

(6) A teacher, who performs service in a school **or educational service agency** that meets the requirement of paragraph (a)(1) of this section in any year and in a subsequent year fails to meet these requirements, may continue to teach in that school **or educational service agency** and will be eligible for loan cancellation pursuant to paragraph (a) of this section in subsequent years.

(7) If a list of eligible institutions in which a teacher performs services under paragraph (a)(1) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make the service determination.

(b) *Cancellation for full-time teaching in special education.* (1) An institution must cancel up to 100 percent of the outstanding balance on a borrower's Federal Perkins loan or NDSL loan made on or after July 23, 1992, for the borrower's service as a full-time special education teacher of infants, toddlers, children, or youth with disabilities, in a public or other nonprofit elementary or secondary school system.

(2) An institution must cancel up to 100 percent of the outstanding loan balance on a Federal Perkins, NDSL or Defense loan made prior to July 23, 1992, for teaching service performed on or after October 7, 1998, if the cancellation benefits provided under this section are not included in the terms of the borrower's promissory note.

(3) An institution must cancel up to 100 percent of the outstanding balance on a borrower's Federal Perkins, NDSL, or Defense loan for borrower's service on or after August 14, 2008, as a full-time special education teacher of infants, toddlers, children, or youth with disabilities, in an educational service agency.

(c) *Cancellation for full-time teaching in fields of expertise.* (1) An institution must cancel up to 100 percent of the outstanding balance on a borrower's Federal Perkins loan or NDSL made on or after July 23, 1992, for full-time teaching in mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State education agency determines that there is a shortage of qualified teachers.

(2) An institution must cancel up to 100 percent of the outstanding loan balance on a Federal Perkins, NDSL or Defense loan made prior to July 23, 1992, for teaching service performed on or after October 7, 1998, if the cancellation benefits provided under this section are not included in the terms of the borrower's promissory note.

(d) *Cancellation rates.* (1) To qualify for cancellation under paragraph (a), (b), or (c) of this section, a borrower ~~shall~~ **must** teach full-time for a complete academic year or its equivalent.

(2) Cancellation rates are--

(i) 15 percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for each of the first and second years of full-time teaching;

(ii) 20 percent of the original principal loan amount, plus the interest on the unpaid balance accruing during the

year of qualifying service, for each of the third and fourth years of full-time teaching; and

(iii) 30 percent of the original principal loan amount, plus the interest on the unpaid balance accruing during the year of qualifying service, for the fifth year of full-time teaching.

(e) *Teaching in a school system.* The Secretary considers a borrower to be teaching in a public or other nonprofit elementary or secondary school system or an educational service agency only if the borrower is directly employed by the school system.

(f) *Teaching children and adults.* A borrower who teaches both adults and children qualifies for cancellation for this service only if a majority of the students whom the borrower teaches are children.

Sec. 674.58 Cancellation for service in an Early Childhood Education Program. ~~Head Start program.~~

(a)(1) An institution must cancel up to 100 percent of the outstanding balance on a borrower's NDSL or Federal Perkins loan, for service as a full-time staff member in a Head Start program.

(2) An institution must cancel up to 100 percent of the outstanding balance on a Defense loan for service as a full-time staff member in a Head Start program performed on or after October 7, 1998, if the cancellation benefits provided under this section are not included in the terms of the borrower's promissory note.

(3) An institution must cancel up to 100 percent of the outstanding balance of a borrower's NDSL, Defense, or

Federal Perkins loan for service performed on or after August 14, 2008, as a full-time staff member of a pre-kindergarten or childcare program that is licensed or regulated by the state.

(34) The Head Start, **pre-kindergarten or child care** program in which the borrower serves must operate for a complete academic year, or its equivalent.

(45) In order to qualify for cancellation, the borrower's salary may not exceed the salary of a comparable employee working in the local educational agency of the area served by the local Head Start, **pre-kindergarten or child care** program.

(b) The cancellation rate is 15 percent of the original loan principal, plus the interest on the unpaid balance accruing during the year of qualifying service, for each complete academic year, or its equivalent, of full-time teaching service.

(c) (1) ``Head Start'' is a preschool program carried out under the Head Start Act (subchapter B, chapter 8 of title VI of Pub. L. 97-35, the Budget Reconciliation Act of 1981, as amended; formerly authorized under section 222(a) (1) of the Economic Opportunity Act of 1964). (42 U.S.C. 2809 (a) (1))

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

(3) A child care program is a program that is licensed and regulated by the state and provides child care services for fewer than 24 hours per day per child, unless care in

excess of 24 hours is needed due to the nature of the parents' work.

(~~24~~) "Full-time staff member" is a person regularly employed in a full-time professional capacity to carry out the educational part of a Head Start, **pre-kindergarten or child care** program.

Sec. 674.57 Cancellation for law enforcement or corrections officer service--Federal Perkins, NDSL and Defense loans.

(a) (1) An institution must cancel up to 100 percent of the outstanding balance on a borrower's Federal Perkins or NDSL made on or after November 29, 1990, for full-time service as a law enforcement or corrections officer for an eligible employing agency.

(2) An institution must cancel up to 100 percent of the outstanding loan balance on a Federal Perkins, NDSL, or Defense loan made prior to November 29, 1990, for law enforcement or correction officer service performed on or after October 7, 1998, if the cancellation benefits provided under this section are not included in the terms of the borrower's promissory note.

(3) An eligible employing agency is an agency--

(i) That is a local, State, or Federal law enforcement or corrections agency;

(ii) That is public-funded; and

(iii) The principal activities of which pertain to crime prevention, control, or reduction or the enforcement of the criminal law.

(4) Agencies that are primarily responsible for enforcement of civil, regulatory, or administrative laws are ineligible employing agencies.

(5) A borrower qualifies for cancellation under this section only if the borrower is--

(i) A sworn law enforcement or corrections officer; or

(ii) A person whose principal responsibilities are unique to the criminal justice system.

(6) To qualify for a cancellation under this section, the borrower's service must be essential in the performance of the eligible employing agency's primary mission.

(7) The agency must be able to document the employee's functions.

(8) A borrower whose principal official responsibilities are administrative or supportive does not qualify for cancellation under this section.

(b) (1) An institution must cancel up to 100 percent of the outstanding balance of a borrower's Federal Perkins, NDSL, or Defense loan for service performed on or after August 14, 2008, as a full-time attorney employed in Federal Public Defender Organizations or Community Defender Organizations, established in accordance with Section 3006A(g) (2) of Title 18, U.S.C.

~~(b)~~(1) To qualify for cancellation under paragraph (a) of this section, a borrower ~~shall~~ **must** work full-time for 12 consecutive months.

(2) Cancellation rates are--

(i) 15 percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for each of the first and second years of full-time employment;

(ii) 20 percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for each of the third and fourth years of full-time employment; and

(iii) 30 percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for the fifth year of full-time employment.