

**§ 674.59**

educational part of a Head Start program.

(Authority: 20 U.S.C. 425)

[52 FR 45758, Dec. 1, 1987. Redesignated and amended at 59 FR 61413, 61415, Nov. 30, 1994; 64 FR 58314, Oct. 28, 1999]

**§ 674.59 Cancellation for military service.**

(a) *Cancellation on a Defense loan.* (1) An institution shall cancel up to 50 percent of a Defense loan made after April 13, 1970, for the borrower's full-time active service starting after June 30, 1970, in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard.

(2) The cancellation rate is 12½ percent of the original loan principal, plus the interest on the unpaid balance accruing during the year of qualifying service, for the first complete year of qualifying service, and for each consecutive year of qualifying service.

(3) Service for less than a complete year, including any fraction of a year beyond a complete year of service, does not qualify for military cancellation.

(b) *Cancellation of an NDSL or Perkins loan.* (1) An institution shall cancel up to 50 percent of an NDSL or Perkins loan for service as a member of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard in an area of hostilities that qualifies for special pay under section 310 of title 37 of the United States Code.

(2) The cancellation rate is 12½ percent of the original loan principal, plus the interest on the unpaid balance accruing during the year of qualifying service, for each complete year of qualifying service.

(3) Service for less than a complete year, including any fraction of a year beyond a complete year of service, does not qualify for military cancellation.

(Authority: 20 U.S.C. 425(b)(3) and 1087ee)

[52 FR 45758, Dec. 1, 1987. Redesignated at 59 FR 61413, Nov. 30, 1994]

**§ 674.60 Cancellation for volunteer service—Perkins loans, NDSLs and Defense loans.**

(a)(1) An institution must cancel up to 70 percent of the outstanding balance on a Perkins loan, and 70 percent of the outstanding balance of an NDSL made on or after October 7, 1998, for

service as a volunteer under The Peace Corps Act or The Domestic Volunteer Service Act of 1973 (ACTION programs).

(2) An institution must cancel up to 70 percent of the outstanding balance on an NDSL or Defense loan for service as a volunteer under The Peace Corps Act or The Domestic Volunteer Service Act of 1973 (ACTION programs) 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.

(b) Cancellation rates are—

(1) Fifteen 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 twelve-month periods of service;

(2) Twenty 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 twelve-month periods of service.

(Authority: 20 U.S.C. 1087ee)

[52 FR 45758, Dec. 1, 1987, as amended at 57 FR 32347, July 21, 1992. Redesignated at 59 FR 61413, Nov. 30, 1994, as amended at 64 FR 58314, Oct. 28, 1999]

**§ 674.61 Discharge for death or disability.**

(a) *Death.* An institution must discharge the unpaid balance of a borrower's Defense, NDSL, or Perkins loan, including interest, if the borrower dies. The institution must discharge the loan on the basis of an original or certified copy of the death certificate, or an accurate and complete photocopy of the original or certified copy of the death certificate. Under exceptional circumstances and on a case-by-case basis, the chief financial officer of the institution may approve a discharge based upon other reliable documentation supporting the discharge request.

(b) *Total and permanent disability—*(1) *General.* A borrower's Defense, NDSL, or Perkins loan is discharged if the borrower becomes totally and permanently disabled, as defined in § 674.51(s), and satisfies the additional eligibility requirements contained in this section.

(2) *Discharge application process.* (i) To qualify for discharge of a Defense, NDSL, or Perkins loan based on a total and permanent disability, a borrower must submit a discharge application approved by the Secretary to the institution that holds the loan.

(ii) The application must contain a certification by a physician, who is a doctor of medicine or osteopathy legally authorized to practice in a State, that the borrower is totally and permanently disabled as defined in §674.51(s).

(iii) The borrower must submit the application to the institution within 90 days of the date the physician certifies the application.

(iv) Upon receiving the borrower's complete application, the institution must suspend collection activity on the loan and inform the borrower that—

(A) The institution will review the application and assign the loan to the Secretary for an eligibility determination if the institution determines that the certification supports the conclusion that the borrower is totally and permanently disabled, as defined in §674.51(s);

(B) The institution will resume collection on the loan if the institution determines that the certification does not support the conclusion that the borrower is not totally and permanently disabled; and

(C) If the institution concludes that the certification and other evidence submitted by the borrower supports the borrower's eligibility for a total and permanent disability discharge, to remain eligible for the final discharge, the borrower must, from the date the physician completes and certifies the borrower's total and permanent disability on the application until the date the borrower receives a final disability discharge—

(1) Not receive annual earnings from employment that exceed 100 percent of the poverty line for a family of two, as determined in accordance with the Community Service Block Grant Act;

(2) Not receive a new loan under the Perkins, FFEL, or Direct Loan programs, except for a FFEL or Direct Consolidation Loan that does not include any loans on which the borrower is seeking a discharge; and

(3) Must ensure that the full amount of any Title IV loan disbursement made to the borrower on or after the date the physician completed and certified the application is returned to the holder within 120 days of the disbursement date.

(v) If, after reviewing the borrower's application, the institution determines that the application is complete and supports the conclusion that the borrower is totally and permanently disabled, the institution must assign the loan to the Secretary.

(vi) At the time the loan is assigned to the Secretary, the institution must notify the borrower that the loan has been assigned to the Secretary for determination of eligibility for a total and permanent disability discharge and that no payments are due on the loan.

(3) *Secretary's initial eligibility determination.* (i) If the Secretary determines that the borrower is totally and permanently disabled as defined in §674.51(s), the Secretary notifies the borrower that the loan will be in a conditional discharge status for a period of up to three years, beginning on the date the physician certified the borrower's total and permanent disability on the discharge application. The notification to the borrower identifies the conditions of the conditional discharge period specified in paragraph (b)(2)(iv)(C) of this section.

(ii) If the Secretary determines that the certification provided by the borrower does not support the conclusion that the borrower meets the criteria for a total and permanent disability discharge in paragraph (c)(4)(i) of this section, the Secretary notifies the borrower that the application for a disability discharge has been denied, and that the loan is due and payable to the Secretary under the terms of the promissory note.

(4) *Eligibility requirements for a total and permanent disability discharge.* (i) A borrower meets the eligibility criteria for a discharge of a loan based on a total and permanent disability if, from the date the physician certifies the borrower's discharge application, through the end of the three-year conditional discharge period—

(A) The borrower's annual earnings from employment do not exceed 100

percent of the poverty line for a family of two, as determined in accordance with the Community Service Block Grant Act;

(B) The borrower does not receive a new TEACH Grant or a new loan under the Perkins, FFEL or Direct Loan programs, except for a FFEL or Direct Consolidation Loan that does not include any loans that are in a conditional discharge status; and

(C) The borrower ensures that the full amount of any title IV loan disbursement received after the date the physician completed and certified the application is returned to the holder within 120 days of the disbursement date.

(ii) During the conditional discharge period, the borrower or, if applicable, the borrower's representative—

(A) Is not required to make any payments on the loan;

(B) Is not considered past due or in default on the loan, unless the loan was past due or in default at the time the conditional discharge was granted;

(C) Must promptly notify the Secretary of any changes in address or phone number;

(D) Must promptly notify the Secretary if the borrower's annual earnings from employment exceed the amount specified in paragraph (b)(2)(ii)(C)(I) of this section; and

(E) Must provide the Secretary, upon request, with additional documentation or information related to the borrower's eligibility for a discharge under this section.

(iii) If, at any time during or at the end of the three-year conditional discharge period, the Secretary determines that the borrower does not continue to meet the eligibility criteria for a total and permanent disability discharge, the Secretary ends the conditional discharge period and resumes collection activity on the loan. The Secretary does not require the borrower to pay any interest that accrued on the loan from the date of the Secretary's initial eligibility determination described in paragraph (b)(3) of this section through the end of the conditional discharge period.

(iv) The Secretary reserves the right to require the borrower to submit additional medical evidence if the Sec-

retary determines that the borrower's application does not conclusively prove that the borrower is disabled. As part of this review, or at any time during the application process or during or at the end of the conditional discharge period, the Secretary may arrange for an additional review of the borrower's condition by an independent physician at no expense to the applicant.

(5) *Payments received after the physician's certification of total and permanent disability.* (i) If, after the date the physician completes and certifies the borrower's loan discharge application, the institution receives any payments from or on behalf of the borrower on or attributable to a loan that was assigned to the Secretary for determination of eligibility for a total and permanent disability discharge, the institution must forward those payments to the Secretary for crediting to the borrower's account.

(ii) At the same time that the institution forwards the payment, it must notify the borrower that there is no obligation to make payments on the loan while it is conditionally discharged prior to a final determination of eligibility for a total and permanent disability discharge, unless the Secretary directs the borrower otherwise.

(iii) When the Secretary makes a final determination to discharge the loan, the Secretary returns any payments received on the loan after the date the physician completed and certified the borrower's loan discharge application to the person who made the payments on the loan.

(c) *No Federal reimbursement.* No Federal reimbursement is made to an institution for cancellation of loans due to death or disability.

**Off. of Postsecondary Educ., Education**

**§ 674.64**

(d) *Retroactive.* Discharge for death applies retroactively to all Defense, NDSL, and Perkins loans.

(Approved by the Office of Management and Budget under control number 1845-0019)

(Authority: 20 U.S.C. 425, 1070g, 1087dd; sec. 130(g)(2) of the Education Amendments of 1976, Pub. L. 94-482)

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**§ 674.62 No cancellation for prior service—no repayment refunded.**

(a) No portion of a loan may be cancelled for teaching. Head Start, volunteer or military service if the borrower's service is performed—

(1) During the same period that he or she received the loan; or

(2) Before the date the loan was disbursed to the borrower.

(b) The institution shall not refund a repayment made during a period for which the borrower qualified for a cancellation unless the borrower made the payment due to an institutional error.

(Authority: 20 U.S.C. 425 and 1067ee)

[52 FR 45758, Dec. 1, 1987. Redesignated at 59 FR 61413, Nov. 30, 1994]

**§ 674.63 Reimbursement to institutions for loan cancellation.**

(a) *Reimbursement for Defense loan cancellation.* (1) The Secretary pays an institution each award year its share of the principal and interest canceled under §§ 674.55 and 674.59(a).

(2) The institution's share of cancelled principal and interest is computed by the following ratio:

$$\frac{I}{I + F}$$

Where I is the institution's capital contribution to the Fund, and F is the Federal capital contribution to the Fund.

(b) *Reimbursement for NDSL and Federal Perkins loan cancellation.* The Secretary pays an institution each award year the principal and interest canceled from its student loan fund under §§ 674.53, 674.54, 674.56, 674.57, 674.58,

674.59(b), and 674.60. The institution shall deposit this amount in its Fund.

(Authority: 20 U.S.C. 428 and 1087ee)

[52 FR 45758, Dec. 1, 1987. Redesignated and amended at 59 FR 61413, 61415, Nov. 30, 1994]

**§ 674.64 Discharge of student loan indebtedness for survivors of victims of the September 11, 2001, attacks.**

(a) *Definition of terms.* As used in this section—

(1) *Eligible public servant* means an individual who—

(i) Served as a police officer, firefighter, other safety or rescue personnel, or as a member of the Armed Forces; and

(ii)(A) Died due to injuries suffered in the terrorist attacks on September 11, 2001; or

(B) Became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.

(2) *Died due to injuries suffered in the terrorist attacks on September 11, 2001* means the individual was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001, and the individual died as a direct result of these crashes.

(3) *Became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001* means the individual was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001, and the individual became permanently and totally disabled as a direct result of these crashes.

(i) An individual is considered permanently and totally disabled if—

(A) The disability is the result of a physical injury to the individual that was treated by a medical professional within 72 hours of the injury having been sustained or within 72 hours of the rescue;

(B) The physical injury that caused the disability is verified by contemporaneous medical records created by