

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)

[52 FR 45758, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988. Redesignated and amended at 59 FR 61413, 61415, Nov. 30, 1994; 64 FR 58315, Oct. 28, 1999; 65 FR 65690, Nov. 1, 2000; 66 FR 44007, Aug. 21, 2001; 72 FR 61998, Nov. 1, 2007; 73 FR 35494, June 23, 2008; 73 FR 36793, June 30, 2008]

§ 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

or at the direction of the medical professional who provided the medical care; and

(C) The individual is unable to work and earn money due to the disability and the disability is expected to continue indefinitely or result in death.

(ii) If the injuries suffered due to the terrorist-related aircraft crashes did not make the individual permanently and totally disabled at the time of or in the immediate aftermath of the attacks, the individual may be considered to be permanently and totally disabled for purposes of this section if the individual's medical condition has deteriorated to the extent that the individual is permanently and totally disabled.

(4) *Immediate aftermath* means, for an eligible public servant, the period of time from the aircraft crashes until 96 hours after the crashes.

(5) *Present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site* means physically present at the time of the terrorist-related aircraft crashes or in the immediate aftermath—

(i) In the buildings or portions of the buildings that were destroyed as a result of the terrorist-related aircraft crashes;

(ii) In any area contiguous to the crash site that was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses. Generally, this includes the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons; or

(iii) On board American Airlines flights 11 or 77 or United Airlines flights 93 or 175 on September 11, 2001.

(b) *September 11 survivors discharge.* (1) The obligation of a borrower to make any further payments on an eligible Defense, NDSL, or Perkins Loan is discharged if the borrower was, at the time of the terrorist attacks on September 11, 2001, and currently is, the spouse of an eligible public servant, unless the eligible public servant has died. If the eligible public servant has died, the borrower must have been the

spouse of the eligible public servant at the time of the terrorist attacks on September 11, 2001 and until the date the eligible public servant died.

(2) A Defense, NDSL, or Perkins Loan owed by the spouse of an eligible public servant may be discharged under the procedures for a discharge in paragraphs (b)(3) through (b)(6) of this section.

(3) After being notified by the borrower that the borrower claims to qualify for a discharge under this section, an institution shall suspend collection activity on the borrower's eligible Defense, NDSL, and Perkins Loans and promptly request that the borrower submit a request for discharge on a form approved by the Secretary.

(4) If the institution determines that the borrower does not qualify for a discharge under this section, or the institution does not receive the completed discharge request form from the borrower within 60 days of the borrower notifying the institution that the borrower claims to qualify for a discharge, the institution shall resume collection and shall be deemed to have exercised forbearance of payment of both principal and interest from the date the institution was notified by the borrower. The institution must notify the borrower that the application for the discharge has been denied, provide the basis for the denial, and inform the borrower that the institution will resume collection on the loan.

(5) If the institution determines that the borrower qualifies for a discharge under this section, the institution shall notify the borrower that the loan has been discharged and that there is no further obligation to repay the loan. The institution shall return to the sender any payments received by the institution after the date the loan was discharged.

(6) A Defense, NDSL, or Perkins Loan owed by an eligible public servant may be discharged under the procedures in § 674.61 for a discharge based on the death or total and permanent disability of the eligible public servant.

(c) *Documentation that an eligible public servant died due to injuries suffered in the terrorist attacks on September 11, 2001.* (1) Documentation that an eligible public servant died due to injuries suffered

in the terrorist attacks on September 11, 2001 must include—

(i) A certification from an authorized official that the individual was a member of the Armed Forces, or was employed as a police officer, firefighter, or other safety or rescue personnel, and 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 the terrorist-related aircraft crashes or in the immediate aftermath of these crashes; and

(ii) The inclusion of the individual on an official list of the individuals who died in the terrorist attacks on September 11, 2001.

(2) If the individual is not included on an official list of the individuals who died in the terrorist attacks on September 11, 2001, the borrower must provide—

(i) The certification described in paragraph (c)(1)(i) of this section;

(ii) An original or certified copy of the individual's death certificate; and

(iii) A certification from a physician or a medical examiner that the individual died due to injuries suffered in the terrorist attacks on September 11, 2001.

(3) If the eligible public servant owed a FFEL Program Loan, a Direct Loan, or a Perkins Loan at the time of the terrorist attacks on September 11, 2001, documentation that the individual's loans were discharged by the lender, the Secretary, or the institution due to death may be substituted for the original or certified copy of a death certificate.

(4) If the borrower is the spouse of an eligible public servant, and has been granted a discharge on a FFEL Program Loan, a Direct Loan, or a Perkins Loan held by another institution, because the eligible public servant died due to injuries suffered in the terrorist attacks on September 11, 2001, documentation of the discharge may be used as an alternative to the documentation required in paragraphs (c)(1) through (c)(3) of this section.

(5) Under exceptional circumstances and on a case-by-case basis, the determination that an eligible public servant died due to injuries suffered in the terrorist attacks on September 11, 2001

may be based on other reliable documentation approved by the chief financial officer of the institution.

(d) *Documentation that an eligible public servant became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.*

(1) Documentation that an eligible public servant became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001 must include—

(i) A certification from an authorized official that the individual was a member of the Armed Forces or was employed as a police officer, firefighter or other safety or rescue personnel, and 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 the terrorist-related aircraft crashes or in the immediate aftermath of these crashes;

(ii) Copies of contemporaneous medical records created by or at the direction of a medical professional who provided medical care to the individual within 24 hours of the injury having been sustained or within 24 hours of the rescue; and

(iii) A certification by a physician, who is a doctor of medicine or osteopathy and legally authorized to practice in a state, that the individual became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.

(2) If the borrower is the spouse of an eligible public servant, and has been granted a discharge on a FFEL Loan, a Direct Loan, or a Perkins Loan held by another institution, because the eligible public servant became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001, documentation of the discharge may be used as an alternative to the documentation required in paragraph (d)(1) of this section.

(e) *Additional information.* (1) An institution may require the borrower to submit additional information that the institution deems necessary to determine the borrower's eligibility for a discharge under this section.

(2) To establish that the eligible public servant was present at the World Trade Center in New York City, New

York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site, such additional information may include but is not limited to—

- (i) Records of employment;
- (ii) Contemporaneous records of a federal, state, city, or local government agency;
- (iii) An affidavit or declaration of the eligible public servant's employer; or
- (iv) A sworn statement (or an unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the eligible public servant at the site.

(3) To establish that the disability of the eligible public servant is due to injuries suffered in the terrorist attacks on September 11, 2001, such additional information may include but is not limited to—

- (i) Contemporaneous medical records of hospitals, clinics, physicians, or other licensed medical personnel;
- (ii) Registries maintained by federal, state, or local governments; or
- (iii) Records of all continuing medical treatment.

(4) To establish the borrower's relationship to the eligible public servant, such additional information may include but is not limited to—

- (i) Copies of relevant legal records including court orders, letters of testamentary or similar documentation;
- (ii) Copies of wills, trusts, or other testamentary documents; or

(iii) Copies of approved joint FFEL or Federal Direct Consolidation loan applications.

(f) *Limitations on discharge.* (1) Only outstanding Defense, NDSL, and Perkins Loans for which amounts were owed on September 11, 2001, are eligible for discharge under this section.

(2) Eligibility for a discharge under this section does not qualify a borrower for a refund of any payments made on the borrower's Defense, NDSL, or Perkins Loans prior to the date the loan was discharged.

(3) A determination by an institution that an eligible public servant became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001 for purposes of this section does not qualify the eligible public servant for a discharge based on a total and permanent disability under § 674.61.

(4) The spouse of an eligible public servant may not receive a discharge under this section if the eligible public servant has been identified as a participant or conspirator in the terrorist-related aircraft crashes on September 11, 2001.

[71 FR 78078, Dec. 28, 2006, as amended at 72 FR 55053, Sept. 28, 2007]

APPENDIXES A-D TO PART 674
[RESERVED]

APPENDIX E TO PART 674—EXAMPLES FOR COMPUTING MAXIMUM PENALTY CHARGES (6 MONTHS UNPAID OVERDUE PAYMENTS) ON DIRECT LOANS MADE FOR PERIODS OF ENROLLMENT BEFORE JANUARY 1, 1986

Monthly repayment schedule	Installment due dates—Missed payments						Separate monthly maximum penalty charges
	Jan. 2	Feb. 2	Mar. 2	Apr. 2	May 2	June 2	
1st Past due installment	\$1 .....	.....	.....	.....	.....	.....	\$1
2nd Past due installment .....	.....	\$1+\$2 .....	.....	.....	.....	.....	3
3rd Past due installment .....	.....	.....	\$3+\$2 .....	.....	.....	.....	5
4th Past due installment .....	.....	.....	.....	\$5+\$2 .....	.....	.....	7
5th Past due installment .....	.....	.....	.....	.....	\$7+\$2 .....	.....	9
6th Past due installment .....	.....	.....	.....	.....	.....	\$9+\$2	11
Cumulative maximum sub-totals	1	4	9	16	25	36	.....

Bimonthly repayment schedule	Installment due dates—Missed payments			Separate bi-monthly maximum penalty charges
	Jan. 2	Mar. 2	May 2	
1st Past due installment	\$3 .....	.....	.....	\$3