January 31, 1986

Bureau of Health Professions

Officials of Schools Participating in the Health Professions and Nursing Student Assistance Programs

Subject: Policy Memorandum Number Eight

Introduction

This communication is the eighth in a series of memoranda issued by the Division of Student Assistance, Bureau of Health Professions, concerning items of interest to the health professions and nursing student financial aid community. This memorandum provides further information on the revised Health Professions Student Loan (HPSL) and Nursing Student Loan (NSL) regulations published in the Federal Register on August 23, 1985, and the legislative amendments enacted for the NSL program on August 16, 1985 (P.L. 99-92) and the HPSL program on October 22, 1985 (P.L. 99-129).

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HPSL and NSL Regulations--Summary of Amendments

HPSL program: The Department of Health and Human Services (the Department) published in the Federal Register of August 23, 1985 (60 FR 34416-34423) regulatory amendments which affect the following:
(1) the promissory note (section 57.208);
(2) the due diligence requirements (section 57.210(b));
(3) the reporting requirements (section 57.215); and
(4) the performance standard provision (section 57.216a).

NSL Program: The Department published in the Federal Register of

August 23, 1985 (50 FR 34426-34439) a rewrite of the NSL regulations which makes their language more consistent with the HPSL regulations, and amends or adds numerous provisions as follows:
(1) the charging of credit bureau costs to the fund (section 57.306);
(2) the financial aid transcript and need analysis requirements (section 57.306);

(3) the promissory note (section 57.308);

(4) the frequency of repayments, and forbearance (section 57.310(a));

(5) the due diligence requirements (section 57.310(b));

(6) institutional reimbursement for loan cancellations (section 67.313a);
(7) reporting requirements and audit requirements (section 57.315); and
(8) the performance standard provision (section 57.216a).

These HPSL and NSL regulatory amendments became effective September 23, 1985. A more detailed explanation of each amendment is provided below.

Amendments Affecting Both HPSL and NSL Regulations

Promissory Note (57.208 (HPSL) and 57.308 (NSL)): The Department has amended the promissory note provision to state that schools must safeguard notes against fire, theft, and tampering. This amendment reinforces an existing administrative not previously included in regulations.

The amended regulations also require security or endorsement where a borrower is a minor and his or her signature would not create a binding obligation under State law. Any school which has HPSL or NSL borrowers and is located in a State where a minor's signature does not create a legally binding obligation, must require security or endorsement on promissory notes(or promissory note disbursements)signed by minors on or after September 23. To assure compliance with applicable State law a school should consult its own legal counsel.

For the NSL program, the Department has made a further amendment (already in effect for the HPSL program) to require that the promissory note must contain a clause permitting the acceleration of a past due loan at the school's option. This requirement applies to any NSL promissory notes (or promissory note disbursements) signed on or after September 23, 1985.

Due Diligence (57.210(b) (HPSL) and 57.310(b) (NSL)): The Department has amended the required due diligence procedures as follows:
HPSL: by adding seven steps which are new as regulatory requirements (steps 1 through 7 below), and amending two of the three steps already in the HPSL regulations (steps 9 and 10 below).
NSL: by adding ten steps which are new as regulatory requirements (steps 1 through 10 below).

The ten due diligence steps now required by regulation for both the HPSL and NSL programs are listed below, with further information regarding the types of documentation that schools must maintain to demonstrate compliance. Any school that is not currently maintaining the types of documentation specified below for each of the ten steps must

have such documentation in place within three months of the date of this policy memorandum. In addition, any school that does not have a set of written institutional policies and procedures that are followed by the financial aid office and the fiscal office in administering the HPSL and NSL programs must develop such policies and procedures and maintain them in the appropriate office.

(1) Entrance interview: The regulatory amendments require a school to conduct entrance interviews with its borrowers. A school must comply with the entrance interview requirement by conducting an individual or group meeting with the borrower, or through an exchange of information by mail if a face-to-face meeting is not practical. Each school has latitude in deciding whether to conduct the entrance interview in person or by mail. However, schools are strongly encouraged to make individual or group entrance interviews a priority in the financial aid awarding process, as this will help prevent problems in the collection process. The school also has discretion in determining the specific format of the entrance interview, and may use innovative methods such as films or computer software programs which "test" the borrower's understanding of his or her rights and responsibilities. Finally, the school has discretion in deciding which office(s) (e.g., financial aid, fiscal, loan collection, dean's) will be responsible for the entrance interview.

The school must conduct and document an entrance interview for each academic year during which the student receives HPSL or NSL funds and must obtain entrance interview documentation before it disburses loan funds to a borrower in any academic year. The regulations do not require the school to conduct an entrance interview each time it makes a disbursement within a single academic year; however, many schools have indicated it is beneficial to the collection process to require a borrower to complete a new “borrower information” form at the time of each disbursement.

Regardless of how the school conducts the entrance interview (in person or by mail), it must obtain documentation which includes the following:

(a) Evidence that the borrower is aware of the rights and responsibilities associated with the loan. This documentation can be in whatever format the school chooses, such as a statement listing the borrower's rights and responsibilities which is signed and dated by the borrower, or a statement signed and dated by the borrower acknowledging that he or she has been provided with information which explains the rights and responsibilities of the loan. The truth-in-lending statement can also satisfy this requirement provided that it includes additional information which further explains to a borrower the rights and responsibilities of the HPSL/NSL funds. For a borrower who receives loan funds in more than one academic year, the school may use a separate form or statement for each year during which funds are disbursed, or may have the borrower re-sign and date the original form or statement for each additional year (provided that the information in the original form/statement continues to be applicable to the additional loan funds). For schools that would like further guidance, an example of an acceptable format is the "Statement of Rights and Responsibilities" (Exhibit HPSL/NSL-57) in the Student Loan Collection Procedures (1985) published by the National Association of college and University Business Officers (NACUBO), which is reproduced at the end of this policy memorandum as Exhibit A.

(b) Personal borrower information (dated by the borrower to indicate when he or she provided and/or updated it) which will assist in skiptracing should this be necessary during the collection process. This must be collected as part of the entrance interview process even if a borrower has provided similar information on the financial aid application, since the information may change between the time the borrower applies for and is awarded funds. A school may use whatever format it finds most effective to collect this information. For a borrower who receives loan funds in more than one academic year, the school must require the borrower to: (i) provide this information anew each year before funds are disbursed, or (ii) review and update the original entrance interview information each year before funds are disbursed, and re-sign and date the information to indicate when the updating occurred. For schools that would like further guidance, an example of an acceptable format is the “Initial Interview Questionnaire” (Exhibit GEN-1) in the Student Loan Collection Procedures (1985) published by NACUBO, which is reproduced at the end of this policy memorandum as Exhibit B.

(2)Exit interview: The regulatory amendments require a school to attempt to conduct exit interviews with its borrowers in person (individually or in groups). The school has discretion in deciding which office(s) (e.g., financial aid, fiscal, loan collection) will be responsible for the exit interview. The school also has discretion in determining the

specific format of the exit interview, and may use innovative methods such as films or computer software programs as long as the following documentation is obtained:

(a) The terms of repayment agreed to by the borrower and the school, which must be signed and dated by the borrower indicating acceptance. For schools that would like further guidance, an example of an acceptable format is the "Exit Interview/Truth-in-Lending Repayment Schedule" (Exhibit HPSL/NSL-58) in the Student Loan Collection Procedures (1985) published by NACUBO, which is reproduced at the end of this policy memorandum as Exhibit C;

(b) Evidence that the borrower was reminded of his or her rights and responsibilities. This can be documented by having the borrower sign and date: (i) a form or statement similar to that used in the entrance interview, or (ii) a separate form or statement which provides, or indicates that the borrower has received, additional information that is not addressed during the entrance interview. The truth-in-lending statement can also satisfy this requirement provided that it includes additional information which further explains to a borrower the rights and responsibilities of the HPSL/NSL funds. For schools that would like further guidance, an example of an acceptable format is the "Exit Interview Checklist" (Table 2) included in Books I and 11 of the Student Financial Aid Guidelines (1980), which is reproduced at the end of this policy memorandum as Exhibit D; and

(c) Updated personal information provided by the borrower during the exit interview. This can be documented by having the borrower complete and date: (i) a personal information form similar to that used in the entrance interview, or (ii) a separate form which collects additional types of information that is not requested during the entrance interview (e.g., future employment plans). For schools that would like further guidance, an example of an acceptable format is the “Exit Interview Questionnaire” (Table 3) included in Books I and II of the Student Financial Aid Guidelines (1980), which is reproduced at the end of this policy memorandum as Exhibit E.

If a borrower fails to appear for an exit interview, the school must attempt to conduct the exit interview by mailing the exit interview information to the borrower and requesting that a copy of the repayment terms and the rights and responsibilities form or statement be signed and dated, the personal information form be completed and dated, And these items be returned to the school. If the borrower returns the information as requested, this will document that the exit interview was conducted. If the borrower fails to return the information, the school must maintain in the borrower's file a copy of the repayment terms sent to the borrower and the date the exit interview information was mailed, as documentation of the contact. Further attempts to obtain the exit interview information are not required to comply with this regulatory provision, except that if the information is returned to the school due to an incorrect address, the school must record the date the information was returned or retain the returned envelope. The school must then initiate address search and, if successful, must record the date the information was mailed to the borrower's correct address. Although not required, schools are strongly encouraged to make a second contact, by mail or telephone, with any borrower who fails to return the exit interview information within a reasonable time. Schools are also strongly encouraged to encumber the records of students who fail to return the exit interview information (and notify students of this action), unless State law prohibits such.

(3) Grace period contacts: The regulatory amendments require the school to contact borrowers in writing twice during the grace period. Since the regulations do not state specific intervals at which-the contacts must occur, each school has discretion in developing reasonable intervals for the two contacts (e.g., 90 and 180 days into the grace period). To comply with this requirement, a school can use whatever form of written notification it finds most effective, including lettergrams, letters, or a message on a billing statement (with the billing portion indicating that no payment is yet due). Mailed exit interview information may not take the place of one of the two grace period contacts. However, if the school mails the first bill during the grace period, and includes a message section which provides the borrower with appropriate information, the school can consider this as one of the two grace period contacts.

This provision does not specify information which must be included in the grace period contacts, but instead leaves this at the discretion of the school. A school should use these notices as opportunities to remind the borrower of information that is

pertinent to assure timely repayment (e.g., the date the first payment is due, the need to inform the school promptly of an address change, etc.).

The school must document the grace period contacts by keeping a copy of each contact sent to each borrower, or by maintaining samples of the grace period contacts and documenting for each borrower the month when each contact was mailed. If any grace period contact is returned due to an incorrect address, the school must record the date the

contact was returned or retain the returned envelope. The school must then initiate an address search and, if successful, must keep a copy of the contact mailed to the correct address or record the date this contact was mailed. If an updated address is not located until after one of the next regularly-scheduled contacts should have been mailed, documentation of the date the address was obtained and the school's schedule for sending grace period contacts would determine whether any grace period notices must be sent or regular billing initiated immediately. For example: (i) if a borrower's first grace period contact is returned, and a correct address is not located until after the second grace period contact has been mailed to other borrowers, the school is not required to send this borrower the first grace period contact, but must send the second grace period contact; (ii) if a borrower's first grace period contact is returned, and a correct address is not located until after the repayment period has begun, no grace period contacts would be required for this borrower.

(4) Deferment contacts: The regulatory amendments requires the school to contact a borrower one to three months prior to the completion of an approved deferment period. The school must make this contact for any borrower in deferment when the approved deferment period is due to expire and an extension has not been requested by the borrower (by submission of a new deferment form) at the time the deferment contact is to be mailed.

The Deferment contact is not required if a borrower in deferment extends his or her deferment period by submitting a properly completed deferment form prior to the time that the deferment contact is scheduled to be mailed (e.g., deferment contact scheduled to be mailed 60 days before end of approved deferment period; borrower submits deferment form extending deferment period 75 days before end of approved period). In this case, a deferment contact would not be needed until one to three months prior to the completion of the newly approved deferment period. The date that the deferment form extending the period of deferment was approved by the school, which would be prior to the date the deferment contact was to occur, would document that a deferment contact was unnecessary at the time.

To comply with this requirement, a school can use whatever form of written notification it finds most effective, including lettergrams, letters, or a message on a billing statement (with the billing portion indicating that no payment is yet due, but also indicating when the approved period of deferment ends and/or when the next payment will be due).

This provision does not specify Information which must be included in the deferment period contact, but instead leaves this at the discretion of the school. The school should use this contact as an opportunity to remind the borrower of information that is pertinent to assure timely repayment (e.g., the date the next payment or properly completed deferment form is due, the need to inform the school promptly of an address change, etc.). If a school expects the borrower's deferment status to continue, it is suggested that the school include with this notification a blank deferment form for the borrower to complete and return prior to the time his or her repayment period would otherwise resume.

The school must document the deferment contact(s) by keeping a copy of each contact sent to each borrower, or by maintaining samples of the deferment contacts and documenting for each borrower the month when each contact was mailed. If any deferment contact is returned due to an incorrect address, the school must record the date the contact was returned or retain the returned envelope. The school must then initiate an address search and, if successful, must keep a copy of the contact mailed to the correct address or record the date this contact was mailed. If an updated address is not located until after billing should have beg@n or resumed, this deferment contact would not be required for this borrower.

(5) Regular billing: The regulatory amendments require a school to perform regular billing. To comply with this requirement, a school must either send a statement prior to the due date of each payment or use a coupon payment system which provides coupons to borrowers no less often than biennially.

If a school sends billing statements prior to the due date of each payment, the school must document this in one of the following ways:

(a) By keeping a copy of each billing statement mailed to each borrower; or

(b) By keeping a sample copy of a billing statement mailed to any borrower, and documenting for each borrower the month that each bill was mailed.

If a school uses a coupon payment system, it must send coupons to borrowers on at least a biennial basis, and must document this in one of the following ways:

(a) By documenting for each borrower the month that coupons are mailed and keeping each coupon submitted with each borrower's payment; or

(b) By keeping a sample of the coupon payment system, documenting for each borrower the month that coupons are mailed, and keeping a record of the date and amount of each payment received from each borrower (i.e., a repayment history).

A school that uses an outside billing agent must also have available a copy of the service agreement and its effective dates.

If any billing statement or coupons are returned due to an incorrect address, the school must record the date returned or retain the returned envelope. The school must then initiate an address search and, if successful, must keep a record of the date the correct address was obtained and the date the billing contact (statement or coupons) was mailed to the correct address.

(6) Past due follow-up: The regulatory amendments require a school to make four follow-up contacts during the first 120 days of a borrower's delinquency, three of which must be written contacts at not more than 30-day intervals. The specific time frames for the three required written contacts (eig., 30-, 60-g and 90-days past due; 16-l 45-9 and 60-days past due; etc.) re at the discretion of the school, based on what has been most successful in the past and/or what is done for other loan programs. The school may make the fourth contact in writing, by telephone, or by personal contact at whatever point during the 120-day period the school determines will be most effective.

If a written follow-up contact is returned due to an incorrect address, the school must record the date returned or retain the returned envelope. The school must then i ni ti ate an address search and, I f successful , must keep a copy of the contact mailed to the correct address or record the date and type of contact (e.g., 15-day, 45-day, final demand, etc.) mailed. If an updated address is not located until after one or more of the next follow-up contacts should have been mailed, documentation of the date the address was.obtained and the school's schedule for sending follow-up contacts would determine which follow-up contacts must be sent. If a school does not locate a correct address until after the loan is more than 120 days past due, school are strongly encouraged to make one or more written or telephone contacts, as appropriate, before referring the loan to a collection agent, although this is not required by this regulatory provision.

For the written contacts, the regulations do not specify a required format. Each school may use whatever form of written notification it finds most effective, including lettergrams, letters, or messages on billing statements which are comparable to information that would be provided in separate written notifications. Although this provision gives schools latitude in determining the format of the written contacts, the Bureau strongly recommends that they be separate from billing statements. Regardless of the format, the written contacts should contain language which becomes progressively stronger in tone. The school must document the written contacts by maintaining copies of each contact sent to each borrower, or by maintaining sample copies of the contacts and documenting for each borrower the date each contact was sent.

If the school chooses to do the fourth contact by telephone or personal visit, this must be documented by a record of the date of the phone call or visit and a brief description of the conversation with the borrower (conversation with relative/roommate

not acceptable). If the school attempts telephone or personal contact and is unable to reach the borrower, a fourth contact must be ode in writing.

(7) Address Searches: The regulatory amendments require a school to perform an address search when it finds that its address for a borrower is not correct. Since this provision does not specify methods of skiptracing that must be used,

each school may determine the skiptracing methods that it finds most effective in locating its borrowers and use those as a basis for developing institutional skiptracing procedures.

To comply with this requirement, a school must have written procedures it initiates on a timely basis in attempting to locate a borrower's correct address. The skiptracing efforts must be documented by a record of the date and results of each attempt. If a school's attempts to locate a correct address fail, and the school hires a commercial skiptracing agency, it must document the date the assistance of the commercial agency was enlisted for each account, the date the account was returned, and the results of the agency's efforts. (Schools are reminded that costs - associated with skiptracing are not chargeable to the fund.) For schools that would like further guidance on skiptracing, a sample “Borrower Account-Tracing Check Sheet” (Exhibit GEN-34), included in the Student Loan Collection Procedures
(1985) published by MACUBO, is reproduced at the end of this policy memorandum as Exhibit F.

(8) Collection agents (existing HPSL requirement; new NSL requirement): Under this requirement, each school has latitude in determining whether to use an in-house collection agent and/or one or more commercial collection agents and in deciding how long to leave an account with a collection agent. For each collection agent to which an account is
referred, the school must document the date of referral, the results of the collection agent's efforts, and the date the account was returned to or recalled by the school if the collection agent was unsuccessful in collecting the account in full. In addition, a copy of the procedures followed by the in-house collection agent, or a copy of the contract with the commercial collection agency, must be available.

(9) Litigation (amendment to existing HPSL requirement; new NSL requirement): Under this regulatory amendment, a school is required to litigate against a delinquent borrower after all other collection efforts have failed unless the school determines, subject to the approval of the Secretary, that litigation would not be cost-effective. This provision does not prohibit a school from litigating earlier, but establishes a requirement that litigation must occur, unless it is not cost-effective, before the school can be considered to have completed its collection efforts. In addition, a school that would like to litigate for deterrence (i.e., to encourage other borrowers to repay) in a case where litigation is not cost-effective may do so.

To determine whether litigation is cost-effective, a school must consider the costs that it reasonably can expect to incur as a result of litigating compared with the amount it reasonably can expect to recover from the borrower. The school's determination may be based on input from a third party (e.g., outside attorney). If the school determines that litigation is cost-effective, the school must document the dates litigation was ' initiated and completed, the results, and any further efforts taken after litigation to collect the loan. If the school determines that the cost of litigating is expected to exceed the amount to be recovered, the school must document how this determination was made, and is not required to litigate, except that 'if the Secretary determines in a subsequent review that litigation would be cost-effective, the school may be required to litigate at that time.

(10) Credit bureaus (amendment to existing HPSL requirement; new NSL requirement): Under this provision, a school must report any loans more than 120 days past due to one or more credit bureaus. This requirement does not preclude reporting delinquent accounts to a credit bureau before they are 120 days past due if the school believes that an earlier time frame is more effective. A school must document compliance with this requirement by providing a copy of a credit bureau report which lists the delinquent status of the HPSL or NSL account, or by other documented evidence supporting the fact that the account was reported to a credit bureau(s). In addition, the school must indicate in the borrower's historical record the date the account was reported to a credit bureau(s).

In determining which credit bureau(s) to join, the school must consider the geographic locations most frequented by its borrowers. Although the regulations do not specify the number of credit bureau(s) that a school must join, it is %strongly recommended that a school join more than one credit bureau if a single credit bureau does not adequately cover its

borrowers' areas location.

Time frames for Implementation of revised due diligence steps: The series of procedures outlined in (1) through (10) are required steps of the due diligence process as of September 23, 1985. This means that for any loan made on or after September 23, 1985, a school must follow steps (1) through (10) (unless it has requested and received written approval of substitute procedures) to comply with the due diligence requirement.

For any loan made prior to September 23, 1985, a school must apply the new due diligence requirements prospectively (i.e., on a current and future basis) to the extent that this is possible. Thus, to comply with the due

diligence requirement for such a loan, the procedures that a school followed prior to September 23, 1985, must be in conformance with "generally accepted collection practices," as required by the previously existing regulations (and for HPSL loans must include use of collection agents, litigation, and credit bureaus since June 3, 1983), and the procedures followed after September 23, 1985, must include any steps of the new requirements that can be followed henceforth (unless substitute procedures are approved by the Secretary).

Further clarification of documentation requirements: When a school documents its compliance with steps (3), (4), (5), -or (6) of the due diligence requirements by maintaining a record of the dates that written contacts or bills were mailed to a borrower, rather than maintaining copies of the contacts, the documentation of dates must be an historical record which may be maintained manually or as part of an automated system. If an automated system is used, the historical record may be printed on a current basis. However, in no case may the record showing dates of activities be created on a current basis.

When requesting write-off approval, an authorized official at the school must certify, for each loan submitted, that the documentation provided is true, complete, and correct to the best of his or her knowledge. Any person who knowingly makes a false statement or misrepresentation in the documentation is subject to penalties which may include fines and imprisonment under Federal statute.

Substitute procedures: The HPSL and NSL due diligence provisions also allow a school to substitute alternative procedures in place of one or more of those set forth in the regulations, provided that the school demonstrates the effectiveness of the substitute procedure and receives written approval from the Bureau. Any school that would like to request permission to substitute a different procedure for any of the above steps should write to the Division of Student Assistance, describing its alternative procedure and providing evidence that its proposed procedure is equally or more effective. If a substitute procedure is approved, the school will be required to submit a copy of the letter of approval along with any requests for write-off approval.

Write-off of Uncollectible Loans: The Department has also included in the regulatory amendments a paragraph which addresses the write-off of uncollectible loans. This amendment adds to the regulations a basic description of the write-off review process which the Department has explained previously in policy documents but has not stated in prior regulations.

Schools are reminded that when write-off approval is granted for-a loan, the school still has authority to collect the loan if it finds that collection is possible at a later time. In these cases, the school must provide the Office of Debt Management (ODM) with written notification of the borrower's name, the amount collected, and how this amount was applied between principal and interest, so that ODM can adjust its records to reflect the reduced write-off amount. Further questions on this procedure should be addressed to ODM.

Reporting and Recordkeeping (57.215 (HPSL) and 57.315 (NSL)): The Department has amended the regulatory provision which addresses reporting requirements to state that schools must submit required reports within 45 days of the end of the reporting period or face penalties of suspension and/or termination. This amendment merely expands the regulations to include administrative procedures that the Department has explained previously in policy documents.

The Department has also added language to-these sections stating that officials who have information indicating the potential or actual commission of fraud involving these loan funds should promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

Amendments to HPSL Regulations

Performance Standard (57.216a): The Department amended the HPSL performance standard provision to require that, as of June 30, 1986, health professions schools must use the dollar delinquency rate to comply with the five percent performance standard. Section 57.216a was unchanged except for eliminating the option of using the borrower delinquency rate to comply with the performance standard. However, schools should note that the delinquency formula set forth in this section of the regulations has been superseded by the Health Professions Training Assistance Act of 19850 P.L. 99-129 (enacted October 22, 1985), which established a new formula, retroactive to June 30, 1984, that the Department must use to measure compliance with the HPSL performance standard. The new formula includes

in the numerator the principal outstanding for loans more than 120 days past due (rather than 60 days past due), and in the denominator., the total principal loaned for matured loans (rather than loans in repayment status). For this purpose, the category "matured loans" includes any loan for which the borrower is not in student status or grace period; thus, retired loans and loans in deferment, forbearance, and bankruptcy are included in the denominator. Procedures for calculating the HPSL delinquency rate under the new formula have been included in the December 31. 1985 quarterly report.

Amendments to NSL Regulations

The August 23 regulatory amendments also include the following changes to the NSL regulations (which are already required for the HPSL program under previously existing regulations):

Credit Bureau Costs (57.305): The regulatory amendments specify that nursing schools may charge the costs associated with membership in credit bureaus to the NSL fund. The Department had previously authorized charging the NSL fund for credit bureau membership through policy documents; therefore, this amendment merely reinforces an existing policy.

Financial Aid Transcript/Need Analysis (57.306): The regulatory amendments require NSL applicants who previously have attended an institution of higher education to submit a financial aid transcript. This requirement applies to any applicant to whom the school awards NSL funds on or after September 23, 1985; funds awarded prior to that date may be disbursed regardless of whether the school obtained a transcript from the NSL applicant. A separate form for complying with the financial aid transcript requirement has not been developed for the NSL program. Schools may use the form that has been developed by the Department of Education or may develop their own form, as long as it contains the information specified in this regulatory provision.

The Department has also amended this section to state that schools must use a national needs analysis system to determine the financial need of an applicant. If any school is not already using a national needs analysis system, this requirement applies to any applicant to whom the school awards NSL funds on or after September 23, 1985.

Frequency of Repayment /Forbearance (57.310(a)): The regulatory amendments state that for repayment schedules established on or after September 23, 1985, a school must require an NSL borrower to make payments no less often than quarterly. This does not preclude a school from requiring borrowers to pay more frequently than quarterly (e.g., requiring all borrowers entering repayment to pay on a monthly basis), but rather prohibits repayment schedules that are less frequent than quarterly. In addition, the regulatory amendments state that a school must place any borrower (regardless of when the borrower went into repayment) who is more than 60 days past due in making a scheduled payment on or after September 23, 1985 on a monthly repayment schedule, regardless of the frequency of repayments agreed to in the original repayment schedule.

The Department has also amended this subsection to state that schools may grant forbearance to NSL borrowers who are unable to make scheduled payments due to legitimate financial hardship. Although the Department previously authorized forbearance in policy documents, this is a new regulatory provision for the NSL program.

Cancellation Reimbursement (57.313a): The regulatory amendments set forth procedures for reimbursing a school for the institutional share of loan cancellations if sufficient funds are not available in any fiscal year to pay schools their share of NSL principal and Interest canceled due to employment. death, or permanent and total disability.

Audits and Record Retention (57.315): The regulatory amendments-state that schools must comply with the audit requirements of the Department's Administration of Grants regulations, set forth in 45 CFR Part 74, which require that an audit be conducted by a non-Federal independent auditor on at least a biennial basis. To comply with the biennial audit requirement, schools must either include the NSL program in their next regularly scheduled audit for other

financial aid funds or conduct a separate audit of the NSL program prior to that time. The latest period of time that could be covered by the school's first NSL audit would be the two-year period ending June 30, 1987.

This section of the regulatory amendments also sets forth record retention requirements for student records and repayment records.

Performance Standard (57.316a): The regulatory amendments establish a performance standard provision which requires that a nursing school rest have a dollar delinquency rate no greater than five percent as of June 30, 1986, and on each June 30 thereafter, or comply with specified reductions in its delinquency rate at the end of each subsequent six-month period, until it reaches five percent, to continue participating in the NSL program.

Schools should note that the delinquency formula set forth in this section of the regulations has been superseded by a formula established by the Congress as part of the Nurse Education Amendments of 1985, P.L. 99-92, enacted August 16, 1985. The formula established by law includes in the numerator the principal outstanding for loans more than 120 days past due (rather then 60 days past due), and in the denominator the total principal loaned for matured loans (rather than loans in repayment status). For this purpose, the category “matured loans” includes any loan for which the borrower is not in student status or grace period; thus, retired loans and loans in deferment, forbearance, and bankruptcy are included in the denominator. Procedures for calculating the NSL delinquency rate under the new formula have been included in the December 31, 1985, quarterly report.

For nursing schools that have more than one degree program (e.g., baccalaureate and graduate). each degree program will be evaluated separately for compliance. For example, if the dollar delinquency rate of a school's baccalaureate program is under five percent and its graduate program is over five percent as of June 30, 1986, the baccalaureate program would be in compliance, but the graduate program would be subject to probation.

A school that has a delinquency rate no greater than five percent as of June 30, 1986, will be in compliance with the performance standard and will not be reviewed again for compliance until June 30, 1987.

A school that has a delinquency rate over five percent as of June 30, 1986, will enter probationary status on July 1. During its probationary status, a school my continue to make use of its NSL funds, but must reduce its delinquency rate to no greater than 50 percent of its June 30, 1986 rate, or to five percent or less, as of December 31, 1986. A school in probationary status that reduces its delinquency rate to five percent or less on December 31 will be in compliance and will be reviewed again the following June 30. A school in probationary status that meets its required reduction but is still over five percent will remain in probation, and must reduce its December 31 checkpoint delinquency rate by an additional 50 percent, or to five percent or less, as of the end of the subsequent six-month period (June 30).

A school in probationary status on July 1, 1986 that fails to meet its December 31, 1986, checkpoint will enter suspended status effective January 1, 1987. A school in suspended status may not make loan disbursements, must place all NSL funds on hand in an insured, interest-bearing account, and must reduce its delinquency rate to no greater than 50 percent of its December 1986 checkpoint delinquency rate, or to five percent or less, as of June 30, 1987. A school in suspended status that meets its June 1987 checkpoint delinquency rate will go into compliance if its delinquency rate is no greater than five percent, or probationary status if it is still over five percent.

A school in suspended status on January 1, 1987 that fails to meet its June 1987 checkpoint delinquency rate will be subject to termination. The Department will notify a school in writing of the intent to terminate the school's participation in the NSL program and will provide the school with a 30-day period to request a formal hearing with respect to such termination. If a school does not request a hearing within the 30-day period, the Department will terminate the school's participation in the NSL program immediately. If a school does request a hearing, termination will be delayed pending the outcome of the administrative hearing. Further information on hearing procedures will be provided at a later time. A terminated school must return all funds on hand to the Department immediately, and must return future collections on a quarterly basis. A terminated school may reapply to participate in the NSL program when it has reduced its delinquency rate to no greater than five percent.

HPSL and NSL Legislation--Summary of Amendments

The Bureau provided a summary of the legislative amendments enacted for the NSL program in a memorandum dated September 9 (Exhibit G) and for the HPSL program in a memorandum dated October 30 (Exhibit H). Further clarification of several of the amendments is provided below.

Amendments Requiring Further Clarification

Penalty Charge (HPSL and NSL): The HPSL and NSL legislative amendments require that for NSL notes/ disbursements signed on or after October 1, 1985, and for HPSL notes/disbursements signed on or after October 22, 1985, borrowers must be charged a late fee, not to exceed six percent of the installment payment, on loans more than 60 days past due (which would include loans for which deferment forms are filed more than 60 days late). In administering this provision, schools should note the following:

(1) The amount of the charge: The penalty charge may be charged-as a percentage, a flat dollar rate, or a combination of the two (e.g., six percent, not to exceed 25 dollars), at any amount that is within the six percent maximum. The amount of the charge must be based on the total amount of the installment payment including principal and interest) due at the time the charge is calculated.

(2) The frequency of the charge: The penalty charge must be charged on at least a monthly basis.

(3) Recording the charge: The penalty charge may be added to the principal balance of the loan or may be recorded as a separate charge.

The amended penalty charge provision is expected to assist schools in collecting HPSL and NSL funds by providing delinquent borrowers with additional incentive to remit their payments on a timely basis to avoid any additional costly charges. Accordingly, each school is encouraged to implement the provision at an amount and frequency that will be of greatest benefit in improving its ability to collect from its borrowers.

Internal Revenue service (IRS) Skiptracing (HPSL and NSL): Authority for the Secretary of Health and Human Services to request from the IRS the addresses of HPSL and NSL borrowers for whom the school does not have a current address was included in the Nurse Education Amendments of 1985, P.L. 99-92. However, schools should not submit names of borrowers they cannot locate until they receive further information from the Division of Student Assistance.

Implementation of New Delinquency Formula (HPSL): The legislative amendments require the new delinquency formula to be retroactive to June 30, 1984. Accordingly, the Department is recalculating the dollar delinquency rates of health professions schools as of June 30, 1984 and June 30, 1985, and has contacted those schools from which additional data was necessary to determine how this affects their status.

Eligibility of Doctoral Pharmacy Students (HPSL): The legislative amendments authorize pharmacy schools that have both Baccalaureate and Doctoral students to use their HPSL fund to support students in both programs, including Doctoral students who have already received their Baccalaureate degree in pharmacy.