

STUDENT FINANCIAL AID GUIDELINES

HEALTH PROFESSIONS PROGRAMS

**Nursing Student Loan Program
(NSL)**

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Health Resources and Services Administration
Bureau of Health Professions
Division of Student Loans and Scholarships
Campus Based Branch

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Chapter 1: INTRODUCTION

The Nursing Student Loan (NSL) program is similar to the campus-based programs authorized under Title IV of the Higher Education Act, particularly the Federal Perkins Loan, because:

- the Federal Government supplies most of the money; and
- the institutions are responsible for administering for details on institutional management of NSL funds.

The source of funding for NSL consists of four components:

- Federal Capital Contributions, or FCC;
- Institutional Capital Contributions, or ICC;
- student repayments; and
- other earnings on the fund (i.e., institutional investment during interim periods when NSL funds are waiting to be awarded to students as loans).

Chapter 2: INSTITUTIONAL PARTICIPATION IN THE NSL PROGRAM

This chapter provides an overview of the criteria for institutional participation, the mechanisms which the Department of Health and Human Services uses to award Federal dollars for the NSL program, and an introduction to the fund management requirements that schools must follow. Readers are directed to [Fiscal Management](#) for additional details on institutional management of NSL funds.

Section 1 ELIGIBILITY CRITERIA

Institutions must meet certain criteria in order to be eligible to participate in the NSL program, which fall into the following categories:

- discipline and degree programs;
- location of the institution;
- accreditation;
- written agreement between the institution and the Secretary of Health and Human Services;
- default rate performance standard;
- non-discrimination requirements;
- drug-free workplace, schools and campuses requirements;
- non-delinquency of the institution on Federal debt;
- lobbying and disclosure of lobbying requirements; and
- debarment and suspension provisions.

DISCIPLINE AND DEGREE PROGRAMS

Public and private nonprofit schools are eligible to apply for NSL funds if they offer nursing programs that lead to the following degrees for full-time or half-time students:

- diploma;
- associate degree;
- baccalaureate degree; or
- graduate degree.

[Section 853 of the Public Health Service Act]

LOCATION OF THE INSTITUTION

The nursing school must be located in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa or the Trust Territory of the Pacific.

[Section 853 of the Public Health Service Act]

ACCREDITATION

A nursing school that is interested in participating in the NSL program must be accredited by an appropriate accrediting body that is recognized by the Secretary of Education.

The approved accrediting bodies for nursing programs are the:

- Commission on Collegiate Nursing Education
- National League for Nursing;
- regional higher education accrediting associations; and
- State agencies approved by the Secretary of Education.

[Section 853(6) of the Public Health Service Act]

WRITTEN AGREEMENT

Nursing schools must enter into an agreement with the Secretary of Health and Human Services as a criterion for participation. The agreement is incorporated into the application for Federal funds and requires the institution to:

- establish a fund for the NSL program;
- deposit in the fund FCC, ICC, collections from loans in repayment, and any other earnings;
- provide an ICC of at least one-ninth of the FCC;
- permit the funds to be used only for student loans and the costs associated with collection;

- award funds only to students who are studying full-time or half-time in eligible discipline and degree programs; and
- inform borrowers of the terms and conditions of the NSL.

[Section 835 of the Public Health Service Act]

DEFAULT RATE PERFORMANCE STANDARD

Each June 30, a school must have an NSL default rate that does not exceed five percent. Schools that exceed the five percent performance standard are subject to probation, suspension or termination.

The regulations require a school to meet a performance standard for participation in the Health Professions and Nursing FCC Loan Programs.

On June 30 each year a school must have a default rate of not more than five percent. The default rate is the ratio (stated as a percentage) that the defaulted principal amount outstanding of the school bears to the matured loans of the school. For this purpose:

- the term "defaulted principal amount outstanding" means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or cancelled) on loans in default for 120 days or more.
- the term "matured loans" means the total principal amount of all loans made by a school minus the total principal amount of loans made by the school to students who are enrolled in a full-time course of study at the school or are in their grace period.

The worksheet for calculating the default rate for one or more of the Health Professions FCC Loan Program can be found at <http://bhpr.hrsa.gov/dsa/ratecalc.html>. Any school that has a default rate greater than five percent on June 30 of any year will be required to:

- reduce its default rate by fifty percent (or a school with a default rate below 10 percent must reduce its rate to five percent) by the close of the following six-month period; and
- by the end of each succeeding six-month period, reduce its default rate to 50 percent of the required rate for the previous six-month period until it reaches five percent.

[Section 835(c)(1) of the Public Health Service Act; 42 CFR Part 57.316a]

NON-DISCRIMINATION REQUIREMENTS

Participating nursing schools must adhere to statutes and regulations addressing non-discrimination. These include:

- Section 704 of the Public Health Service Act and its implementing regulations 45 CFR Part 83, which prohibit discrimination in the admissions process on the basis of sex;
- Title VI of the Civil Rights Act of 1964 and its implementing regulations 45 CFR Part 80, which prohibit discrimination in federally assisted programs on the basis of race, color or national origin;
- Title IX of the Education Amendments of 1972 and its implementing regulations 45 CFR Part 86, which prohibit discrimination in federally assisted education programs on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973 and its implementing regulation, 45 CFR Part 84, which prohibit discrimination in federally assisted programs on the basis of handicap;
- Section 710 of the Public Health Service Act, which prohibits institutions from charging higher tuition to students that benefit from Federal financial aid funds; and
- 45 CFR Part 91, which prohibits discrimination on the basis of age.

In addition, institutions may not discriminate on the basis of religion in the admissions process.

[42 CFR Part 57.316]

DRUG-FREE WORKPLACE, SCHOOLS AND CAMPUSES

Participating schools must comply with the requirements in 45 CFR Part 76, Subpart F. This section of the regulations stipulates that institutions must certify that they will provide and maintain a drug-free workplace. The Drug-Free Schools and Communities Act Amendments of 1989 and its implementing regulations 34 CFR Part 86 apply to any public or private institution of higher education (including independent hospitals conducting training programs for health care personnel), State educational agency, or local educational agency. As a condition of funding from Federal financial assistance programs, the statute requires these entities to certify to the Secretary of Education that they have adopted and implemented a drug prevention program. These provisions also apply to subgrantees of Federal funds whether or not the primary grantee is an institution of higher education, a State educational agency, or a local educational agency.

NON-DELINQUENCY OF THE INSTITUTION ON FEDERAL DEBT

Participating institutions must comply with non-delinquency on Federal debt requirements. Examples of Federal debt or possible sources include delinquent taxes, audit disallowances, FHA loans, and other unpaid administrative debts. Specific examples include:

- a scheduled payment on a direct loan that is more than 31 days past due;
- the unpaid disallowed amount in a "Notice of Grants Cost Disallowance" unless otherwise unresolved; and

- unpaid Social Security tax payment or other administrative payment owed to the Federal Government.

LOBBYING AND DISCLOSURE OF LOBBYING

Institutions must adhere to restrictions on lobbying and provide a disclosure statement about lobbying activities for each Federal award to the institution in excess of \$100,000. The Office of Management and Budget published guidance for restrictions on lobbying in the *Federal Register*.

DEBARMENT AND SUSPENSION OF CAMPUSES

According to regulations in 45 CFR Part 76, an institution must certify that neither it nor any of its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal dependent or agency. Subawardees (e.g., other corporations, partnerships, or other legal entities) also must provide the same certification to the institution.

Section 2 FEDERAL CAPITAL CONTRIBUTIONS

SOURCES AND DISTRIBUTION OF FEDERAL CAPITAL CONTRIBUTION FUNDS

Most of the money to finance Federal Capital Contributions (FCC) to the NSL program was provided through appropriations from Congress. Congress appropriated funds to capitalize the NSL revolving fund through 1983.

In 1986, Congress gave the Secretary of Health and Human Services the authority to redistribute FCC funds returned from institutions to the Department. FCC funds returned to the Department are available, until expended, for awards to schools eligible to receive NSL funds.

[Section 838(a)(3) of the Public Health Service Act]

INSTITUTIONAL APPLICATIONS FOR FEDERAL CAPITAL CONTRIBUTIONS

Procedures

Applications and instructions for schools seeking to establish an FCC fund for the NSL program are available from the Division of Student Loans and Scholarships, 5600 Fishers Lane, Room 9-105, Rockville, MD 20857.

The Division reviews the eligibility of the school and determines the amount of Federal support an institution will receive. The Division may require the applicant to submit additional data for these purposes.

[Section 838(a)(1) of the Public Health Service Act; 42 CFR Part 57.303]

Terms and Conditions

A written agreement between the institution and the Secretary of Health and Human Services, specifies the terms and conditions for institutional participation. The agreement specifies:

- institutional eligibility criteria;
- how funds will be managed;
- how funds will be awarded to students;
- to whom the funds will be awarded;
- Federal non-discrimination and other requirements; and
- other provisions as necessary to protect the interests of the United States.

[Section 835 of the Public Health Service Act]

DESIGNATION OF INSTITUTIONAL CONTACT PERSON

The program contact person is the individual who will be responsible for distributing DSLS program mailings to the appropriate offices and individuals within the institution and will be responsible for ensuring the return of material. Any changes must be made through the Electronic Handbook

AWARDS TO INSTITUTIONS

Determination of Amounts

By statute and regulations, the amount of NSL funds a school may receive must be the lesser of the amount requested or the amount determined by a formula for allocating FCC for the NSL program that is based upon the ratio of:

- the number of full-time students estimated to be enrolled in each nursing school for the academic year for which funds will be awarded; and
- the total number of full-time students enrolled during the period in schools that have submitted approved applications.

For example, if a school has one-tenth of the total number of full-time students in the schools applying for funds, that school would be entitled to receive one-tenth of the available funds.

The Department will determine each school's allotment of loan funds using the statutory formula described above.

Note: The Department of Health and Human Services will not allocate funds to schools that have not used prior year allocations nor have excess cash. Therefore, it is very important for the financial aid office and fiscal office to work together in identifying eligible students and funding requests. For example, every school should calculate its

need for NSL funds by determining all resources available to the school's eligible students. In addition, prior to requesting monies for an academic year, the school should carefully evaluate its cash needs by reviewing the cash balance (including monies drawn down from the prior year award) and projected collections and disbursements to determine the unmet need for the academic year.

The Division of Student Loans and Scholarships will carefully review each institution's estimated need in conjunction with the projections given on the June 30 Annual Operating Report (AOR). If a school's available funds meet or exceed its needs for the academic year, a new award will not be issued.

The Department of Health and Human Services makes payments of Federal funds to institutions through the Division of Payment Management. Institutions receive funds through electronic funds transfer either by cash line (electronic funds transfer) or Smart Link II (electronic funds transfer).

Treasury Department Circular No. 1075 specifies the requirements for drawing down funds.

It should be noted that the Department of Health and Human Services will not allocate funds to schools that have not used prior year allocations nor have excess cash. Therefore, it is very important for the financial aid office and fiscal office to work together in identifying eligible students and funding requests. Further, the Division of Student Loans and Scholarships will carefully review each institution's estimated need in conjunction with the projections given on the Annual Operating Report. If a school's available funds meet or exceed its needs for an academic year, a new award will not be issued.

The Public Health Service Act has authorized the Secretary to enter into agreements for the establishment and operation of student loan funds and scholarships with schools engaged in offering courses leading to degrees in the health professions and in nursing. As part of the agreement, schools are required to return any unrequested funds remaining in the accounts at each June 30.

A school must review the balance in each Health Professions and Nursing FCC fund on at least a semi-annual basis to determine whether the fund balance, compared with projected levels of expenditures and collections, exceeds its needs. A school in closing status must review the balance in each fund on a quarterly basis. The school's determination of excess cash is subject to review and approval by the Secretary.

Monies identified as in excess of the school's needs must be reported, and the Federal share returned to the Federal Government by the due date of the required report which identifies excess monies.

[Section 838 of the Public Health Service Act; 42 CFR Part 57.304]

Notification

The Department sends a Notice of Award to the designated school official notifying the school of the amount of Federal funds awarded for the NSL program.

OVERVIEW OF INSTITUTIONAL MANAGEMENT OF FUNDS

This section offers a brief introduction to the institutional management of NSL funds. It is intended to give financial aid personnel a brief summary of responsibilities associated with administering the NSL program.

It is the intent to limit the use of cash to the specific program activity for which funds were established with Federal Capital Contributions (FCC). To accomplish this, funds for the loan and scholarship programs must be accounted for separately from other funds of the school, (and from each other), providing a clear audit trail for all transactions.

Institutional Capital Contribution

The school must maintain an institutional contribution in the NSL fund equal to at least one-ninth of the total FCC. The institution also has the option of contributing a larger share to the NSL fund. A school that matches more than one-ninth may withdraw any of the institutional contribution which exceeds its required one-ninth matching amount at any time. However, the school must maintain at least the one-ninth matching amount in the fund at all times.

[Section 835(b)(2) of the Public Health Service Act; 42 CFR Part 57.305]

Drawing Down the Federal Capital Contribution

The Department of Health and Human Services makes payments of Federal funds to institutions through the Division of Payment Management. Institutions receive funds through electronic funds transfer either by cash line (electronic funds transfer) or Smart Link II (electronic funds transfer).

Treasury Department Circular No. 1075 specifies the requirements for drawing down funds.

It should be noted that the Department of Health and Human Services will not allocate funds to schools that have not used prior year allocations nor have excess cash. Therefore, it is very important for the financial aid office and fiscal office to work together in identifying eligible students and funding requests. Further, the Division of Student Loans and Scholarships will carefully review each institution's estimated need in conjunction with the projections given on the Annual Operating Report. If a school's available funds meet or exceed its needs for an academic year, a new award will not be issued.

Cash Balances

A school must review the balance in each Health Professions and Nursing FCC fund on at least a semi-annual basis to determine whether the fund balance, compared with projected levels of expenditures and collections, exceeds its needs. A school in closing status must review the balance in each fund on a quarterly basis. The school's determination of excess cash is subject to review and approval by the Secretary.

Monies identified as in excess of the school's needs must be reported, and the Federal share returned to the Federal Government by the due date of the required report which identifies excess monies.

[42 CFR Part 57.205 and 42 CFR Part 57.305]

INSTITUTIONAL TERMINATION AND WITHDRAWAL

Institutions must return the Federal share of NSL funds upon termination or withdrawal from the program. Upon withdrawal or termination of institutional participation in the program the balance in the FCC fund will be distributed between the Department of Health and Human Services and the school in proportion to the amounts contributed by each. The school will then be required to remit the Federal Government's proportionate share of amounts received thereafter in payment of loan collections and any other earnings on a quarterly basis. Checks must be made payable to the Public Health Service, HRSA. At the time of each quarterly remittance, the school should withdraw its proportionate share of the quarterly cash accumulation from the fund.

If the school determines it has excess cash, it must return the Federal share of the excess cash to the Division of Financial Operations. Make the check payable to "Public Health Service, HRSA" and include in a letter containing the following information:

- the name of the school.
- the type and purpose of program funds being remitted, for example, Federal Capital Contribution-Health Professions Student Loan Program, remittance of student loan collections.
- the school's OPS No., e.g., OPS No. 1234-81-11.
- the amount of principal, interest and other income, if any.

Send the remittance and letter to the following address:

Health Resources and Services Administration
Division of Financial Operations
Collection Officer
Room 16A-12, Parklawn Building
5600 Fishers Lane
Rockville, MD 20857

If the amount determined to be excess cash is not intended to be returned to the Federal Government, the school must submit to the Division of Student Loans and Scholarships within 45 days of the end of the reporting period an explanation for retaining the funds, including specific details as to how the determination was made. The school's determination is subject to review and approval. Correspondence should be sent to the following address:

Health Resources and Services Administration
Division of Student Loans and Scholarships
Office for Campus Based Programs
5600 Fishers Lane, Room 9-105
Rockville, MD 20857

Chapter 3: STUDENT AWARDS

Institutions must make sure that students meet the eligibility criteria for receipt of NSL funds. In addition, schools must take certain other administrative steps such as:

- verifying the accuracy of applicant information;
- assessing that information in order to determine individual awards, responding to changes in students' financial circumstances;
- disbursing funds; and
- maintaining student records.

The remainder of this chapter provides more information as well as references to other books and sections within the *Student Financial Aid Guidelines* and to statute and regulations.

Section 1 STUDENT ELIGIBILITY CRITERIA

Institutions must be sure that students who receive NSL funds meet the set eligibility requirements specified in statute and in regulations. A description of the eligibility requirements follow.

CITIZENSHIP STATUS

A student applicant must be a citizen or national of the United States, or a lawful permanent resident of the United States, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa or the Trust Territory of the Pacific. A student who remains in this country on a student or visitor's visa is not eligible.

[42 CFR Part 57.306]

ACADEMIC STATUS

The student must be enrolled or accepted for enrollment as a full-time or half-time student in a nursing school participating in the NSL program. The student must be in good standing, as defined by the school, and capable in the opinion of the school of maintaining good standing in the course of study. Schools may choose to apply the satisfactory academic progress guidelines for programs under Title IV of the Higher Education Act, as amended, although statute and regulations specific to the NSL program do not require it.

Should an NSL recipient cease to be a student in good standing because of academic failure, then the school is obligated to discontinue disbursement of NSL funds.

[Section 836(b)(1) of the Public Health Service Act; 42 CFR Part 57.306]

ENROLLMENT STATUS

Students must be enrolled full-time or half-time in programs leading to the following degrees in order to be eligible for NSL funds:

- diploma;
- associate degree;
- baccalaureate degree; or
- graduate degree.

[Sections 835(a)(4) and 853 of the Public Health Service Act; 42 CFR Part 57.306]

FINANCIAL NEED

The student must be in need of financial assistance in order to pursue the full-time or half-time course of study at the nursing school in which he or she is enrolled or accepted for enrollment. In determining financial need, the school must take into consideration the:

- financial resources available to the student; and
- costs reasonably necessary for the student's attendance at the school.

[Section 836(b)(1) of the Public Health Service Act; 42 CFR Part 57.306]

General Requirements

All schools participating in the NSL program must:

- use the expected family contribution calculated from the need analysis formulas legislated under the Higher Education Act of 1965, as amended; and
- consider other information that the school has about the student's financial status.

[42 CFR Part 57.306]

Cost of Attendance

Developing student budgets requires careful identification of reasonable costs necessary for the student's attendance at the school, including any special needs or obligations of each student or costs common to particular groups of students. The school must develop student budgets which treat students within groups consistently, but are sensitive to individual circumstances. Schools must be able to document the various student budgets used in determining financial need. Using the Title IV requirements for developing costs of attendance is an appropriate approach for administering NSL funds.

The Department of Health and Human Services recognizes that from time to time an individual student's budget may deviate from the standard cost of attendance because of unusual circumstances. Financial aid administrators should use their authority to make changes to the standard student budget judiciously. Further, the school must carefully document all such changes.

[42 CFR Part 57.306]

FINANCIAL AID TRANSCRIPTS

Students must provide nursing schools with financial aid transcripts from any other previously attended institution of higher education. The financial aid transcript must include:

- student's name and social security number;
- amounts and sources of loans and grants previously received by the student for study at that institution;
- whether or not the student is in default on any loans, or owes a refund on any grants; and
- a statement--if applicable--that the student received no financial aid.

The financial aid transcript must be signed by an authorized official of the institution preparing the document.

[42 CFR Part 57.306]

DEFAULT ON OTHER FEDERAL LOANS

The NSL program does not prohibit awarding NSL funds to students who are in default on other student loans. However, good practice suggests that the school may choose to establish an institutional policy which would prevent students who are in default from receiving NSL loans. If the school does not have such a policy in place, it should carefully consider awarding NSL funds to any student who has failed to honor a previous loan commitment by discerning:

- the reason for default; and
- the likelihood that the student will be a "collection problem" with regard to the NSL funds.

Section 2 VERIFICATION OF STUDENT INFORMATION

NSL regulations require verification of student information. Methods for verification are suggested--not mandated--and include:

- Federal income tax returns; and
- other documentation that the school deems necessary.

Institutions may wish to consider using the Department of Education verification requirements for the NSL program.

[42 CFR Part 57.306]

Section 3 THE APPLICATION AND AWARD PROCESS

APPLICATIONS

Schools are responsible for making an NSL financial aid application form available to students. The application for NSL funds does not need to be separate or a different form from the one used for other financial aid programs administered by the institution. However, it must be able to collect the information necessary for the school to determine whether the student meets the eligibility criteria described on the previous pages. The school also must request information helpful in the collections process after the student leaves the school, such as names and addresses of parents, relatives or other individuals who are likely to know the whereabouts of NSL borrowers after they leave school.

AWARDING POLICIES

In awarding NSLs, the school must coordinate available funds with the demonstrated financial need of student applicants. The awarding of NSL funds should be governed by written policies and procedures that have been adopted by the school to:

- lend equity, consistency and objectivity to the awarding process; and
- comply with statutory and regulatory requirements.

AWARD LETTERS

After the school has determined individual NSL awards, it should prepare an award letter to be forwarded directly to each applicant. The award letter should provide a space for the student to accept or reject the NSL award. Duplicate copies should be provided so that the student can retain one copy and return the original copy to the school.

Section 4 CHANGES IN STUDENT FINANCIAL NEED

The student has an obligation to report changes in financial circumstances, including receipt of additional funds. Based upon information received by the institution, the student's award should be adjusted to reflect the change as follows:

- increases of awards will be limited to the amount of NSL funds available to the institution and statutory maximum for individual awards; and
- if the change in the student's situation results in resources exceeding expenses, the institution must adjust the budget or the financial aid package to assure that there is no over award.

Adjustments are determined by the financial aid administrator based on the facts available about the student's situation and the judgment of the financial aid administrator. All adjustments must be adequately documented. In addition, the institution should have a written refund policy that fairly allocates refunds to financial aid programs authorized under Titles VII and VIII of the Public Health Service Act.

Section 5 DISBURSEMENT OF FUNDS TO STUDENTS

THE PROMISSORY NOTE

Each NSL must be documented by a promissory note approved by the Secretary of Health and Human Services (see [Exhibit A, http://www.hrsa.dhhs.gov/bhpr/dsa/promdown.html](http://www.hrsa.dhhs.gov/bhpr/dsa/promdown.html)) which describes the loan conditions and benefits set forth in the Public Health Service Act and in the regulations.

The school has the option of designing its own promissory note rather than using the form provided by the Division. However, any proposed promissory note that differs from the note provided by the Division must be approved by the Department before it may be used.

Because the promissory note is the legal document which binds the student to his/her repayment obligations, and thus represents a major asset of the school's loan fund, it must be properly completed and adequately safeguarded against fire, theft, and tampering. The particular method of insuring this protection is the school's responsibility.

Each promissory note must:

- state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the loan is required, at the current percentage rate per year; and
- contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

The promissory note must be signed by the borrower prior to disbursement of funds. It is not necessary to have a separate promissory note signed each time a student receives an advance of funds. A copy of each note must be supplied by the school to the borrower.

Any change in the Act or regulations which affects the terms of the promissory note requires that a new promissory note be signed for future loans.

An NSL must be made without collateral or cosignature unless the borrower is a minor and the promissory note signed by the student borrower would not, under the state law, create a binding obligation. In addition, NSL promissory notes or any other evidence of an NSL may not be sold by the school, unless the borrower transfers to another institution participating in the NSL program. In this case, the school from which the borrower originally obtained an NSL may sell that loan to the school the borrower is now attending.

[Section 836 of the Public Health Service Act; 42 CFR Part 57.308]

Standards have been established for the use of electronic signatures and implementation of certain provisions of the Electronic Signatures in Global and National Commerce Act (E-sign Act) as they apply to electronic transactions conducted by schools and borrowers of PCL. The passage of the E-sign Act (Public Law 106-229, § 1, June 30, 2000, 114 Stat. 464, codified at 15 U.S.C. §§ 7001- 7006) makes it possible for schools to use electronic signatures and promissory notes in place of paper records and handwritten signatures to carry out these requirements. These standards are based on the guidance used by the U.S. Department of Education for the Federal Family Education Loan and the Federal Perkins Loan Programs.

A school will not be subject to any liabilities or be required to reimburse its FCC revolving fund if the loan is determined to be legally unenforceable by a court based solely on the processes used for electronic signature or related records, provided the processes for electronic signatures and related electronic records satisfy the above mentioned standards. On the other hand, if the school's electronic processes for a loan do not satisfy these standards and the loan is held by a court to be unenforceable based solely on the school's processes for an electronic signature or related records, the Department will determine on a case-by-case basis whether the school will be held responsible for the loss of the loan amount.

[Campus-Based Policy Memorandum 2003-3]

DISCLOSURE REQUIREMENTS

A statement of disclosure regarding the financial charges on NSLs must be made and signed by the borrower each time a loan award is made and at the time a repayment schedule is signed. The current disclosure requirements are set forth in Regulation Z under the Truth-in-Lending Act.

The school must provide the borrower with the disclosure information at the time the loan is made and at the time the repayment schedule is signed. It includes the following items:

- the identity of the institution making the disclosures;
- the "amount financed" (using that term, which is equal to the total principal loaned) and a brief description such as "the amount of NSL funds provided to you or on your behalf";
- a separate written itemization of the amount financed, including NSL funds disbursed directly to the borrower, and NSL funds credited to the borrower's account, or a statement that the borrower has the right to receive a written itemization of the amount financed, together with a space for the borrower to indicate whether it is desired;
- the "finance charge" (using that term) and a brief description such as "the dollar amount the NSL funds will cost you";
- the "annual percentage rate" (using that term) and a brief description such as "the cost of your credit as a yearly rate";
- the number, amounts, and timing of payments scheduled to repay the obligation--the institution may comply with this requirement by disclosing the dollar amounts of the largest and smallest payments in the series and a reference to the variations in the other payments in the series;
- the "total of payments" (using that term) and a descriptive explanation such as "the amount you will have paid when you have made all scheduled payments";
- a statement indicating that a penalty may not be imposed if the borrower chooses to prepay any or all of the loan obligation;
- the penalty charge that may be imposed due to a late payment; and
- a statement that the borrower should refer to the promissory note for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment.

Schools are urged to consult with institutional legal counsel to determine the actual format and wording appropriate to the school's particular Truth-in-Lending situation. Although the Department of Health and Human Services can provide general guidance relative to the Truth-in-Lending requirements, responsibility for compliance with the law rests with the school.

ENTRANCE INTERVIEWS

Timing

The regulations require a school to conduct and document an entrance interview for each academic year during which the student receives loan funds and must obtain entrance interview documentation before it disburses loan funds to a borrower in any academic year. The school must comply with the entrance interview requirements 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 award 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 in deciding which official(s) (e.g., financial aid, fiscal, loan collection, dean's) will be responsible for the entrance interview.

The regulations do not require the school to conduct an entrance interview each time it makes a disbursement within a single academic year; however, it may be beneficial to the collection process to require a borrower to complete a new "borrower information" form at the time of each disbursement.

[42 CFR Part 57.310]

Content

No matter what format or method a school uses to conduct an entrance interview, it must obtain documentation which includes the following:

- Evidence that the borrower is aware of the rights and responsibilities associated with the loan. This documentation can be any format the school chooses. For example, the school can use a:
 - separate statement listing the borrower's rights and responsibilities, which the borrower must sign and date to acknowledge that he or she has been provided the information; or
 - statement of the borrower's rights and responsibilities that are incorporated into a disclosure document.

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. As an alternative, the school may permit the borrower to sign and date the original rights and responsibilities form or statement for each academic year in which he or she obtains additional NSL funds. In this case, the information on the original document must continue to be applicable to the additional loan funds. The school must collect a document on which the borrower provides personal information to assist in skiptracing should this be necessary during the collections process. The borrower must sign and date the document to show when the information was provided or updated. Personal borrower information can change between the time of application and loan disbursement; therefore, it must be collected during the entrance interview even if the borrower provided similar information on the financial aid application. A school may use any 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:

- provide this information anew each year before funds are disbursed; or

- review and update the original entrance interview information each year before funds are disbursed, and sign and date again the information to state when the personal borrower information was updated.

[42 CFR Part 57.310]

Format

A school must complete the entrance interview requirement by conducting an individual or group meeting with the borrower, or through an exchange of 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 collections 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 that "test" the borrower's understanding of his/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 entrance interviews.

[42 CFR Part 57.310]

Documentation

Institutions must document entrance interviews by maintaining the papers signed by the borrower in his/her file. Documentation consists of evidence that the borrower:

- is aware of his/her rights and responsibilities; and
- has provided information which will assist with any skiptracing efforts.

PAYMENTS TO STUDENTS

Institutions determine the amount of installments paid to the student. However, installments may not exceed what the institution determines is necessary for the student to pay for any installment period (e.g., semester, term, quarter). Note that students enrolled less than half-time or no longer in good standing are not eligible to receive NSL proceeds.

The school may advance payments directly to the student or it may credit the disbursement to the student's tuition account. In either case, payments must be clearly documented.

[Section 836(d) of the Public Health Service Act; 42 CFR Part 57.309]

Section 6 STUDENT RECORDS

The school must maintain an individual file for each student applying for financial aid and maintain these records for at least five years after the borrower ceases to be a full-time or half-time student. This file should contain clear evidence of how the school evaluated each application for financial assistance. Even if no funds were awarded, documentation of rejection, cancellation, or declination must be retained and safeguarded against fire, theft and tampering.

The student file should contain documents relating to each academic year application so that each application cycle is complete and auditable. The contents of the file must include:

- approved student applications for NSLs;
- documentation of the financial need of applicants; and
- financial aid transcripts.

The types of documents that support this information include:

- copy of the need analysis document;
- copy of the student budget used to determine need;
- complete written documentation of assessment of resources and need;
- award letter--institutional copy;
- record of advances (i.e., receipts or vouchers);
- copy of signed promissory note(s);
- signed disclosure (i.e., truth-in-lending statement includes borrower's rights and responsibilities); and
- financial aid transcript, if applicable.

The Department of Health and Human Services permits institutions to maintain their records in a variety of formats at the option of the school. Record keeping formats include:

- computer;
- electronic;
- microfiche;
- microfilm; or
- paper.

One of the most important and time-consuming responsibilities of an institution is the maintenance of records. Sound record keeping techniques will result in greater ease of locating applications, completing reports, collecting loans, and meeting Federal audit and monitoring requirements. Accurate records enable the school to document all activities occurring within the programs.

FINANCIAL AID OFFICE

In the financial aid office there are three types of records to be maintained:

- Student Records - For types of documents to be maintained see:
- Program or Source Records - These records consist of separate file folders on each Federal or other student assistance program in which the school participates or which is made available to the students through the school. These files should contain all relevant laws, regulations, guidelines, and other documents which relate to the programs, as well as copies of the Applications to Participate, Notices of Awards, etc.
- Transaction Records - Unofficial records which show the Financial Aid Administrator the approximate status of loans, deposits, awards, etc. These records should be reconciled with the records of the fiscal office in order to more accurately reflect the status of program funds.

FISCAL OFFICE

The fiscal office must maintain separate and distinct accounts for the various programs and keep records and supporting documentation of all transactions. These records could include copies of the Application to Participate, Notices of Awards, Annual Operating Reports, Financial Status Reports, records of collection, receipts of expenditures, and balances of accounts. These records constitute an accounting entity which, although kept separately from the general books of the school, need to be controlled by the ledger system of the school, maintained by the Fiscal Officer, and be auditable within the school's total ledger system.

Chapter 4 TERMS AND CONDITIONS OF THE NSL PROGRAM

This chapter reviews the characteristics of the NSL program such as maximum amounts that students may borrow, interest rates, deferment options, repayment requirements and cancellation provisions.

Section 1 LOAN AMOUNTS

With the exception of nursing students in their last two years of a program, the annual maximum loan is \$3,300. The annual maximum NSL is \$5,200 for students who are in their last two years of study. Institutions are permitted to increase proportionately the annual maximum NSL amount for students enrolled in a nursing school that provides a course of study within a 12-month period that is more than nine months long. Annual maximum limits notwithstanding, the aggregate maximum NSL that any nursing student may obtain is \$17,000.

Before making decisions about how much an individual student receives in NSL funds, the school must be sure that students meet the statutory and regulatory eligibility criteria..

[Section 5202 of the Affordable Care Act]

Section 2 INTEREST RATES

A uniform interest rate of five percent per year applies to all loans made on or after November 4, 1988. Interest is computed on the unpaid principal balance and begins to accrue upon expiration of the grace period unless a borrower is eligible for deferment status.

NSLs have the following interest rates based on the date they were incurred:

- on or after November 4, 1988--5%
- on or after August 13, 1981--6%
- from July 1, 1969 through August 13, 1981--3%
- from July 1, 1968 through June 30, 1969 (FY 1969)--5 3/8%
- from July 1, 1967 through June 30, 1968 (FY 1968)--4 3/4%
- from July 1, 1966 through June 30, 1967 (FY 1967)--4 5/8%
- from July 1, 1964 through June 30, 1966 (FY 1965 & 66)--4 1/4%

After July 1, 1969, borrowers who received NSLs at different interest rates must have each loan computed at its respective interest rate.

[Section 836(b)(5) of the Public Health Service Act; 42 CFR Part 57.308]

Section 3 GRACE PERIOD

The grace period immediately follows completion or termination as a full-time student or a half-time student for loans received after November 17, 1971. During the grace period, which is nine consecutive months long, repayment of principal is not required and interest does not accrue.

The grace period begins on the first day of the month nearest to the date the borrower is no longer a full-time or half-time student. For example, the grace period begins on June 1 for an NSL borrower who receives the nursing degree on June 15.

If the borrower resumes full-time or half-time studies at the same or another nursing school during the grace period, the interrupted grace period is treated as if it did not begin. Therefore, the borrower is still entitled to the full nine-month grace period upon completion or termination of full-time or half-time student status. In this case, the borrower is required to notify the lending school of his or her continued student status by completing a deferment form and submitting it to the loan collections office.

Example:

A student received a nursing student loan in September, 19X5 while enrolled in the first year of a diploma nursing program. The student withdraws from school on January 5, 19X6 and the grace period begins on January 1, 19X6. The student then enrolls full-time in an associate degree nursing program on August 28, 19X6. Since re-enrollment is within the nine-month grace period, the grace period is not considered to have begun. The lending school does not require payment and no interest accrues on the loan. However, the borrower must file a deferment form with the lending school and will be given a nine-month grace period when he or she is no longer pursuing an eligible course of study as either a full-time or half-time student.

The grace period ends on the last day of a month. On the first day of the next month, the borrower enters either repayment status or deferment (if eligible). The grace period cannot be extended under any circumstances.

If the borrower resumes a full-time or half-time course of study at the same or another nursing school *after* the grace period has expired, the original loan(s) already have entered repayment status. These loans, therefore, are not eligible for an additional grace period. However, if the borrower receives any new loans during this course of study, the borrower will receive a grace period for the new loans upon completion or termination of full-time or half-time student status.

The regulations require a 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 one of the two grace period contacts.

[42 CFR Part 57.210 and 42 CFR Part 57.310]

The regulations do 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, including:

- the fact that the loan must be repaid in a timely manner as required in the signed repayment schedule;
- the fact that the borrower must inform the school of any changes of name and address;

- the full amount of the loan including the interest rate;
- the date and amount of the first payment;
- the borrower's responsibility to contact the school prior to the due date of any installment if payment cannot be made for any reason;
- the borrower's rights to deferment, postponement, and/or cancellation, as well as the need for timely submission of such forms;
- the borrower's right to accelerate loan repayments without penalty; and
- any other items such as the school's right to withhold all services (transcripts, letters of recommendations, alumni materials, placement information, etc.) until the borrower's obligations have been met.

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:

- 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; or
- 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.

[Section 836(b)(2) of the Public Health Service Act; 42 CFR 57.310]

Section 4 DEFERMENT PROVISIONS

A deferment period on an NSL means that interest does not accrue and the borrower does not have to make payments on the loan. The following three statements describe the general mechanics of NSL deferments:

- Deferments are only available for participation in certain activities prescribed in statute and regulations.
- Deferment periods do not count against the borrower's right to repay the loan within 10 years. For example, a borrower who has used three years of deferments still has a total of 10 years--not seven years--to repay the NSL.

- Borrowers are allowed to move in and out of deferment and repayment. For example, a borrower may be in repayment, then participate in an activity for which deferments are available, go back into repayment, and then begin another deferrable activity.

Although borrowers engaged in specific activities are entitled to deferments on their NSLs, the deferments are not automatic. Borrowers must request deferments at least 30 days before the beginning of:

- an activity that makes the borrower eligible for deferment; or
- the repayment period (i.e., the due date of the first payment) if the borrower is beginning the activity during the grace period.

Borrowers then must file deferment forms annually for each additional year of deferment. For the institution to acknowledge that the borrower is in deferment, the borrower must provide evidence that the:

- activity is one for which deferments are permissible; and
- borrower is actually participating in that activity.

The evidence must include certification by a program official or other authorized official that the borrower's activity meets the deferment requirements. The borrower is also responsible for providing any other information necessary for the school to process and acknowledge the deferment. The school has the right to deny a request for deferment if the borrower does not comply with the information requirements as prescribed by regulations. Note that the responsibility for granting a deferment is the institution's and cannot be transferred to a third party, such as a billing agent.

In addition to being responsible for requesting deferments and submitting the necessary documentation, the borrower also must contact the institution when he/she has completed or terminated the deferrable activity.

[Section 836(b)(2) of the Public Health Service Act; 42 CFR Part 57.310]

The regulations require a 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.

[42 CFR Part 57.210 and 42 CFR Part 57.310]

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 contract is scheduled to be mailed. For example, a deferment contact is scheduled to be mailed 60 days before the end of an approved deferment period and the

borrower submits a deferment form extending the deferment period 75 days before the end of the 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).

The regulations do 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, such as that listed for grace period contacts. 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 begun or resumed, this deferment contact would not be required for this borrower.

ELIGIBLE ACTIVITIES

Borrowers may obtain deferments if they participate in certain activities. The chart below briefly identifies those activities and the corresponding maximum period of time for which the borrower can be in deferment.

Type of Activity	Maximum Number of Years for Deferment
Active duty in the uniformed services	Up to three years
Peace Corps volunteer	Up to three years
Full-time or half-time enrollment in a collegiate nursing program leading to a baccalaureate degree or graduate degree in nursing; or Pursuing advanced professional training in nursing, or training to become a nurse anesthetist	Up to 10 years

Fuller descriptions of the allowable deferment activities appear below.

[Section 836(b)(2) of the Public Health Service Act; 42 CFR Part 57.310]

UNIFORMED SERVICES

Borrowers who perform active duty as a member of a uniformed service (Army, Navy, Marine Corps, Air Force, Coast Guard, the National Oceanic and Atmospheric Administration Corps, or the U.S. Public Health Service Commissioned Corps) are eligible for deferment for up to three years. Such service performed during the grace period does not count as part of the maximum deferment period for which the borrower is eligible, nor does it entitle the borrower to a grace period after the deferment period ends.

This deferment provision is specifically limited by statute to borrowers on active duty who are members of a uniformed service and does not apply to borrowers who are employed by one of the uniformed services in a civilian capacity. For example, a borrower who is working for the Public Health Service (PHS) and who is not a member of the Commissioned Corps would not qualify for deferment.

[Section 836(b)(2) of the Public Health Service Act; 42 CFR Part 57.310]

PEACE CORPS

Borrowers who volunteer under the Peace Corps Act are eligible for deferment for up to three years. Such service performed during the grace period does not count as part of the maximum deferment period for which the borrower is eligible, nor does it entitle the borrower to a grace period after the deferment period ends.

Service in VISTA does not qualify for deferment.

NOTE: The total period of deferment for uniformed service and service as a Peace Corps volunteer may not exceed three years for each activity, or a total of six years.

[Section 836(b)(2) of the Public Health Service Act; 42 CFR Part 57.310]

FULL-TIME OR HALF-TIME ENROLLMENT

NSL borrowers who have entered repayment may receive additional deferments for up to 10 years for full-time or half-time enrollment in a collegiate nursing school. The program in which the borrower is enrolled must lead to a baccalaureate or a graduate degree in nursing.

Borrowers with NSLs obtained *after* November 4, 1988 have up to 10 years of deferment for full-time or half-time enrollment and advanced professional training combined. For example, if a borrower deferred a NSL for five years on the basis of full-time student status, that borrower would only be able to obtain another five years of deferment for advanced professional training. Borrowers with NSLs obtained *prior* to November 4, 1988 have a five-year limit on such deferments.

[Section 836(b)(2) of the Public Health Service Act; 42 CFR Part 57.310]

ADVANCED PROFESSIONAL TRAINING

NSL borrowers may obtain deferments for up to 10 years if they are pursuing advanced training in nursing or are engaged in training to become a nurse anesthetist. The regulations define advanced training in nursing as full-time or half-time training beyond the borrower's first diploma or degree in nursing. Advanced training must:

- take one year or longer to complete; and
- strengthen the borrower's skills in the provision of nursing services.

Note that NSL borrowers may not obtain more than 10 years of deferment for full-time or half-time enrollment and advanced professional training combined. For example, if a borrower deferred a NSL for five years on the basis of full-time student status, that the borrower would only be able to obtain another five years of deferment for advanced professional training.

[Section 836(b)(2) of the Public Health Service Act; 42 CFR Part 57.310]

Section 5 REPAYMENT PROVISIONS

REPAYMENT SCHEDULES

Installment payments are to be made during the 10-year period immediately following the expiration of the grace period and excluding any allowable periods of deferment. Installment payments must be made no less often than quarterly, in equal or graduated installments, in accordance with the terms of the schedule provided by the school and agreed to by the borrower at the time of the exit interview. Under no circumstances may a

school agree to a payment schedule which does not require at least a quarterly payment of principal and accrued interest.

A borrower who is more than 60 days past due in the repayment of a NSL loan must be placed on a monthly repayment schedule, regardless of when he or she entered repayment status. The school must provide each borrower with an individual repayment schedule or plan at the time the borrower leaves school. Providing each borrower with an individual repayment schedule has several advantages. The borrower is kept informed of the date each payment is due; the amount of each payment; the amount credited to principal and interest from each payment; and, by a simple calculation, he or she may determine for tax purposes the total amount of interest paid each year. The school is saved the chore of computing interest each time a payment is received.

Subject to the provisions of Chapter 2, Section 1 D3, Minimum Payments Required below, a borrower must establish a repayment schedule with the school providing for payments not less often than quarterly. Any borrower whose repayment is delinquent more than 60 days must establish a monthly repayment schedule with the school. However, a borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

[Section 836(b) of the Public Health Service Act; 42 CFR Part 57.310]

MINIMUM REPAYMENTS

Institutions may require borrowers to repay NSLs at a rate that is not less than \$40 per month.

[Section 836(g) of the Public Health Service Act; 42 CFR Part 57.310]

LENGTH OF REPAYMENT

Repayment of the principal, together with accrued interest, shall be made over a 10-year period which begins immediately after the grace period expires, excluding any eligible periods of deferment. In no case can the repayment period exceed 10 years, even if the institution grants the borrower a forbearance or has renegotiated the repayment schedule with the borrower.

The school may reduce the 10-year repayment period without the borrower's consent when the total payments at the minimum monthly rate would require less than 10 years to repay.

EXTENDED REPAYMENT FOR CURED DEFAULTS

Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who failed to make consecutive payments during the repayment period, and who has made at least 12 consecutive payments during the last 12 months of the

repayment period, may be extended for a period not to exceed 10 years. Schools may use this authority to extend the repayment period of any student borrower who: (1) failed to make consecutive payments at some point during the repayment period; (2) has made at least 12 consecutive payments during the most recent 12 months of the repayment period; and (3) needs additional time, beyond the original 10 year repayment period, to complete repayment of the debt.

The Department intends that school officials use their professional judgment to determine, on a case-by-case basis, which eligible borrowers need an extended time period to complete repayment of their NSL debt, based on their particular financial circumstances and needs. Although this provision provides flexibility in determining the length of repayment for certain borrowers, school officials should be guided by the need to collect NSL funds in a manner that maximizes the amount of revolving funds available annually for loaning to current students. The Department does not plan to issue further guidance regarding the use of this authority unless schools indicate a need for such.

Readers are also referred to Fiscal Management, Collections, Chapter 2.

[Section 836(b) of the Public Health Service Act; 42 CFR Part 57.310]

PREPAYMENT

The borrower may, at his or her option and without penalty, prepay all or any part of the principal and accrued interest at any time. If an accelerated payment is made, that prepayment must first be applied to any accrued interest and penalties, if any, and then to the principal balance. (Also see Fiscal Management, Collections, Chapter 2.)

[Section 836(b)(2) of the Public Health Service Act; 42 CFR Part 57.310]

PENALTY CHARGES

Borrowers must be charged a late fee for installment payments on NSLs that are more than 60 days past due. For loans disbursed on or after October 1, 1985 or for which promissory notes have been signed on or after October 1, 1985, the late fee cannot exceed six percent of the installment payment.

This provision is intended to assist schools in collecting NSL funds by providing delinquent borrowers with an 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 for improving its ability to collect from its borrowers.

For loans extended between June 30, 1969 but prior to October 1, 1985, schools may impose a late charge for failure by the borrower to pay all or any part of an installment when it is due, or for failure to file timely evidence of deferment or cancellation of part or

all of a loan. The late charge may be up to \$1 for the first month or part of a month following the due date, and \$2 for each subsequent month or part of a month.

In administering the penalty charge provision of the regulations, for any Nursing FCC Loan made after June 30, 1969, but prior to October 1, 1985, and for any Health Professions FCC Loan made after June 30, 1969, but prior to October 22, 1985, the school may:

- fix a charge for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment or cancellation or repayment, fix a charge for failure to file timely and satisfactory evidence of an entitlement for deferment or cancellation;
- charge an amount not to exceed \$1 for the first month or part of a month by which the installment or evidence is late and \$2 for each succeeding month or part of a month; and
- elect to add the amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

[42 CFR Part 57.210 and 42 CFR Part 57.310]

For any Nursing FCC Loan made on or after October 1, 1985, and for any Health Professions FCC Loan made on or after October 22, 1985 the school must assess a charge for failure of the borrower to pay all or any part of an installment when the loan is more than 60 days past due and, in the case of a borrower who is entitled to deferment for any failure to file satisfactory evidence of the entitlement within 60 days of the date payment would otherwise be due. In addition:

- a penalty charge may not be assessed on a loan that is 60 days or less past due.
- the requirement to charge a penalty applies to any loan that is more than 60 days past due, including a loan for which the school does not have the borrower's current address. A penalty would not be charged on a loan that has been renegotiated or placed in forbearance (provided that the borrower is complying with the terms of the renegotiation or forbearance agreed upon by the borrower and the school), since this loan would not be considered past due.
- the penalty charge may be computed, at a maximum, as six percent of the total amount of the payment due (i.e., the amount that has already come due and is now past due, not including payments for which the borrower is being billed on a current basis but which have a future due date).
- since the statute establishes a maximum penalty charge, but does not establish a minimum charge, the school may compute the penalty charge at a lesser rate (for example, five percent) or as a flat rate (for example, \$2 per month, provided that this does not exceed six percent of the total amount past due). However, a school may not comply with the penalty charge requirement by charging zero percent.

- a school has the discretion, subject to the six percent maximum, in implementing the late fee as a percentage, as a flat dollar rate, or as a combination of both. For example, a school may comply with the penalty charge provision by charging a flat \$1 or \$2 fee (or any other amount it determines to be appropriate) on a monthly basis when the loan is more than 60 days past due, as long as the charge does not exceed six percent of the total amount past due. A school may also comply with the penalty charge provision by charging the lesser of, for example, six percent or \$15 (or any other percentage or dollar amount within the statutory maximum of six percent). Each school should assess the penalty charge at an amount, within the six percent statutory maximum, that will be most beneficial to its collections efforts.
- a school may not charge a penalty on any previous unpaid penalty charges unless the school has chosen to add the penalty charges to the principal balance of the loan.
- Federal law supersedes State law when there is a conflict between the two. In the case of the penalty charge provision, the Federal law authorizes schools to charge up to six percent of the total amount past due on loans more than 60 days past due, regardless of how this may differ from any State laws governing penalty charges.
- standard accounting procedures dictate that payments received be applied first, to penalty charges outstanding; second, to interest outstanding; and third, to the principal balance.

[42 CFR Part 57.210 and 42 CFR Part 57.310]

[Section 836(f) of the Public Health Service Act; 42 CFR Part 57.310]

REFUNDS

No refunds are permitted to borrowers once payments have been made. Refunds to borrowers for errors made by school must come from institutional funds, not the NSL fund.

CHANGE OF ADDRESS

The borrower is required to inform the school of any change of address after ceasing to be a student at the school.

REPAYMENT OPTIONS

Combining NSLs

When a borrower has more than one NSL outstanding, the sum of the amounts loaned may be combined for repayment purposes. However, separate accounts must be kept when a borrower has loans made under different statutory provisions, so that the appropriate benefits may be applied to the proportionate amount of indebtedness. It is

also necessary to keep separate repayment schedules whenever a borrower has loans made at different grace periods and interest rates.

Loan Consolidation

The Federal Loan Consolidation Program authorized under the Higher Education Act permits NSLs to be consolidated with other Federal educational loans at the option of the lender. For more information on Federal Loan Consolidation, refer to Department of Education publications (e.g., *The Federal Student Financial Aid Handbook*).

Forbearance and Renegotiation

Forbearance and renegotiation are two separate methods for dealing with a borrower who is unable to make payments as required by his or her existing repayment schedule. Periods of forbearance and of renegotiation are similar, because both must be counted as part of the 10-year repayment period. However, forbearance differs from renegotiation, because:

- payments towards principal are temporarily suspended due to extraordinary circumstances; and, therefore,
- these accounts are excluded from the delinquency rate calculation (i.e., they are neither current nor delinquent).

Renegotiated loans do not have payments towards principal temporarily suspended. As a result, renegotiated loans are included in the delinquency rate calculation:

- as current accounts, if the borrower adheres to the renegotiated repayment schedule; or
- as delinquent accounts, if the borrower does not adhere to the renegotiated repayment schedule.

The regulations allow a school to grant forbearance whenever extraordinary circumstances such as unemployment, poor health or other personal problems temporarily affect the borrower's ability to make scheduled loan repayments.

[42 CFR Part 57.210 and 42 CFR Part 57.310]

In order to grant forbearance, a school must have sufficient documentation to clearly indicate the basis for its determination. The documentation must be updated and the borrower's situation reevaluated no less than annually. Health Professions Programs, Health Professions Student Loan, Chapter 4, and Nursing Programs, Nursing Student Loan, Chapter 4 describe in greater detail the types of documentation that a school must have on file to support its decision to grant forbearance. Periods of forbearance must be counted as part of the repayment period, since the regulations do not include such periods under the deferment provisions.

Forbearance

Due to a borrower's extraordinary circumstances, and at the discretion of the institution, the borrower may be placed in forbearance. This has the effect of temporarily suspending payment of principal; however, interest continues to accrue. Extraordinary circumstances include unemployment, poor health or other personal problems that have a short-term impact on the borrower's ability to make payments on the NSL as scheduled.

During periods of forbearance, interest continues to accrue on the unpaid principal balance of the loan. Further, a minimum payment must be made on all accrued interest during the period in which the borrower is in forbearance (e.g., six months, one year). Even though a borrower obtains forbearance, the maximum NSL repayment period remains 10 years, including the time during which payments on the NSL are in forbearance. As a result, schools are urged to make every effort to keep forbearance periods to a minimum, because the borrower may be faced with unmanageable payments as a result of the reduced period of time for making repayments.

Note that penalties are not charged to borrowers with loans in forbearance--provided that the borrower is complying with the terms of forbearance agreed upon by the borrower and the school--since a loan in forbearance is not considered to be past due.

The school is responsible for determining whether there are "extraordinary circumstances" which warrant granting forbearance, based on a borrower's financial situation and other pertinent information. Examples of extraordinary circumstances which might place an undue hardship on the borrower and prevent him or her from making scheduled payments include the following:

- A borrower graduates from a nursing program. The grace period expires and then the borrower enrolls in another program that does not make the borrower eligible for a deferment.
- A borrower changes from nursing to another health discipline and, as a result, is not eligible for deferments on the NSL.
- A borrower changes from nursing to a non-health discipline and, thus, cannot obtain deferments.
- A borrower suffers a drastic change in his or her financial situation which makes it impossible to repay the NSL according to schedule. Events that can have such an affect on an individual's financial circumstances include prolonged illness, unemployment, or a natural disaster (e.g., flood, fire).

The institution must obtain documentation at least annually that supports the borrower's request for forbearance. This means that the borrower's institutional file should contain some combination of the following documents:

- verification from the school in which the student is now enrolled regarding his or her full-time status and evidence of continuing financial need;

- copies of medical bills and correspondence from the attending physician pertaining to the financial burden of prolonged illness;
- unemployment records and correspondence; and
- correspondence from reputable individual(s) or agencies verifying the hardship or disaster.

The institution must notify the borrower in writing of its approval or disapproval to grant forbearance. The basis for that decision must be thoroughly documented in the borrower's file. Institutions are accountable for limiting the use of forbearance to situations in which the borrower clearly intends to repay the NSL obligation, but is unable to comply with the existing repayment schedule.

[42 CFR Part 57.310]

Renegotiation

A school should use renegotiation when a borrower is able to make payments on a regular basis, but is unable to pay the amount required to keep the account current according to the existing repayment schedule. To renegotiate the repayment schedule:

- the school must be satisfied that the borrower's financial situation precludes compliance with the existing schedule; and
- the school and the borrower must mutually agree to replace the existing schedule with a revised one.

The school must maintain documentation of the agreement in the borrower's file. A borrower with a renegotiated loan is considered to be current with the repayment schedule as long as the borrower complies with the terms of the renegotiation, because the renegotiated schedule supersedes the previous repayment schedule. As a result, the new schedule is used to determine whether a borrower is current or past due. Penalties are not charged to borrowers with renegotiated loans--provided that the borrower is complying with the terms of the renegotiation agreed upon by the borrower and the school--since a renegotiated loan is not considered to be past due.

Note that borrowers with renegotiated NSLs must still repay their obligations within the 10-year limitation. Institutions are accountable for limiting the use of renegotiation to situations in which the borrower clearly intends to repay the NSL obligation but is unable to comply with the existing repayment schedule.

Cancellation

NSLs may be canceled because of the death of the borrower, or because the borrower has become permanently and totally disabled.

Death

Upon the death of a borrower, the unpaid balance of the loan and accrued interest will be canceled. To grant cancellation, the school must obtain a death certificate or other official proof of death. The school retains the document in the borrower's file for audit purposes. The amount canceled must be reported on the Annual Operating Report.

[Section 836(b)(4) of the Public Health Service Act; 42 CFR Part 57.311]

Permanent and Total Disability

A borrower is entitled to cancellation of NSLs in the event of permanent and total disability. Permanent and total disability is defined as being unable to engage in gainful employment of any kind because of a medically determinable impairment which is expected to continue for a long and indefinite period of time or to result in death. The review and final determination shall be made by the Secretary on the recommendation of the school, supported by required medical certification relating to the borrower's disability.

To claim cancellation for disability, a borrower should submit a formal request to the school that awarded the loan along with the following documentation:

- date entered and date graduated or date studies terminated;
- total amount of loans obtained;
- amount of unpaid balance;
- nature and date of onset of the disability;
- employment history prior to disability;
- statement of financial support; and
- current medical examination and/or treatment.

The medical report must be sufficiently detailed to provide for a comprehensive review to determine the nature, duration, and extent of the impairment and prognosis. Supporting documentation should include history of illness, medical examination(s), inpatient and outpatient treatments, and current medications. Include copies of all pertinent past medical records and a prognosis and rehabilitation plan. The medical documentation must be accompanied by a signed and dated statement from the borrower's physician documenting permanent and total disability according to the definition above.

The school should obtain from the borrower a consent for release of information allowing the release of any required information on the disability to the Department.

The school will be formally notified of the Secretary's and/or designee's decision and must retain the written notification of the decision on file for audit and other review purposes. The school must report the amount of the loan canceled on its Annual Operating Report.

NOTE: SCHOOLS/LENDERS DO NOT HAVE THE AUTHORITY TO CANCEL LOANS BASED ON PERMANENT AND TOTAL DISABILITY. THIS AUTHORITY REMAINS WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Documentation must be submitted to the Division of Student Loans and Scholarships Assistance, Parklawn Building, Room 9-105, 5600 Fishers Lane, Rockville, Maryland 20857.

[Section 836(b)(4) of the Public Health Service Act; 42 CFR Part 57.311]

Third-Party Repayments and Cancellation

The law provides the authority for the Federal Government to repay or cancel a borrower's NSL and other loans in exchange for serving as a nurse in certain fields, locations or facilities. Various cancellation and repayment programs at this writing have not been authorized or funded. Refer to the statutory and regulatory citations below for specific cancellation and repayment programs.

Chapter 5 INSTITUTIONAL RESPONSIBILITIES IN THE REPAYMENT PROCESS

Institutional responsibilities in the NSL repayment process are considerable. These responsibilities are often shared between the school's financial aid administrator and the fiscal officer. The exit interview is a primary example and is discussed below. Readers are also urged to review Fiscal Management for information on accounting requirements, debt collection requirements (e.g., due diligence), cash management requirements, program monitoring and audits.

Section 1 EXIT INTERVIEW

The regulations require a school to conduct and document an exit interview with its borrowers (individually or in groups). The school has the discretion in deciding which office(s) (e.g., financial aid, fiscal, loan collection, dean's) will be responsible for the exit interview, and for determining the specific format of the exit interview as long as the following documentation is obtained:

- The terms of repayment agreed to by the borrower and the school, which must be signed and dated by the borrower indicating acceptance.
- Evidence that the borrower was reminded of his or her rights and responsibilities. This can be documented by having the borrower sign and date a form or statement similar to that used in the entrance interview, or a separate form or statement which provides, or indicates the borrower has received additional information that

is not addressed during the entrance interview. Updated personal information provided by the borrower during the exit interview. This can be documented by having the borrower complete and date a personal information form similar to that used in the entrance interview, or a separate form which collects additional types of information that is not requested during the entrance interview (e.g., future employment plans). 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 the regulations, 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 an 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 action.