



HEOA Webinar Series – Loan Issues

February 2009

Agenda

- Where we are
- Application, disbursement, and repayment
- Disclosures and notifications
- Forgiveness and cancellation
- Question and answer

**Submit questions at any time!
We will compile and address
questions following each topic.**

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HEOA

- Higher Education Opportunity Act
 - “Reauthorization”
 - Public Law110-315
- Enacted August 14, 2008
- Many provisions effective upon enactment
- ED guidance
 - DCL GEN-08-12
 - Regulations (still to come)
 - notice and final rule
 - negotiated rulemaking

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Disclaimer

- Summary information intended for informational purposes only
- Consult bill for details
- Not intended as legal advice or implementation guidance

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Resources

- Department of Education
 - Reauthorization page
 - <http://www.ed.gov/policy/highered/leg/hea08/index.html>
- NASFAA website
 - Reauthorization page
 - <http://www.nasfaa.org/SubHomes/HEA/home.html>
- NCHELP website
 - E-library
 - <http://www.nchelp.org/elibrary/index.cfm?parent=1945>

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**Application,
Disbursement, &
Repayment**

Cohort Default Rates

- New CDR definition beginning FY 2009
 - uses 3 year period of loans entering default
- ED to publish current and lifetime CDR
- Ineligibility triggered at 30% (FY 2012)
 - up from current rate of 25%

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HEA 435(a) & (m)



Disbursement Exceptions

- Multiple disbursement exception for single term loan available if CDR is less than 15%
 - currently applicable for CDR less than 10%
- 30-day delayed disbursement exception available if CDR is less than 15%
 - currently applicable for CDR less than 10%
- Effective October 1, 2011

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HEA 428G(a)



Perkins Loan Limits

- New increased annual loan limits
 - \$5,500 (undergraduate)
 - \$8,000 (graduate)
- Aggregate limits also increased
 - \$60,000 graduate/professional students
 - \$27,500 undergraduate, for students who have completed 2 years toward bachelor's degree
 - \$11,000 undergraduate, for all other students

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HEA 484(a)(2)(A)



PLUS Credit Review

- Updates ECASLA changes
 - Returns pre-ECASLA criteria for most debts
 - ≥ 90 days delinquent on debt
 - bankruptcy discharge w/i previous 5 years
 - default, foreclosure, wage garnishment, tax lien, Title IV write-off w/i previous 5 years
 - “Extenuating circumstances” exception
 - medical bills and mortgage loans only
 - delinquencies ≤ 180 -day

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HEA 428B(a)(3)



PLUS Repayment

- Reverses ECASLA “deferred repayment start”
 - begins at full disbursement
- New PLUS deferments
 - parent must request for parent PLUS
 - automatically granted for Grad PLUS
 - student can decline deferment
 - unpaid interest can be capped quarterly
 - returned to pre-ECASLA rules
- Changes apply to PLUS loans first disbursed on or after July 1, 2008

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HEA 428B(d), 428(b)(7)(C)



PLUS Repayment

- Parent PLUS deferment
 - student’s enrollment
 - 6-month period following:
 - student enrollment (parent PLUS), at parent request, or
 - borrower enrollment if parent also enrolled
- Grad PLUS deferment
 - borrower enrollment
 - 6-month period following enrollment

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Servicemembers Civil Relief Act

- Interest rate cap of 6% applies to FFELP loans
 - interest includes “service charges, renewal charges, fees, or any other charges (except bona fide insurance)” [SCRA §207(d)]
 - applies regardless of status (including default)
 - only for loans disbursed prior to active duty
 - per DCL, provision also applicable to DL loans
- Borrower must provide request and documentation
- Manager’s Statement: Not intended to provide a refund for time prior to enactment

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HEA 428(d)(1), DCL pgs 120-121

<http://usmilitary.about.com/od/sscra/blscramenu.htm>


Active Duty Servicemember

- No interest accrual on DL loans for eligible active-duty military borrowers
 - active duty or performing eligible National Guard service during a war or national emergency, and
 - serving in an area of hostility eligible for special pay under “hostile fire or imminent danger” terms
- 60 month limit per borrower
- Applies to loans first disbursed on/after 10/1/2008

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HEA 455(o)



Consolidation Loans

- Permits “re-consolidation” into DL for receiving service member zero-interest benefit
 - remember, benefit only applies:
 - loans disbursed on/after 10/1/2008
 - qualifying service (different from SCRA)

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HEA 428C (b)(5) & (c)



Income-Based Repayment

- IBR plans exempted from the \$600 annual payment requirement
- IBR available on FFEL and DL loans
 - exception: parent PLUS (and consolidation loans that include one or more parent PLUS)
- IBR not available on defaulted loans
 - available following successful rehabilitation
 - ED can require IBR on defaulted FFEL loans

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HEA 428(b)(9)&(m), 455(d)(1), 493C



Loan Rehabilitation

- FFEL rehabilitation changes
 - Guarantor must remove credit bureau default reporting upon rehabilitation
 - Manager’s Statement: suggests “all” default report should be removed
 - Loan can only be rehabilitated once
 - likely to apply to DL loans under the “parallel terms and conditions” provision
- Perkins loan rehabilitation
 - required number of payments reduced to 9 on-time monthly payments (previously was 12)

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HEA 429F(a) & 464(h)(1)(A)



**Disclosures,
Notifications, and
Education**

Consumer Education

- Guarantors must develop budgeting and financial management training for students and families
 - work cooperatively with schools
 - can use existing programs
 - can be offered to DL schools
 - no prohibition on lenders and servicers providing the same type of information
- Programs and materials to be distributed before, during, and after enrollment

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HEA 433A(a)



Voluntary Flexible Agreement (VFA)

- Annual report by ED to Congress
 - description of each VFA
 - participating agencies and waivers provided
 - performance assessment standards
 - results
 - delinquency prevention, default aversion, consumer education, aid delivery
 - fees paid and costs/efficiencies achieved
 - promising practices that could be replicated

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HEA 428A (a)(3)



Consolidation Notice

- Disclosure in “simple and understandable” terms
- Required when providing FFEL consolidation app
- Content (see law for exhaustive list)
 - loss of benefits on underlying loans
 - repayment plans and prepayment options
 - note that benefit program vary among lenders
 - application doesn’t obligate borrower

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HEA 428C(b)(1)



Deferment

- School deferment
 - lender may confirm enrollment using NSLDS
 - **IF** school requests
- Other existing documentation options remain
 - receipt of request and documentation
 - receipt of new loan application
 - receipt of student status information

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HEA 428(b)(1)(Y)(i)



Deferment Notification

- Lender notification upon deferment approval
 - required at time of granting deferments
 - applicable to unsub (FFEL) Stafford loans
 - content:
 - information to assist borrower in understanding the impact of capitalization on loan principal and total interest to be paid during the life of the loan

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HEA 428(b)(1)(Y)(iii)



Forbearance Notification

- FFEL forbearance notification requirements
 - lender must disclose capitalization impact
 - required upon forbearance approval
 - additional contact every 180 days during forb
 - balance information, interest accrual, and options for avoiding capitalization
- Perkins forbearance requests
 - removes requirement that requests be in writing
 - forbearance terms must be documented in the student file

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HEA 428(c)(3) & 464(e)



Identity Protection

- Monthly DL statements and other publications cannot contain more than 4 digits of an individual's SSN

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HEA 455(n)



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Pre-Disbursement Disclosure

- Required of FFEL lenders
- Applicable to Stafford and PLUS loans
- Multiple requirements (see law for exhaustive list)
 - any charges being paid by lender
 - unsub interest may be paid
 - parent PLUS deferment opportunities
- Industry seeking ways to incorporate requirements into common forms

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HEA 433(a)



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Pre-Repayment Disclosure

- Required of FFEL lenders
- Applicable to Stafford and PLUS loans
- Sent 30 – 150 days before 1st payment due date
- Multiple requirements (see law for exhaustive list)
 - estimated balance and interest to be capped
 - loan repayment benefits
 - including contingencies & limitations
 - standard repayment plan schedule
 - interest already paid

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HEA 433(b)



Repayment Statement

- Applicable to Stafford, PLUS, and Consolidation
- Lender to provide bill or statement
 - must correspond to installment time period
- Multiple requirements (see law for exhaustive list)
 - original and current balance
 - total interest and aggregate amount paid
 - description of fees in last installment
 - reminder of option to change repayment plans
 - link to ED website for repayment plan info

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HEA 433(e)(1)



Information to Struggling Borrowers

- For borrower experiencing payment difficulty
- Applicable to Stafford, PLUS, and Consolidation
- Notice must be “simple and understandable”
- Multiple requirements (see law for exhaustive list)
 - repayment plans & process for changing plans
 - forbearance requirements and costs
 - options for avoiding default and any fees or associated costs

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HEA 433(e)(2)



Disclosure During Delinquency

- For FFEL borrowers 60 days delinquent
- Applicable to Stafford, PLUS, and Consolidation
- Lender notice
 - default date & payment needed to avoid default
 - options to avoid default, with fees or costs
 - discharge options
 - resources
 - nonprofit orgs, advocates, and counselors, including Ombudsman

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HEA 433(e)(3)



DL Student Disclosures

- HEA Sec. 433 disclosures apply to DL loans
 - Schools and contractors must comply
 - No statutory delineation of responsibilities

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HEA 455(p)



Loan Forgiveness & Cancellation

Disability Loan Discharge

- New definition of total and permanent disability for FFEL and Direct loans (eff. July 1, 2010)
 - > 60 months preventing gainful activity, or expected to result in death, for a “medically determinable” physical or mental impairment
- VA determination of unemployability is valid documentation for service-connected conditions (eff. August 14, 2008)

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HEA 437(a)(1)



Disability Loan Discharge

- Secretary permitted to reinstate discharged obligation under certain conditions
 - receipt of new title IV loan
 - income exceeding poverty line
 - other cases where Secretary deems necessary
- Perkins disability discharge conditions same as FFEL/DL discharge provisions (eff. July 1, 2008, subject to regulations)

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HEA 437(a)(1), 464(c)(1)(F) & (k)



Teacher Loan Forgiveness

- Adds flexibility to qualification criteria
 - can be employed in a “qualifying location”
 - special education teachers can be employed by an “educational service agency”
- Prohibits double benefits for same service

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HEA 428J



Public Service Loan Forgiveness

- Expands DL public service job listing
 - careers in public health, public interest law, and teachers in “high needs areas”
 - excludes members of Congress
- DCL indicates change retroactive to qualifying service performed on/after 10/1/07
- Prohibits double benefits for same service

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HEA 455(m)(3)



National Need Loan Forgiveness

- New program for qualifying service careers
 - Lengthy list of careers in health, education, public sector, STEM fields, and multiple other “national need” professions
- Eligible on non-default FFEL & DL loans
 - excludes parent PLUS (even if consolidated)
- \$2,000/year for up to 5 years (\$10,000 max)
- Awarded on first-come, first-served basis
- Prohibits double benefits for same service
- **Subject to appropriations**

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HEA 428K




Legal Assistance Loan Forgiveness

- New program for eligible legal aid professionals
- Eligible on non-default FFEL, DL, & Perkins loans
 - excludes parent PLUS (even if consolidated)
- \$6,000/year award, \$40,000 maximum
- Awarded on first-come, first-served basis
- Prohibits double benefits for same service
- **Subject to appropriations**

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HEA 428L






Next Steps

Implementation

- Most provisions effective August 14, 2008
 - schools, lenders, and guarantors expected to comply using “best efforts”
 - other effective dates were noted
- Some provisions contingent on regulations
 - others will be regulated, but expectation is to make best effort to comply now

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Looking Ahead

- 2009 negotiated rulemaking
 - 5 committees
 - Most loan issues in Team I or II
 - Team I: Loans-Lender/General Loan Issues
 - Team II: Loans-School-based Loan Issues
 - Round 1 tentatively scheduled for the week of Feb 23 for Teams I and II
 - DCL notes some topics will be incorporate through notice and rule (without neg reg)
- <http://www.ed.gov/policy/highered/leg/hea08/index.html>

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