

ISSUE  
APRIL  
2009

# Loan Notes

Courtesy of American Education Services

## CONTINUATION OF THE HIGHER EDUCATION OPPORTUNITY ACT (HEOA)

This is the fourth in a series of articles addressing the provisions of the Higher Education Opportunity Act (HEOA), which reauthorized the Higher Education Act of 1965, as amended (HEA). This fourth article addresses statutory changes to lender issues that were effective August 14, 2008 (unless otherwise noted). *Dear Colleague Letter* (DCL), GEN-08-12/FP-08-10, available at [www.ifap.ed.gov](http://www.ifap.ed.gov), also provides a summary of these and other HEOA provisions.

### Borrower Contact During a Forbearance

At the time a lender grants a forbearance to a borrower, the lender must provide information to the borrower explaining the **effect of interest capitalization on the loan's principal balance and the total amount of interest to be paid during the life of the loan.**

**Additionally, a lender must contact the borrower at least once every 180 days during the forbearance and inform the borrower of all of the following:**

- The amount of unpaid principal and accrued interest since the borrower was last provided with this information.
- A reminder that interest will continue to accrue on the loan during the forbearance.
- The amount of interest that will be capitalized and the date that capitalization will occur.
- The borrower's option to pay the accrued interest before it is capitalized.

### Application of the Servicemembers Civil Relief Act to Federal Family Education Loan Program (FFELP) Loans

**The requirement of the Servicemembers Civil Relief Act (SCRA), which caps the interest rate at 6% during a borrower's active duty military service, applies to Stafford, PLUS, and Consolidation loans made prior to the date that the servicemember entered active military service.** The borrower must contact the lender in writing and provide a copy of his or her military orders. This may be done via e-mail with a scanned attachment. The 6% cap applies to an endorser of a Parent PLUS or a Grad PLUS loan if the endorser is also performing eligible military service. For purposes of this provision, interest includes service charges, renewal charges, fees, or any other charges (except for actual insurance) with respect to the loan.

For FFELP loans first disbursed on or after July 1, 2008 that are subject to the 6% cap on or after August 14, 2008, the applicable interest rate used in calculating the lender's special allowance payment is the SCRA determined rate. However, if the loan was disbursed prior to July 1, 2008, the lender must continue to determine the special allowance payment based on the applicable (maximum) interest rate permitted in statute.

### PLUS Post-Half-Time Enrollment Deferment

The HEOA clarified that the repayment of a Parent PLUS and of a Grad PLUS loan begins **no later than 60 days after the loan is fully disbursed.** A Parent PLUS borrower may request an in-school deferment based on the at-least half-time enrollment status of the dependent student for whom the PLUS loan was borrowed, if the PLUS loan was first disbursed on or after July 1, 2008.

A lender must grant an in-school deferment if it receives information that supports the Parent PLUS borrower's eligibility, based on the parent's enrollment, or the Grad PLUS borrower's eligibility for an in-school deferment. The lender must notify the Parent PLUS or the Grad PLUS borrower of the in-school deferment and provide the borrower with the opportunity to pay the accruing interest or to cancel the deferment.

### SPECIAL NOTE: PLUS AUCTION CANCELLED

On April 10, 2009, the U.S. Department of Education (ED) announced that the PLUS loan auction for first-time Parent PLUS borrowers (see article in the March 2009 issue of Loan Notes) is cancelled. As a result, first-time Parent PLUS loan borrowers may select any eligible lender. Grad PLUS borrowers and serial PLUS loan borrowers would not have been impacted by the auction.



American Education Services

## PLUS Post-Half-Time Enrollment Deferment (cont.)

In addition, the HEOA permits a lender to grant a post-enrollment deferment for a PLUS loan first disbursed on or after July 1, 2008. This post-enrollment deferment applies to a 6-month period that begins on the day after a PLUS borrower or the student, for whom a PLUS loan was borrowed, ceases to be enrolled at least half-time at an eligible school. **Post-enrollment deferments are available as follows:**

- A Grad PLUS borrower may receive a post-enrollment deferment. Although no request from the borrower is required for the lender to grant this deferment, the lender must provide the borrower with the opportunity to pay the accruing interest or to cancel the post-enrollment deferment.
- A Parent PLUS borrower may request a 6-month deferment beginning on the day after the Parent PLUS borrower ceases at least half-time enrollment at an eligible school or beginning on the day after the student, for whom the parent borrowed a PLUS loan, ceases to be enrolled at least half-time.

If both the Parent PLUS borrower and the student for whom a PLUS loan was borrowed meet the conditions for an in-school deferment, the Parent PLUS borrower may request the post-enrollment deferment to begin on the later of the day on which either the parent or the student ceases to be enrolled at least half-time.

Interest accrues on these PLUS loans from the date of disbursement. If agreed by the borrower and lender, the interest – accruing during an in-school and post-enrollment deferment – may be paid either monthly or quarterly or may be capitalized no more frequently than quarterly.

## In-School Deferment

**Effective for deferments granted on or after August 14, 2008, a lender must determine a borrower's eligibility for an in-school deferment based upon the following new requirement:**

- Student status information contained in NSLDS if the school has requested that the lender use that information.

**In addition to the following existing requirements:**

- A written or verbal request for deferment from the borrower and the documentation of eligibility.
- A new loan certification record that documents the borrower's eligibility.
- The student status information received by the lender and indicating that the borrower is enrolled at least half-time.
- Other information certified by the school indicating the borrower's eligibility.

When granting an in-school deferment on an unsubsidized Stafford loan, a lender is also required to provide information to the borrower to assist in understanding the impact of capitalization on the borrower's loan principal and the total amount of interest that will be paid over the life of the loan.

## Notification of Transfer, Sale or Assignment Resulting in a Change in the Party to whom the Borrower Sends Payments

The notification to a borrower when a transfer, sale or assignment of the borrower's loan results in a change for the borrower in terms of sending payments or directing any communications has been amended. **The lender must now provide the following additional information:**

- Effective date of the transfer.

- Date, if applicable, on which the current loan servicer (as of the date of the notice) will stop accepting payments.
- Date on which the new loan servicer will begin accepting payments.

## Required Lender Disclosures to Borrowers

**INITIAL DISCLOSURES AT OR BEFORE THE FIRST DISBURSEMENT of a Stafford or PLUS loan must include the following additional or revised items:**

- The amount of any charges, including the federal origination fee and federal default fee, and an explanation of whether those charges will be collected by the lender before or at the time of each disbursement of the loan, deducted from the loan proceeds, paid separately by the borrower, or paid by the lender.
- A description of the types of repayment plans that are available for the loan.
- A statement summarizing the circumstances under which a borrower may obtain a forbearance.
- A description of the options available for and requirements of loan forgiveness.
- For a borrower of an unsubsidized Stafford or Grad PLUS loan, an explanation that the borrower has the option to pay the interest that accrues while the borrower is enrolled in school at least half-time and an explanation of the frequency of interest capitalization if the borrower does not pay the interest that accrues during the in-school period.
- For a borrower of a Parent PLUS loan, an explanation that the borrower has the option to defer payment while the student is enrolled in school at least half-time and an explanation of the frequency of interest capitalization if the borrower does not pay the interest that accrues during the in-school deferment period.
- For a borrower of a Parent PLUS loan, an explanation that the borrower may be eligible for a deferment while he or she is enrolled in school at least half-time.

## DISCLOSURES BEFORE REPAYMENT

**These disclosures must be provided for Stafford and for PLUS loans not less than 30 (calendar) days nor more than 150 (calendar) days before the first payment due date. The disclosures must include the following additional or revised items:**

- The name of the lender or loan servicer and the address to which correspondence and payments should be sent.
- The scheduled date that the repayment period begins or the deferment period ends on a PLUS loan, if applicable.
- The estimated balance, including the estimated amount of interest to be capitalized, that is owed by the borrower as of the date the repayment period begins or the deferment period ends on a PLUS loan, if applicable.
- A description of all repayment plans that are available to the borrower and a statement that the borrower may change repayment plans during the repayment period.
- The repayment schedule selected by the borrower, assuming the borrower has provided the information necessary to calculate a repayment schedule under the borrower's selected plan.

- Loan repayment benefits and whether receipt of those benefits is based on the borrower's repayment behavior, any limitations on those benefits, reasons the benefits may be lost, and whether and how to regain eligibility for any lost benefit. [Benefits might include a reduction in interest rate if the borrower repays through automatic payroll or a banking account deduction or makes a specified number of on-time payments, or any other benefits that would reduce the loan amount to be repaid or the length of the repayment period.] If the benefit is a reduction in the interest rate, examples of the impact the reduction will have on the loan amount to be repaid and the length of the repayment period must be provided.
- The estimated total amount of interest to be paid on the loan, assuming payments are made in accordance with the repayment schedule and the amount of interest already paid by the borrower, if applicable. The lender is not required to provide the interest estimate if it previously provided a PLUS or unsubsidized Stafford loan borrower with the projected monthly payment amounts.
- Options to avoid default and any fees associated with a particular option.
- Additional resources [e.g. nonprofit organizations, advocates and counselors (including the Department's Student Loan Ombudsman)] that may be able to provide the borrower with advice and assistance.

### NEW DISCLOSURES DURING REPAYMENT

**Required bill or statement effective for any loan on which the first payment is due on or after July 1, 2009.**

**Lenders must provide all borrowers in repayment with a bill or statement that corresponds to each payment installment period for which a payment is due and that includes all of the following, in simple and understandable terms:**

- Original principal amount of the borrower's loan.
- Borrower's current balance, as of the time of the bill or statement.
- Interest rate on the loan.
- Total amount the borrower has paid in interest on the loan.
- Aggregate amount the borrower has paid for the loan, including all interest and fees paid, and amount paid against the balance.
- Description of each fee charged for the installment period.
- Payment amount, the due date for the payment to avoid additional fees, and the amount of any such fees.
- Lender's or loan servicer's address and toll-free number for payment and billing error purposes.
- Option to change repayment plans, a listing of the repayment plans available, a link to the Department's website for more information on repayment plans, and directions on how to request a change of repayment plan.

**Required disclosures to borrowers having difficulty making payments effective for any loan for which the first payment is due on or after July 1, 2009.**

**Lenders must provide to borrowers, who notify the lender that they are having difficulty making their scheduled payments, a description in simple and understandable terms of the following:**

- Repayment plans available to the borrower and how to request a change.
- Requirements for obtaining a forbearance and the associated costs.
- Options to avoid default, including any associated costs or fees.

**Required disclosures to delinquent borrowers effective for any loan that becomes delinquent on or after July 1, 2009.**

**When a borrower is 60 (calendar) days delinquent, lenders must provide a notice, in simple and understandable terms, with all of the following information:**

- Date on which the loan will default if no payments are made.
- Minimum payment amount to avoid default.
- Options to avoid default, including a description of and the requirements for obtaining a deferment or a forbearance, and any associated costs and fees.
- Loan discharge options for which the borrower may be eligible.
- Additional resources [e.g. nonprofit organizations, advocates and counselors (including the Department's Student Loan Ombudsman)] where the borrower may receive advice and assistance on loan repayment.

Statute continues to stipulate that all of the above disclosures be made at no cost to the borrower. The U.S. Department of Education (ED) may limit, suspend, or terminate a lender from the FFELP if the lender fails to comply with all of the disclosure requirements. The HEOA also removes lender protection from a loss of guarantee.

### Required Consolidation Disclosures to Borrowers

**Effective for Consolidation loan applications provided to potential borrowers on or after August 14, 2008, lenders must provide the following additional disclosures, in simple and understandable terms:**

- A statement that by applying, the borrower is not obligated to agree to take the Consolidation loan.
- Information on the effect of the Consolidation loan on Perkins or Direct loan benefits.
- A statement that a Perkins loan borrower will lose all interest-free periods during at least half-time school enrollment, the grace period and all authorized deferment periods; and all cancellation benefits not yet granted.
- Information on the repayment plans available under the Consolidation loan program, the options to change repayment plans, and the option to prepay the loan or to pay the loan on a shorter repayment schedule.
- A statement that borrower benefits on Consolidation loans may vary among FFELP lenders.
- Information on the consequences of defaulting on the Consolidation loan.

### Consolidate FFELP into Direct to receive "No Interest Accrual" Benefit during Active Duty Military Service

**An eligible military borrower may consolidate his/her FFELP loans first disbursed on or after October 1, 2008 (including FFELP Consolidation loans that repaid FFELP or Direct loans first disbursed on or after October 1, 2008) into a Direct Consolidation loan for the purpose of receiving the new "no interest accrual" benefit for active duty service members during a period that does not exceed 60 months.** An eligible military borrower is one who is serving on active duty during a war or other military operation or national emergency; is performing qualifying National Guard duty during a war or other military operation or national emergency; and is serving in an area of hostilities in which service qualifies for special pay for duty subject to hostile fire or imminent danger (U.S. Code, Title 37, Section 310).

**Prohibited Inducements**

The HEOA made the following changes, effective August 14, 2008, in the area of prohibited lender inducements. Based on statute, a lender is not eligible if it is involved in any of the following:

- Offering—directly or indirectly—points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements to any school or employee of the school to secure applications for FFELP loans or to secure FFELP loan borrowings.
- Conducting unsolicited mailings, either by postal or electronic means, of student loan application forms to students in secondary or postsecondary school or to the family members of such students, unless the lender has previously made a loan to the student or the student’s parent.
- Entering into a consulting arrangement or other contract, with an employee in the financial aid office of a school or an employee who has responsibilities with respect to student loans or other financial aid at the school, to provide services to the lender.
- Compensating a school’s financial aid office employee or a school employee who has responsibilities with respect to the school’s student loans or other financial aid for service on an advisory board, commission, or group established by a lender or a group of lenders, except that a lender may reimburse such an employee for reasonable expenses incurred in that service.
- Performing or paying another individual to perform any function that a school is required to perform under Title IV (see Permitted Activities below).
- Providing payments or other benefits to a student at a postsecondary school who acts as the lender’s representative to secure FFELP loan applications, unless the student is employed by the lender for other purposes and makes all the appropriate disclosures regarding his or her employment with the lender.
- Offering FFELP loans—directly or indirectly—as an inducement to a prospective borrower to purchase an insurance policy or other product or service by the borrower or other person.

The Federal Regulatory requirement not to engage in fraudulent or misleading advertising was added to statute.

**Permitted Activities**

A lender may provide exit loan counseling, as long as the school’s staff is in control of the counseling, whether in person or via electronic capabilities, and such counseling does not promote the products and services of any specific lender.

**CLAIM FORM  
REVISED TO INCLUDE  
INCOME-BASED REPAYMENT  
(IBR) INFORMATION**

The NCHelp Program Operations Committee, Default Aversion and Claim Standardization (DACS) subcommittee has updated the Federal Family Education Loan Program (FFELP) Claim Form.

**THE FOLLOWING CHANGES WERE MADE TO THE FORM:**

- **Fields to support the new IBR plan have been incorporated into new Section X as follows:**
  - » Loan ID.
  - » Standard-Standard payment amount.
  - » Permanent-Standard payment amount.
  - » 25-year Forgiveness Begin Date.
  - » Number of Qualifying Forgiveness Months.
  - » IBR Start Date.
  - » Number of Days the loan was on an Economic Hardship Deferment on or after the IBR Start Date.
- **Clarified instructions for field 41 (# Events).**

Lenders and servicers must begin providing the IBR information for all claims submitted on or after July 1, 2009 and are encouraged to use the new form or electronic equivalent by that date. Given the short timeframe for implementation, DACS has also produced a supplemental form that can be submitted with the older version of the Claim form or CAM file until implementation of the new version. However, lenders and servicers must implement the revised Claim Form by December 31, 2009.

The revised Claim Form and Supplemental IBR Data Form are available at the AES website by clicking on “Solutions for Lenders” on the home page, selecting the “Lender Library” in the left-hand column, and then clicking on the applicable form.

AES helps students and families from every walk of life afford higher education, because we believe in the potential of everyone who wants to learn.

In making an education affordable, we do more than help students go to college. We guarantee the next generation of leaders, thinkers and doers.



**Be Next.**

American Education Services

1200 North Seventh Street, Harrisburg, Pa 17102-1444

**CONTACT**

**BUSINESS DEVELOPMENT  
& OPERATION/LOAN GUARANTY**  
Mon - Fri, 7:30 am to 9:00 pm ET

**STUDENT/PARENT  
GRANT & LOAN INQUIRIES**  
800.692.7392  
granthelp@aesSuccess.org  
studentloans@aesSuccess.org

**SCHOOL/LENDER INQUIRIES**  
800.443.0646  
loanhelp@aesSuccess.org

PHEAA/AES is one of many Guarantors participating in the Federal Family Education Loan Program (FFELP). A student or parent borrower may obtain a FFELP loan from a lender that uses PHEAA/AES as the Guarantor or any other participating lender. These materials have been developed and paid for by PHEAA/AES for informational purposes. The information contained herein is believed to be accurate at the time of printing. Due to the rapidly changing nature of the law and the industry, information contained in this document may become outdated and PHEAA/AES does not guarantee the accuracy of the information herein. You should verify that this information is correct.