Proposed Regulatory Language
Committee I – Loans

Quick Fix: No

Origin: ED

Issue: Perkins – Loan Disbursements

Regulatory Cite: §674.2(b) and §674.16(d)(2)

Summary of Change: The proposed changes would allow for the implementation of a master promissory note in the Perkins Loan Program. The first change modifies the definition of "making a loan" and adds a definition of "master promissory note" in §674.2(b). The second change removes the requirement in §674.16(d)(2) that a borrower sign a promissory note for each award year.

Change:

§674.2 Definitions.

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(b) The Secretary defines other terms used in this part as follows:

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Making of a loan: When the ~~borrower signs the promissory note for the award year and the~~ institution makes the first disbursement of a loan to a student ~~funds under that promissory note~~ for ~~that~~ an award year.

Master promissory note (MPN): A promissory note under which the borrower may receive loans for a single award year or multiple award years.

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§674.16 Making and disbursing loans.

(d)(1) The institution shall disburse funds to a student or the student's account in accordance with 34 CFR 668.164.

(2) The institution shall ~~obtain the borrower's signature on a promissory note for each award year before it disburses any loan funds to the borrower under that note for that award year.~~ ensure that each loan is supported by a legally enforceable promissory note as proof of the borrower’s indebtedness.

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Proposed Regulatory Language
Committee I – Loans

Quick Fix: No

Origin: FFEL Community

Issue: Perkins – Promissory Notes

Regulatory Cite: §674.19(e)(4)

Summary of Change: The proposed language would allow electronically signed promissory notes in the Perkins program to be maintained in the same manner as FFEL electronically signed promissory notes.

Change:

§674.19 Fiscal procedures and records.

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(e) * * * * *

(4) Manner of retention of promissory notes and repayment schedules. (i) An institution shall keep the original promissory notes and repayment schedules in a locked, fireproof container until --

(A) The loans are satisfied; or

(B) The original documents are needed in order to enforce the loan obligation.

(ii)An institution may store a promissory note in accordance with 34 CFR 668.24(d)(3)(i) through (iv) if the promissory note was signed electronically.

(i~~i~~ii) The institution shall retain certified true copies of documents released for enforcement of the loan.

(~~iii~~iv) After the loan obligation is satisfied, the institution shall return the original or a true and exact copy of the note marked paid in full to the borrower or otherwise notify the borrower that the loan is paid in full.

(~~i~~v) An institution shall maintain separately its records pertaining to cancellations of Defense, NDSL, and Federal Perkins Loans.

(vi) Only authorized personnel may have access to the loan documents.

Proposed Regulatory Language
Committee I – Loans

Quick Fix: No

Origin: Fed Up (not on 12/14/01 list)

Issue: Perkins – Exit Counseling

Regulatory Cite: §674.42(b)

Summary of Change: The proposed change would update the counseling requirements and clarify that parties other than the school may provide the counseling.

Change:

§674.42 Contact with borrowers.

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(b) *Exit interview.* (1) An institution must ensure that ~~conduct~~ exit counseling is conducted with each borrower either in person, by audiovisual presentation, or by interactive electronic means. The institution must ensure that exit counseling is conducted ~~conduct this counseling~~ shortly before the borrower ceases at least half-time study at the institution. As an alternative, in the case of a student enrolled in a correspondence program or a study-abroad program that the school approves for credit, the school may provide written counseling materials by mail within 30 days after the borrower completes the program. If the borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must ensure that ~~provide~~ exit counseling is provided through either interactive electronic means or by mailing counseling material to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from school or failed to complete exit counseling as required.

(2) ~~In conducting t~~The exit counseling~~, the school~~ must --

(i) Inform the student as to the average anticipated monthly repayment amount based on the student's indebtedness or on the average indebtedness of students who have obtained Perkins loans for attendance at that school or in the borrower's program of study;

(ii) Review for the borrower available repayment options (*e.g.* loan consolidation and refinancing, including the consequences of consolidating a Federal Perkins Loan);

(iii) Suggest to the borrower debt-management strategies that ~~the school determines~~ would best assist repayment by the borrower;

(iv) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming;

(v) Describe ~~in forceful terms~~ the likely consequences of default, including adverse credit reports and litigation;

(vi) Emphasize that the borrower is obligated to repay the full amount of the loan even if the borrower has not completed the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the borrower purchased from the school;

(vii) Review for ~~with~~ the borrower the conditions under which the borrower may defer repayment or obtain partial cancellation of a loan;

(viii) Require the borrower to provide corrections of ~~to the institution's records concerning~~ name, address, social security number, references, and driver's license number, the borrower's expected permanent address, the address of the borrower's next of kin, as well as the name and address of the borrower's expected employer; and

(ix) Review for ~~with~~ the borrower information on the availability of the Student Loan Ombudsman's office.

(3) Additional matters that the Secretary recommends that a school include in the exit counseling session or materials are in appendix D to 34 CFR part 668.

(4) ~~An institution that conducts~~ If exit counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials and participates in and completes the exit counseling.

(5) The institution must maintain documentation substantiating the school's compliance with this section for each borrower.

Proposed Regulatory Language
Committee I – Loans

Quick Fix: No

Origin: Fed Up #16

Issue: Perkins – Litigation

Regulatory Cite: §674.46(a)(1)

Summary of Change: The proposed change would revise the regulations to reflect that the balance on a loan that institutions would use to determine if they must sue a borrower has increased from $200.

Change:

§674.46 Litigation procedures.

(a)(1) If the collection efforts described in § 674.45 do not result in the repayment of a loan, the institution shall determine at least annually whether –

(i) The total amount owing on the borrower's account, including outstanding principal, accrued interest, collection costs and late charges on all of the borrower's Federal Perkins, NDSL and National Defense Student Loans held by that institution, is more than ~~$200~~;

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Proposed Regulatory Language
Committee I – Loans

Quick Fix: No

Origin: Fed Up #20

Issue: Perkins – Write-Offs

Regulatory Cite: §674.47(h)

Summary of Change: The proposed change to §674.47(h) would increase the maximum loan write-off from $5. Before making a change to the maximum loan write-off amount, however, consideration must also be given to making a proposed change to 674.47(g)(1), as the two provisions are related.

Change:

§674.47 Costs chargeable to the Fund.

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(h) Write-offs of accounts of less than ~~$5~~. (1) Notwithstanding any other provision in this subpart, an institution may write off an account with a balance of less than ~~$5~~, including outstanding principal, accrued interest, collection costs, and late charges.

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Proposed Regulatory Language
Committee I – Loans

Quick Fix: No

Origin: Fed Up #14

Issue: Perkins – Late Charges

Regulatory Cite: §674.43(b)(2)

Summary of Change: The proposed changes would make the assessment of late charges optional in the Federal Perkins Loan program instead of mandatory.

Change:

<u>§674.43 – Billing procedures.</u>

* * * * *

(b) * * * * *

(2) Subject to §674.47(a), the institution ~~shall~~ <u>may</u> assess a late charge for loans made for periods of enrollment beginning on or after January 1, 1986, during the period in which the institution takes any steps described in this section to secure --

(i) Any part of an installment payment not made when, or

(ii) A request for deferment, cancellation, or postponement of repayment on the loan that contains sufficient information to enable the institution to determine whether the borrower is entitled to the relief requested.

3) The institution shall determine the amount of ~~the~~any late charge imposed for loans described in paragraph (b)(2) of this section based on either --

(i) Actual costs incurred for actions required under this section to secure the required payment or information from the borrower; or

(ii) The average cost incurred for similar attempts to secure payments or information from other borrowers.

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Proposed Regulatory Language
Committee I – Loans

Quick Fix: No

Origin: Fed Up #17

Issue: Perkins – Rehabilitation of Loans

Regulatory Cite: §674.39

Summary of Change: Under current regulations, a borrower may rehabilitate a defaulted Perkins Loan on which a judgment has been obtained. The proposed change would no longer entitle a borrower to rehabilitate a defaulted Perkins Loan for which a judgment has been secured.

Change:

§674.39 – Loan rehabilitation.

(a) Each institution must establish a loan rehabilitation program for all borrowers for the purpose of rehabilitating defaulted loans made under this part, except for those loans on which a judgment has been obtained. The institution's loan rehabilitation program must provide that --

(1) A defaulted borrower is notified of the option and consequences of rehabilitating a loan; and

(2) A loan is rehabilitated if the borrower makes an on-time, monthly payment, as determined by the institution,

each month for twelve consecutive months and the borrower requests rehabilitation~~; and~~ .

~~(3) A borrower who wishes to rehabilitate a loan on which a judgment has been entered must sign a new promissory note after rehabilitating the loan.~~