

the North Atlantic Ocean, Ocean City, NJ, safety zone from 9:00 p.m. through 11:59 p.m. on October 10, 2017. The purpose of this document is to announce a change in the enforcement date. The zone will be enforced on October 7, 2017, instead of October 10, 2017.

**DATES:** The regulations in 33 CFR 165.506 will be enforced from 9 p.m. to 11:59 p.m. on October 7, 2017, for the safety zone listed as (a.)11 in the Table to § 165.506.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, you may call or email MST2 Amanda Boone, Sector Delaware Bay Waterways Management Division, U.S. Coast Guard; telephone 215-271-4889, email *Amanda.N.Boone@USCG.mil*.

**SUPPLEMENTARY INFORMATION:** Please refer to the notice of enforcement published in the **Federal Register** on August 7, 2017 (82 FR 36688), FR Doc. 2017-16506.

Dated: September 22, 2017.

**Scott E. Anderson,**

*Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.*

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**BILLING CODE 9110-04-P**

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## DEPARTMENT OF EDUCATION

### 34 CFR Parts 668, 674, 682, and 685

#### **Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and the Federal Direct Loan Program)**

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Updated waivers and modifications of statutory and regulatory requirements.

**SUMMARY:** The Secretary is issuing updated waivers and modifications of statutory and regulatory requirements governing the Federal student financial aid programs under the authority of the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act). The HEROES Act requires the Secretary to publish a document in the **Federal Register** announcing the waivers or modifications of statutory or regulatory requirements applicable to the student financial assistance programs under title IV of the Higher Education Act of 1965, as amended (HEA), to assist individuals who are performing qualifying military service, and individuals who are

affected by a disaster, war or other military operation, or national emergency, as described in the **SUPPLEMENTARY INFORMATION** section of this document.

**DATES:** The waivers and modifications begin on September 29, 2017. The waivers and modifications in this document expire on September 30, 2022.

**FOR FURTHER INFORMATION CONTACT:** For provisions related to the title IV loan programs (Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and Federal Direct Loan (Direct Loan) Program): Barbara Hoblitzell, U.S. Department of Education, 400 Maryland Ave. SW., Room 6W253, Washington, DC 20202. Telephone: (202) 453-7583 or by email: *Barbara.Hoblitzell@ed.gov* or Brian Smith, U.S. Department of Education, 400 Maryland Ave. SW., Room 7E222, Washington, DC 20202. Telephone: (202) 453-7440 or by email: *Brian.Smith@ed.gov*. For other provisions: Wendy Macias, U.S. Department of Education, 400 Maryland Ave. SW., Room 6C111, Washington, DC 20202. Telephone: (202) 203-9155 or by email: *Wendy.Macias@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or compact disc) by contacting Wendy Macias, U.S. Department of Education, 400 Maryland Ave. SW., Room 6C111, Washington, DC 20202. Telephone: (202) 203-9155 or by email: *Wendy.Macias@ed.gov*.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on December 12, 2003 (68 FR 69312), the Secretary exercised the authority under the HEROES Act (Pub. L. 108-76, 20 U.S.C. 1098bb(b)) and announced waivers and modifications of statutory and regulatory provisions designed to assist “affected individuals.” Under 20 U.S.C. 1098ee(2), the term “affected individual” means an individual 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;
- Resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in

connection with a national emergency; or

- Suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

Please note that these waivers and modifications do not apply to an individual who resides or is employed in an area declared a disaster area by any Federal, State, or local official unless that declaration has been made in connection with a national emergency.

Under the HEROES Act, the Secretary’s authority to provide the waivers and modifications would have expired on September 30, 2005. However, Public Law 109-78, enacted on September 30, 2005, extended the expiration date of the Secretary’s authority to September 30, 2007. Accordingly, in a document in the **Federal Register** published on October 20, 2005 (70 FR 61037), the Secretary extended the expiration of the waivers and modifications published on December 12, 2003, to September 30, 2007.

Public Law 110-93, enacted on September 30, 2007, eliminated the September 30, 2007, expiration date of the HEROES Act, thereby making permanent the Secretary’s authority to issue waivers and modifications of statutory and regulatory provisions.

On December 26, 2007, the Secretary published a document in the **Federal Register** (72 FR 72947) extending the waivers and modifications published on December 12, 2003, to September 30, 2012. In that document, the Secretary also indicated an intent to review the waivers and modifications published on December 12, 2003, in light of statutory and regulatory changes and to consider whether to change some or all of the published waivers and modifications.

In a document in the **Federal Register** published on September 27, 2012 (77 FR 59311), the Secretary published updated waivers and modifications to reflect the results of the review. Under that document, the updated waivers and modifications expire on September 30, 2017.

The Secretary is updating the waivers and modifications to reflect statutory and regulatory changes that have occurred since the September 27, 2012, document was published. The waivers and modifications in this document will expire on September 30, 2022. With a few limited exceptions, the waivers and modifications in this document are the same waivers and modifications published in the September 27, 2012, **Federal Register** document. However,

the 2012 waivers and modifications have been updated in the following areas:

(1) The Secretary updated the need analysis modification to reflect the change in which tax year's information is collected on the Free Application for Federal Student Aid (FAFSA) and used to calculate the applicant's expected family contribution (EFC). Previously when completing a FAFSA, a student provided income information from the most recently completed tax year prior to the beginning of the financial aid application cycle (e.g., 2015 income information for the 2016–2017 FAFSA). Beginning with the 2017–2018 FAFSA, income information is collected from one tax year earlier—referred to as the “prior-prior year.” This change was made under the authority of section 480(a)(1)(B) of the HEA. This modification was also updated to make it consistent with the modification to professional judgment included in this document, which provides three options that a financial aid administrator (FAA) may use to make adjustments to the values of the items used to calculate the EFC to reflect a student's special circumstances.

(2) For the professional judgment modification, the Secretary clarified that in addition to using income information from the first or second calendar year of the award year, an institution may use another annual income that more accurately reflects the family's current financial circumstances.

(3) The Secretary updated the modifications related to verification of adjusted gross income (AGI) and U.S. income tax paid so that affected individuals under this category are no longer required to provide a signature on the statement certifying that he or she has not filed an income tax return or a request for a filing extension because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency; or certifying the amount of AGI and U.S. income tax paid for the specified year.

(4) The Secretary extended the waiver assisting affected individuals with regard to the annual reevaluation requirements for FFEL and Direct Loan borrowers who are repaying loans under the Income-Based Repayment (IBR) plan, and Direct Loan borrowers who are repaying loans under the Income-Contingent Repayment (ICR) plan to include borrowers who are repaying Direct Loans under the Pay As You Earn (PAYE) or Revised Pay As You Earn (REPAYE) repayment plans.

(5) For the fourth category of affected individuals to which waivers and modifications apply, as described later in this document, the Secretary removed the reference to spouses of affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency, since the waivers under this category only pertain to the dependent student of such affected individuals.

(6) The Secretary updated the waiver related to verification signature requirements to waive the requirement for a parental signature on any verification documentation required for title IV eligibility for a dependent student because of the parent's status as an affected individual.

(7) The Secretary made a technical change to the waiver related to the section on required signatures on the FAFSA, the Student Aid Report (SAR), and the Institutional Student Information Record (ISIR), replacing the reference to “ISIR” with “or submitting corrections electronically”. The Secretary also changed the reference to “responsible parent” to “relevant parent” to mean the parent whose information is reported on the FAFSA.

The Secretary is issuing these waivers and modifications under the authority of the HEROES Act, 20 U.S.C. 1098bb(a). In accordance with the HEROES Act, the Secretary is providing the waivers and modifications of statutory and regulatory requirements applicable to the student financial assistance programs under title IV of the HEA that the Secretary believes are appropriate to ensure that:

- Affected individuals who are recipients of student financial assistance under title IV are not placed in a worse position financially in relation to that financial assistance because they are affected individuals;
- Affected individuals who are recipients of student financial assistance are not unduly subject to administrative burden or inadvertent, technical violations or defaults;
- Affected individuals are not penalized when a determination of need for student financial assistance is calculated;
- Affected individuals are not required to return or repay an overpayment of grant funds based on the HEA's Return of Title IV Funds provision; and
- Entities that participate in the student financial assistance programs under title IV of the HEA and that are located in areas that are declared disaster areas by any Federal, State, or local official in connection with a

national emergency, or whose operations are significantly affected by such a disaster, receive temporary relief from administrative requirements.

In 20 U.S.C. 1098bb(b)(1), the HEROES Act further provides that section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of the Administrative Procedure Act (5 U.S.C. 553) do not apply to the contents of this document.

The following terms used in this document are defined in 20 U.S.C. 1098ee: Active duty, military operation, national emergency, qualifying National Guard duty during a war or other military operation or national emergency, and serving on active duty during a war or other military operation or national emergency.

The following waivers and modifications are grouped into four categories, according to the affected individuals to whom they apply.

*Category 1: The Secretary is waiving or modifying the following requirements of title IV of the HEA and the Department of Education's (Department's) regulations for ALL affected individuals.*

#### Need Analysis

Section 480 of the HEA provides that, in the calculation of an applicant's EFC, the term “total income,” which is used in the determination of “annual adjusted family income” and “available income,” is equal to the applicant's, the applicant's spouse's, or the applicant's parent's AGI plus untaxed income and benefits for the second preceding tax year minus excludable income. The HEROES Act allows an institution to substitute AGI plus untaxed income and benefits received in the first calendar year of the award year for which such determination is made for any affected individual, and for his or her spouse and dependents, if applicable, in order to reflect more accurately the financial condition of an affected individual and his or her family. The Secretary has determined that an institution has the option of using the applicant's original EFC (the EFC based on the income and tax information reported on the FAFSA), the EFC based on the data from the first calendar year of the award year, or the EFC based on another annual income that more accurately reflects the family's current financial circumstances.

If an institution chooses to use anything other than the original EFC, it should use the administrative professional judgment options discussed in the following section.

### Professional Judgment

Section 479A of the HEA specifically gives the FAA at an institution the authority to use professional judgment to make, on a case-by-case basis, adjustments to the cost of attendance or to the values of the items used in calculating the EFC to reflect a student's special circumstances. The Secretary is modifying this provision by removing the requirement that adjustments be made on a case-by-case basis for affected individuals. The use of professional judgment in Federal need analysis is discussed in the Federal Student Aid Handbook available at [www.ifap.ed.gov](http://www.ifap.ed.gov).

The Secretary encourages FAAs to use professional judgment to reflect more accurately the financial need of affected individuals. To that end, the Secretary encourages institutions to determine an affected individual's need using one of the options listed below:

- Using the AGI plus untaxed income and benefits received in the first calendar year of the award year;
- Using another annual income that more accurately reflects the family's current financial circumstances; or
- Making no modifications.

The FAA must clearly document the reasons for any adjustment and the facts supporting the decision. In almost all cases, the FAA should have documentation from a third party with knowledge of the student's special circumstances. As usual, any professional judgment decisions made by an FAA that affect a student's eligibility for a subsidized student financial assistance program must be reported to the Central Processing System.

### Return of Title IV Funds—Grant Overpayments Owed by the Student

Section 484B(b)(2) of the HEA and 34 CFR 668.22(h)(3)(i) require a student to return or repay, as appropriate, unearned grant funds for which the student is responsible under the Return of Title IV Funds calculation. For a student who withdraws from an institution because of his or her status as an affected individual, the Secretary is waiving these statutory and regulatory requirements so that a student is not required to return or repay any overpayment of grant funds based on the Return of Title IV Funds provisions.

For these students, the Secretary also waives 34 CFR 668.22(h)(4), which:

- Requires an institution to notify a student of a grant overpayment and the actions the student must take to resolve the overpayment;
- Denies eligibility to a student who owes a grant overpayment and does not

take an action to resolve the overpayment; and

- Requires an institution to refer a grant overpayment to the Secretary under certain conditions.

Therefore, an institution is not required to contact the student, notify the National Student Loan Data System, or refer the overpayment to the Secretary. However, the institution must document in the student's file the amount of any overpayment as part of the documentation of the application of this waiver.

The student is not required to return or repay an overpayment of grant funds based on the Return of Title IV Funds provision. Therefore, an institution must not apply any title IV credit balance to the grant overpayment prior to: Using a credit balance to pay authorized charges; paying any amount of the title IV credit balance to the student or parent, in the case of a parent PLUS loan; or using the credit balance to reduce the student's title IV loan debt (with the student's authorization) as provided in Dear Colleague Letter GEN-04-03 (February 2004; revised November 2004).

### Verification of AGI and U.S. Income Tax Paid

Pursuant to 34 CFR 668.57(a)(3)(ii), for an individual who is required to file a U.S. income tax return and has been granted a filing extension by the Internal Revenue Service (IRS), an institution must accept, in lieu of an income tax return for verification of AGI or U.S. income tax paid:

- A copy of IRS Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," that the individual filed with the IRS for the specified year, or a copy of the IRS's approval of an extension beyond the automatic six-month extension if the individual requested an additional extension of the filing time; and

- A copy of each IRS Form W-2 that the individual received for the specified year or, for a self-employed individual, a statement signed by the individual certifying the amount of AGI and U.S. income tax paid for the specified year.

The Secretary is modifying the requirement of this provision so that the submission of a copy of IRS Form 4868 or a copy of the IRS's approval of an extension beyond the six-month extension is not required if an affected individual has not filed an income tax return by the filing deadline.

For these individuals, an institution must accept, in lieu of an income tax return for verification of AGI and U.S. income tax paid:

- A statement from the individual certifying that he or she has not filed an income tax return or a request for a filing extension because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency; and

- A copy of each W-2 received for the specified year or, for a self-employed individual, a statement by the individual certifying the amount of AGI and U.S. income tax paid for the specified year.

An institution may request that an individual granted a filing extension submit tax information using the IRS Data Retrieval Tool, or by obtaining a tax return transcript from the IRS that lists tax account information for the specified year after the income tax return is filed. If an institution receives the tax information, it must verify the income information of the tax filer(s).

*Category 2: The Secretary is waiving or modifying requirements in the following provisions of title IV of the HEA and the Department's regulations for affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency, or who reside or are employed in a disaster area.*

### Return of Title IV Funds—Post-Withdrawal Disbursements of Loan Funds

Under 34 CFR 668.22(a)(6)(iii)(A)(5) and (D), a student (or parent for a parent PLUS loan) must be provided a post-withdrawal disbursement of a title IV loan if the student (or parent) responds to an institution's notification of the post-withdrawal disbursement within 14 days of the date that the institution sent the notice, or a later deadline set by the institution. If a student or parent submits a late response, an institution may, but is not required to, make the post-withdrawal disbursement.

The Secretary is modifying this requirement so that, for a student who withdraws because of his or her status as an affected individual in this category and who is eligible for a post-withdrawal disbursement, the 14-day time period in which the student (or parent) must normally respond to the offer of the post-withdrawal disbursement is extended to 45 days, or to a later deadline set by the institution. If the student or parent submits a response after the designated period, the institution may, but is not required to, make the post-withdrawal disbursement. As required under the current regulations, if the student or parent submits the timely response

instructing the institution to make all or a portion of the post-withdrawal disbursement, or the institution chooses to make a post-withdrawal disbursement based on receipt of a late response, the institution must disburse the funds within 180 days of the date of the institution's determination that the student withdrew.

#### Leaves of Absence

Under 34 CFR 668.22(d)(3)(iii)(B), a student is required to provide a written, signed, and dated request, which includes the reason for that request, for an approved leave of absence prior to the leave of absence. However, if unforeseen circumstances prevent a student from providing a prior written request, the institution may grant the student's request for a leave of absence if the institution documents its decision and collects the written request at a later date. It may be appropriate in certain limited cases for an institution to provide an approved leave of absence to a student who must interrupt his or her enrollment because he or she is an affected individual in this category. Therefore, the Secretary is waiving the requirement that the student provide a written request for affected individuals who have difficulty providing a written request as a result of being an affected individual in this category. The institution's documentation of its decision to grant the leave of absence must include, in addition to the reason for the leave of absence, the reason for waiving the requirement that the leave of absence be requested in writing.

#### Treatment of Title IV Credit Balances When a Student Withdraws

Under 34 CFR 668.164(h)(2), an institution must pay any title IV credit balance to the student, or parent in the case of a parent PLUS loan, as soon as possible, but no later than: 14 days after the balance occurred if the balance occurred after the first day of class of a payment period; or 14 days after the first day of class of a payment period if the balance occurred on or before the first day of class of that payment period. If the student (or parent) has provided authorization, an institution may use a title IV credit balance to reduce the borrower's total title IV loan debt, not just the title IV loan debt for the period for which the Return of Title IV Funds calculation is performed.

For students who withdraw because they are affected individuals in this category, the Secretary finds that the institution has met the 14-day requirement under 34 CFR 668.164(h)(2) if, within that timeframe, the institution attempts to contact the student (or

parent) to suggest that the institution be authorized to return the credit balance to the loan program(s).

Based upon the instructions of the student (or parent), the institution must promptly return the funds to the title IV loan programs or pay the credit balance to the student (or parent).

In addition, if an institution chooses to attempt to contact the student (or parent) for authorization to apply the credit balance to reduce the student's title IV loan debt, it must allow the student (or parent) 45 days to respond. If there is no response within 45 days, the institution must promptly pay the credit balance to the student (or parent) or return the funds to the title IV programs if the student (or parent) cannot be located.

Consistent with the guidance provided in Dear Colleague Letter GEN-04-03 (February 2004; revised November 2004), the institution may also choose to pay the credit balance to the student (or parent) without first requesting permission to apply the credit balance to reduce the student's title IV loan debt.

#### Cash Management—Student or Parent Request for Loan or TEACH Grant Cancellation

Under 34 CFR 668.165(a)(4)(ii), an institution must return loan or TEACH Grant proceeds, cancel the loan or TEACH Grant, or do both, if the institution receives a loan or TEACH Grant cancellation request from a student or parent:

- By the later of the first day of a payment period or 14 days after the date the institution notifies the student or parent of his or her right to cancel all or a portion of a loan or TEACH Grant, if the institution obtains affirmative confirmation from the student under 34 CFR 668.165(a)(6)(i); or
- Within 30 days of the date the institution notifies the student or parent of his or her right to cancel all or a portion of a loan, if the institution does not obtain affirmative confirmation from the student under 34 CFR 668.165(a)(6)(i).

Under 34 CFR 668.165(a)(4)(iii), if an institution receives a loan cancellation request from a borrower after the period specified in 34 CFR 668.165(a)(4)(ii), the institution may, but is not required to, comply with the request. For a student or parent who is an affected individual in this category, the Secretary is modifying this requirement so that an institution must allow at least 60 days for the student or parent to request the cancellation of all or a portion of a loan or TEACH Grant for which proceeds have been credited to the account at the

institution. If an institution receives a loan or TEACH Grant cancellation request after the 60-day period, the institution may, but is not required to, comply with the request.

#### Cash Management—Student and Parent Authorizations

Under 34 CFR 668.165(b)(1), an institution must obtain a written authorization from a student or parent, as applicable, to:

- Use title IV funds to pay for educationally related charges incurred by the student at the institution other than charges for tuition and fees and, as applicable, room and board; and
- Hold on behalf of the student or parent any title IV funds that would otherwise be paid directly to the student or parent.

The Secretary is modifying these requirements to permit an institution to accept an authorization provided by a student (or parent for a parent PLUS loan) orally, rather than in writing, if the student or parent is prevented from providing a written authorization because of his or her status as an affected individual in this category. The institution must document the oral consent or authorization.

#### Satisfactory Academic Progress

Institutions may, in cases where a student failed to meet the institution's satisfactory academic progress standards as a direct result of being an affected individual in this category, apply the exception provision of "other special circumstances" contained in 34 CFR 668.34(a)(9)(ii).

#### Borrowers in a Grace Period

Sections 428(b)(7)(D) and 464(c)(7) of the HEA and 34 CFR 674.31(b)(2)(i)(C), 682.209(a)(5), and 685.207(b)(2)(ii) and (c)(2)(ii) exclude from a Federal Perkins Loan, FFEL, or Direct Loan borrower's (title IV borrower's) initial grace period any period during which a borrower who is a member of an Armed Forces reserve component is called or ordered to active duty for a period of more than 30 days. The statutory and regulatory provisions further require that any single excluded period may not exceed three years and must include the time necessary for the borrower to resume enrollment at the next available regular enrollment period. Lastly, any borrower who is in a grace period when called or ordered to active duty is entitled to another six- or nine-month grace period, as applicable, upon completion of the excluded period of service.

The Secretary is modifying these statutory and regulatory requirements to exclude from a title IV borrower's initial

grace period, any period, not to exceed three years, during which a borrower is an affected individual in this category. Any excluded period must include the time necessary for an affected individual in this category to resume enrollment at the next available enrollment period.

#### **Borrowers in an “In-School” Period**

A title IV borrower is considered to be in an “in-school” status and is not required to make payments on a title IV loan that has not entered repayment as long as the borrower is enrolled at an eligible institution on at least a half-time basis. Under sections 428(b)(7) and 464(c)(1)(A) of the HEA and 34 CFR 674.31(b)(2), 682.209(a), and 685.207(b), (c), and (e)(2) and (3), when a title IV borrower ceases to be enrolled at an eligible institution on at least a half-time basis, the borrower is obligated to begin repayment of the loan after a six- or nine-month grace period, depending on the title IV loan program and the terms of the borrower’s promissory note. The Secretary is modifying the statutory and regulatory requirements that obligate an “in-school” borrower who has dropped below half-time status to begin repayment if the borrower is an affected individual in this category, by requiring the holder of the loan to maintain the loan in an “in-school” status for a period not to exceed three years, including the time necessary for the borrower to resume enrollment in the next regular enrollment period, if the borrower is planning to go back to school. The Secretary will pay interest that accrues on a subsidized Stafford Loan as a result of the extension of a borrower’s in-school status under this modification.

#### **Borrowers in an In-School, Graduate Fellowship, or Rehabilitation Training Program Deferment**

Under sections 427(a)(2)(C)(i), 428(b)(1)(M)(i), 428B(a)(2) and (d)(1), 428C(b)(4)(C), 455(f)(2)(A), and 464(c)(2)(A)(i) of the HEA and 34 CFR 674.34(b)(1), 682.210(b)(1)(i), (ii), and (iii), 682.210(s)(2), (3), and (4), 685.204(b), 685.204(d), and 685.204(e), a title IV borrower is eligible for a deferment on the loan during periods after the commencement or resumption of the repayment period on the loan when the borrower is enrolled and in attendance as a regular student on at least a half-time basis (or full-time, if required by the terms of the borrower’s promissory note) at an eligible institution; enrolled and in attendance as a regular student in a course of study that is part of a graduate fellowship program; engaged in an eligible

rehabilitation training program; or, for Federal Perkins Loan borrowers, engaged in graduate or post-graduate fellowship-supported study outside the United States. The borrower’s deferment period ends when the borrower no longer meets one of the above conditions.

The Secretary is waiving the statutory and regulatory eligibility requirements for this deferment for title IV borrowers who were required to interrupt a graduate fellowship or rehabilitation training program deferment, or who were in an in-school deferment but who left school, because of their status as an affected individual in this category. The holder of the loan is required to maintain the loan in the graduate fellowship, rehabilitation training program, or in-school deferment status for a period not to exceed three years during which the borrower is an affected individual in this category. This period includes the time necessary for the borrower to resume his or her graduate fellowship program, resume a rehabilitation training program, or resume enrollment in the next regular enrollment period if the borrower returns to school. The Secretary will pay interest that accrues on a FFEL subsidized Stafford Loan or not charge interest on a Direct subsidized Stafford Loan as a result of extending a borrower’s eligibility for deferment under this waiver.

#### **Forbearance**

Under section 464(e) of the HEA and 34 CFR 674.33(d)(2), there is a three-year cumulative limit on the length of forbearances that a Federal Perkins Loan borrower can receive. To assist Federal Perkins Loan borrowers who are affected individuals in this category, the Secretary is waiving these statutory and regulatory requirements so that any forbearance based on a borrower’s status as an affected individual in this category is excluded from the three-year cumulative limit.

Under section 464(e) of the HEA and 34 CFR 674.33(d)(2) and (3), a school must receive a request and supporting documentation from a Federal Perkins Loan borrower before granting the borrower a forbearance, the terms of which must be in the form of a written agreement. The Secretary is waiving these statutory and regulatory requirements to require an institution to grant forbearance based on the borrower’s status as an affected individual in this category for a one-year period, including a three-month “transition period” immediately following, without supporting documentation or a written agreement,

based on the written or oral request of the borrower, a member of the borrower’s family, or another reliable source. The purpose of the three-month transition period is to assist borrowers so that they will not be required to reenter repayment immediately after they are no longer affected individuals in this category. In order to grant the borrower forbearance beyond the initial twelve- to fifteen-month period, supporting documentation from the borrower, a member of the borrower’s family, or another reliable source is required.

Under 34 CFR 682.211(i)(1), a FFEL borrower who requests forbearance because of a military mobilization must provide the loan holder with documentation showing that he or she is subject to a military mobilization. The Secretary is waiving this requirement to allow a borrower who is not otherwise eligible for the military service deferment under 34 CFR 682.210(t), 685.204(h), and 674.34(h) to receive forbearance at the request of the borrower, a member of the borrower’s family, or another reliable source for a one-year period, including a three-month transition period that immediately follows, without providing the loan holder with documentation. To grant the borrower forbearance beyond this period, documentation supporting the borrower’s military mobilization must be submitted to the loan holder.

The Secretary will apply the forbearance waivers and modifications in this section to loans held by the Department.

#### **Collection of Defaulted Loans**

In accordance with 34 CFR part 674, subpart C—Due Diligence, and 682.410(b)(6), schools and guaranty agencies must attempt to recover amounts owed from defaulted Federal Perkins Loan and FFEL borrowers, respectively. The Secretary is waiving the regulatory provisions that require schools and guaranty agencies to attempt collection on defaulted loans for the time period during which the borrower is an affected individual in this category and for a three-month transition period. The school or guaranty agency may stop collection activities upon notification by the borrower, a member of the borrower’s family, or another reliable source that the borrower is an affected individual in this category. Collection activities must resume after the borrower has notified the school or guaranty agency that he or she is no longer an affected individual and the three-month transition period has expired. The loan holder must document in the loan file why it has

suspended collection activities on the loan, and the loan holder is not required to obtain evidence of the borrower's status while collection activities have been suspended. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

#### **Loan Cancellation**

Depending on the loan program, borrowers may qualify for loan cancellation if they are employed fulltime in specified occupations, such as teaching or in law enforcement, pursuant to sections 428J, 460(b)(1), and 465(a)(2)(A)–(M) and (3) of the HEA, and 34 CFR 674.53, 674.55, 674.55(b), 674.56, 674.57, 674.58, 674.60, 682.216, and 685.217. Generally, to qualify for loan cancellation, borrowers must perform uninterrupted, otherwise qualifying service for a specified length of time (for example, one year) or for consecutive periods of time, such as five consecutive years.

For borrowers who are affected individuals in this category, the Secretary is waiving the requirements that apply to the various loan cancellations that such periods of service be uninterrupted or consecutive, if the reason for the interruption is related to the borrower's status as an affected individual in this category. Therefore, the service period required for the borrower to receive or retain a loan cancellation for which he or she is otherwise eligible will not be considered interrupted by any period during which the borrower is an affected individual in this category, including the three-month transition period. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

#### **Rehabilitation of Defaulted Loans**

A borrower of a Direct Loan or FFEL Loan must make nine voluntary on-time, monthly payments over ten consecutive months to rehabilitate a defaulted loan in accordance with section 428F(a) of the HEA and 34 CFR 682.405 and 685.211(f). Federal Perkins Loan borrowers must make nine consecutive, on-time monthly payments to rehabilitate a defaulted Federal Perkins Loan in accordance with section 464(h)(1)(A) of the HEA and 34 CFR 674.39. To assist title IV borrowers who are affected individuals in this category, the Secretary is waiving the statutory and regulatory requirements that payments made to rehabilitate a loan must be consecutive or made over no more than ten consecutive months. Loan holders should not treat any payment missed during the time that a borrower

is an affected individual in this category, or during the three-month transition period, as an interruption in the number of monthly, on-time payments required to be made consecutively, or the number of consecutive months in which payment is required to be made, for loan rehabilitation. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of payments. When the borrower is no longer an affected individual in this category, and the three-month transition period has expired, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

#### **Reinstatement of Title IV Eligibility**

Under sections 428F(b) and 464(h)(2) of the HEA and under the definition of "satisfactory repayment arrangement" in 34 CFR 668.35(a)(2), 674.2(b), 682.200(b), and 685.102(b), a defaulted title IV borrower may make six consecutive, on-time, voluntary, full, monthly payments to reestablish eligibility for title IV student financial assistance. To assist title IV borrowers who are affected individuals in this category, the Secretary is waiving statutory and regulatory provisions that require the borrower to make consecutive payments to reestablish eligibility for title IV student financial assistance. Loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category as an interruption in the six consecutive, on-time, voluntary, full, monthly payments required for reestablishing title IV eligibility. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of payments. When the borrower is no longer an affected individual or in the three-month transition period for purposes of this document, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

#### **Consolidation of Defaulted Loans**

Under the definition of "satisfactory repayment arrangement" in 34 CFR 685.102(b), a defaulted FFEL or Direct Loan borrower may establish eligibility to consolidate a defaulted loan in the Direct Consolidation Loan Program by making three consecutive, voluntary, on-time, monthly, full payments on the loan. The Secretary is waiving the regulatory requirement that such payments be consecutive. FFEL loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category as an interruption in the three consecutive, voluntary, monthly, full, on-time payments required for establishing eligibility to consolidate a defaulted loan in the Direct Consolidation Loan Program. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of payments. When the borrower is no longer an affected individual in this category or in the three-month transition period, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status as an affected individual. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

#### **Annual Income Documentation Requirements for Direct Loan and FFEL Borrowers Under the IBR, PAYE, REPAYE, and ICR Plans**

Section 493C(c) of the HEA requires the Secretary to establish procedures for annually determining a borrower's eligibility for the IBR plan, including verification of a borrower's annual income and the annual amount due on the total amount of the borrower's loans. Section 455(e)(1) of the HEA provides that the Secretary may obtain such information as is reasonably necessary regarding the income of a borrower for the purpose of determining the annual repayment obligation of the borrower under an income-contingent repayment plan. Under 34 CFR 682.215(e), 685.209(a)(5), (b)(3), and (c)(4), and 685.221(e), borrowers repaying under the IBR, PAYE, REPAYE, or ICR plans must annually provide their loan holder with documentation of their income and family size so that the loan holder may, if necessary, adjust the borrower's monthly payment amount based on changes in the borrower's income or family size. Borrowers are required to provide information about their annual

income and family size to the loan holder each year by a deadline specified by the holder. If a borrower who is repaying his or her loans under the IBR, PAYE, or ICR plans fails to provide the required information by the specified deadline, the borrower's monthly payment amount is adjusted and is no longer based on the borrower's income. This adjusted monthly payment amount is generally higher than the payment amount that was based on the borrower's income.

The Secretary is waiving these statutory and regulatory provisions to require loan holders to maintain an affected borrower's payment at the most recently calculated IBR, PAYE, REPAYE, or ICR monthly payment amount for up to a three-year period, including a three-month transition period immediately following the three-year period, if the borrower's status as an affected individual in this category has prevented the borrower from providing documentation of updated income and family size by the specified deadline.

*Category 3: The Secretary is waiving or modifying the following provisions of title IV of the HEA and the Department's regulations for affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency.*

#### **Institutional Charges and Refunds**

The HEROES Act encourages institutions to provide a full refund of tuition, fees, and other institutional charges for the portion of a period of instruction that a student was unable to complete, or for which the student did not receive academic credit, because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency. Alternatively, the Secretary encourages institutions to provide a credit in a comparable amount against future charges.

The HEROES Act also recommends that institutions consider providing easy and flexible reenrollment options to students who are affected individuals in this category. At a minimum, an institution must comply with the requirements of 34 CFR 668.18, which addresses the readmission requirements for service members serving for a period of more than 30 consecutive days under certain conditions. Some institutions must also abide by the protections provided by the Principles of Excellence (Executive Order 13607, issued April 27, 2012) to service members who are absent for shorter periods of service. Institutions agree to comply with the

Principles of Excellence through arrangements with the Department of Defense and the Department of Veterans Affairs. Executive Order 13607 is available at [www.whitehouse.gov/the-press-office/2012/04/27/executive-order-establishing-principles-excellence-educational-instituti](http://www.whitehouse.gov/the-press-office/2012/04/27/executive-order-establishing-principles-excellence-educational-instituti).

Of course, an institution may provide such treatment to affected individuals other than those who are called up to active duty or for qualifying National Guard duty during a war or other military operation or national emergency.

Before an institution makes a refund of institutional charges, it must perform the required Return of Title IV Funds calculations based upon the originally assessed institutional charges. After determining the amount that the institution must return to the title IV Federal student aid programs, any reduction of institutional charges may take into account the funds that the institution is required to return. In other words, we do not expect that an institution would both return funds to the Federal programs and also provide a refund of those same funds to the student.

*Category 4: The Secretary is waiving or modifying the following provisions of the HEA and the Department's regulations for dependents of affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency.*

#### **Verification Signature Requirements**

The Department's regulations in 34 CFR 668.57(b), (c), and (d) require signatures to verify the number of family members in the household, the number of family members enrolled in postsecondary institutions, or other information specified in the annual **Federal Register** document that announces the FAFSA information that an institution and an applicant may be required to verify, as well as the acceptable documentation for verifying that FAFSA information. The Secretary is waiving the requirement for a parent's signature on any verification documentation required for title IV eligibility for a dependent student when no relevant parent can provide the required signature because of the parent's status as an affected individual in this category.

#### **Required Signatures on the FAFSA, SAR, or in Connection With Submitting Corrections Electronically**

Generally, when a dependent applicant for title IV aid submits the

FAFSA or submits corrections to a previously submitted FAFSA, at least one parent's signature is required on the FAFSA, SAR, or in connection with submitting corrections electronically. The Secretary is waiving this requirement so that an applicant need not provide a parent's signature when there is no relevant parent who can provide the required signature because of the parent's status as an affected individual in this category. In these situations, a student's high school counselor or the FAA may sign on behalf of the parent as long as the applicant provides adequate documentation concerning the parent's inability to provide a signature due to the parent's status as an affected individual in this category.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Family Education Loan Program; 84.032 Federal PLUS Program; 84.033 Federal Work Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; and 84.268 William D. Ford Federal Direct Loan Program.)

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