

November 2006

# HIGHER EDUCATION

## More Information Could Help Education Determine the Extent to Which Eligible Servicemembers Serving on Active Duty Benefited from Relief Provided by Lenders and Schools



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# Highlights

Highlights of [GAO-07-11](#), a report to congressional requesters

## Why GAO Did This Study

Since September 11, 2001, over 1.3 million members of the armed forces have been deployed in service to the United States. Congress enacted the Higher Education Relief Opportunities for Students (HEROES) Act to recognize the needs of those servicemembers who are deployed in the midst of pursuing postsecondary education or repaying student loans. GAO was asked to determine (1) how the Department of Education has implemented HEROES, (2) the policies and practices federal student loan lenders have in place to assist borrowers serving on active duty, and (3) the policies and practices postsecondary schools have to assist students who are serving on active duty. To address these objectives, GAO interviewed representatives from the nine largest Federal Family Education Loan program lenders, surveyed a random sample of postsecondary schools, and visited four colleges and universities.

## What GAO Recommends

GAO recommends that the Secretary of Education undertake the congressionally mandated study to determine the extent to which eligible servicemembers are receiving assistance under HEROES.

Education agreed with the report's findings and said the recommendation has merit. Education has agreed to explore options for conducting the study.

[www.gao.gov/cgi-bin/getrpt?GAO-07-11](http://www.gao.gov/cgi-bin/getrpt?GAO-07-11).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Cornelia Ashby at (202) 512-7215 or [ashbyc@gao.gov](mailto:ashbyc@gao.gov).

## HIGHER EDUCATION

# More Information Could Help Education Determine the Extent to Which Eligible Servicemembers Serving on Active Duty Benefited from Relief Provided by Lenders and Schools

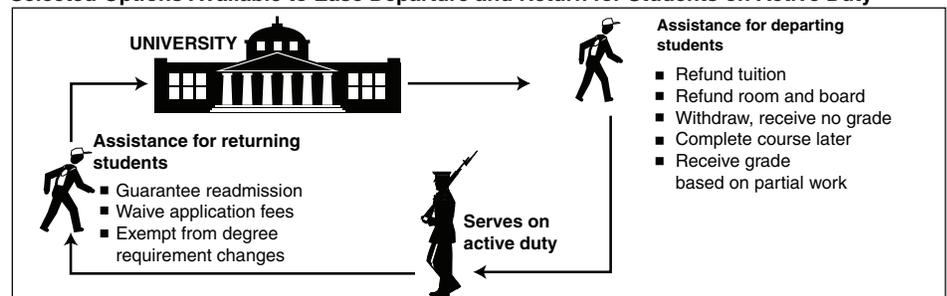
## What GAO Found

Education has issued waivers and modifications to certain federal student financial aid provisions to minimize the financial impact and administrative burden for servicemembers on active duty, for example, by making it easier to postpone or suspend loan payment. Students who leave school for active duty service are treated as still enrolled to ensure that they do not have to begin repaying their student loans. Borrowers already repaying their student loans no longer have to provide written documentation of active duty service to suspend repayment for up to 1 year. However, Education did not complete a study to assess the extent to which servicemembers are benefiting from these waivers and modifications by March 2005, as required by HEROES, and currently has no plans to do so. While HEROES does not specify how Education should go about assessing the impact of its waivers and modifications, Education officials said that such a study would require a rigorous experimental design that would be costly and cannot be supported with Education's data systems. However, Education has not explored the possibility of leveraging outside data sources to fulfill the requirement.

Federal student loan lenders have implemented policies and practices, many of which are required under Education's waivers and modifications, to provide relief for borrowers serving on active duty. For example, lenders reported that they provide options that allow borrowers to suspend or postpone repayment of their student loans, often with one telephone call. Some lenders are providing additional benefits beyond those covered by HEROES. For example, one lender offered to forgive \$2,500 in loans for servicemembers who have lived or attended college in Pennsylvania.

Most colleges and universities have had students leave for active duty service prior to the end of an academic term, and have policies or practices to assist them both when they depart and when they return, such as providing tuition refunds and allowing them to withdraw from their classes. When students return, schools often guarantee their readmission and exempt them from changes to degree requirements.

### Selected Options Available to Ease Departure and Return for Students on Active Duty



Source: GAO analysis.

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### Abbreviations

DOD	Department of Defense
FFEL	Federal Family Education Loan
HEROES	Higher Education Relief Opportunities for Students
IPEDS	Integrated Postsecondary Education Data System

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United States Government Accountability Office  
Washington, DC 20548

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November 1, 2006

The Honorable Howard P. McKeon  
Chairman  
Committee on Education and the Workforce  
House of Representatives

The Honorable Robert E. Andrews  
House of Representatives

The Honorable John A. Boehner  
House of Representatives

The Honorable John Kline  
House of Representatives

The Higher Education Relief Opportunities for Students (HEROES) Act was first enacted in January 2002, against the backdrop of one of the most tragic events in U.S. history. Since September 11, 2001, more than 1.3 million members of the armed forces have been deployed—leaving families, jobs, and educational pursuits—to serve their country.<sup>1</sup> HEROES specifically recognizes the needs of active duty servicemembers and members of the National Guard and Reserves who are deployed in the midst of pursuing their postsecondary education or repaying student loans. In some instances, servicemembers may only have a few days to prepare for departure and ensure that their affairs are in order. They may need to put classes and coursework on hold, notify school officials and lenders, and some may not be able to make regular payments on their federal student loans while they are gone. The law authorizes the Secretary of Education to waive or modify any statutory or regulatory provisions relating to federal student financial aid to ensure that individuals who are serving on active duty in connection with a war, other military operation, or national emergency are not placed in a worse position financially because of their military service. The law requires the Department of Education (Education) to report on the impact of these waivers and modifications on affected students and student loan

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<sup>1</sup>Data include active duty, Reserve, and National Guard servicemembers deployed through May 2006.

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borrowers within 15 months of exercising its authority. HEROES also addresses the needs of servicemembers who must leave school for active duty service. While the law does not require postsecondary schools to assist these students, it encourages schools to provide tuition refunds for courses they were unable to complete and to minimize reapplication requirements when they return to school.

To better understand the types of relief students and federal student loan borrowers serving on active duty receive, you asked us to determine (1) how the Department of Education has implemented HEROES, (2) the policies and practices federal student loan lenders have in place to assist borrowers serving on active duty, and (3) the policies and practices postsecondary schools have to assist students who are serving on active duty.

To learn how Education has implemented HEROES, we reviewed the waivers and modifications along with guidance Education communicated through Dear Colleague Letters to the higher education community, and interviewed agency officials at Education and the Department of Defense. We also reviewed summary information about contacts made to the Ombudsman at Education's Office of Federal Student Aid to determine the extent to which federal student aid recipients experienced difficulties with their schools or lenders as a result of active duty service.<sup>2</sup> To determine what policies and practices lenders have in place to assist student loan borrowers serving on active duty, we conducted semistructured interviews with representatives of the nine largest lenders in the Federal Family Education Loan (FFEL) program that hold about two-thirds of the program's \$289 billion in outstanding federal student loan volume.<sup>3</sup> To determine what policies or practices colleges and universities have in place to assist students serving on active duty, between January and

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<sup>2</sup>Education identified 167 cases potentially relating to the provisions under HEROES. In most cases the Ombudsman provided general assistance to borrowers, such as explaining the types of relief available. However, the Ombudsman intervened on the borrower's behalf in about 17 percent of these cases, working with lenders, schools, and guaranty agencies to resolve problems borrowers had with their federal student loans.

<sup>3</sup>While Education's waivers and modifications also apply to the Direct Loan program, we did not review it because it is operated directly by Education. Under this loan program, money is borrowed directly from the federal government and the Department of Education acts as the lender. At the end of fiscal year 2005, the Direct Loan portfolio was valued at about \$96 billion. Instead, we focused our review on the larger FFEL program, also known as the guaranteed student loan program. Under this program, money is borrowed from private lenders, and the federal government guarantees repayment if the borrowers default.

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March 2006, we surveyed a random sample of 2-year and 4-year public postsecondary schools and 4-year private, nonprofit postsecondary schools with enrollments of at least 100.<sup>4</sup> We excluded other types of schools, such as private, for-profit schools, from our sample, as they represent a relatively small percentage of postsecondary schools. We received a response rate of 77 percent. The survey collected information about the types of policies or practices that schools have in place to assist students leaving for active duty service, but we did not evaluate their effectiveness. To better understand the range of assistance provided to students who must leave school for active duty service, we selected four postsecondary schools to visit based on their extensive experience with military departures. Specifically, we visited two public universities from our survey sample that have had more than 100 students leave for active duty service since the passage of HEROES, along with a community college and public university that serve a large number of students in the U.S. military at installations throughout the world. To gain students' perspectives as they transitioned out of and back into academic life and dealt with their student loans, we interviewed seven students who experienced an interruption in their studies as a result of active duty service. The students represented a range of individuals serving in the National Guard and Reserves at different stages in their academic careers and personal lives, including undergraduate and graduate students, both single and married with dependents. The results from these interviews are not generalizable to or representative of all students in this affected population. Instead, the interviews provide a glimpse into the issues this particular student population faces. We conducted our work between June 2005 and September 2006 in accordance with generally accepted government auditing standards. See appendix I for a detailed description of our survey methodology.

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## Results in Brief

Education has waived and modified certain federal student financial aid provisions and issued guidance to the higher education community to provide relief for active duty servicemembers, but it has not assessed the extent to which servicemembers are taking advantage of the relief. These waivers and modifications are designed to help federal student financial

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<sup>4</sup>Percentage estimates are based on the sample and are subject to sampling error. Unless otherwise noted, we are 95 percent confident that the results we obtained are within +/- 10 percentage points of what we would have obtained if we had received responses from the entire population. Each sample element was subsequently weighted in the analysis to account for all members of the population, including those that were not selected.

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aid recipients avoid negative financial consequences, such as defaulting on their student loans, and ease administrative requirements that might delay the provision of assistance. For example, Education has expanded opportunities for servicemembers to avoid or postpone repayment. Students who leave for active duty service no longer have to return or repay federal grant funds for academic terms they were unable to complete, and they are treated as still enrolled in school, which means that they do not yet have to begin repaying any student loan disbursements they have received. Education also waived the requirement that borrowers provide written documentation of active duty service in order to qualify for certain benefits, allowing lenders to provide immediate assistance to borrowers, such as suspending their loan payments for up to 1 year, based on verbal notification. Education has also issued guidance regarding these changes to the higher education community, including postsecondary schools and lenders. However, Education has not collected key information that would allow it to assess the extent to which eligible servicemembers have received assistance from the flexibilities allowed by the waivers and modifications, as required by HEROES. Based on the Act's requirements, Education should have reported to Congress on the impact of its waivers and modifications by March 2005. Education has no plans to complete the study because it interpreted the Act as requiring a rigorous experimental design that officials say would be costly and cannot currently be supported with Education's data systems. However, it has not explored the possibility of leveraging outside data sources to fulfill the mandate.

Federal student loan lenders have implemented policies and practices that are designed to minimize the financial impact and administrative burden for borrowers serving on active duty. Many of these are required by Education's waivers and modifications, such as providing options that allow borrowers to suspend or postpone repayment of their student loans. For borrowers who were making payments on their loans at the time they left for active duty service, lenders said they will suspend the payments. However, depending on the type of loan they have and the type of assistance they are eligible for, borrowers may be responsible for paying the interest that continues to accrue on the loans. Some of the lenders we interviewed, however, reported practices to minimize the financial impact on these borrowers that go beyond the requirements of the HEROES waivers and modifications. Specifically, lenders can periodically capitalize the interest that continues to accrue during periods when a borrower's loan repayment is suspended, but three lenders have chosen not to capitalize the interest, which reduces the amount of interest that borrowers must pay. Additionally, one lender offered to forgive \$2,500 in

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loans for servicemembers who have lived in Pennsylvania or attended college there. To minimize the administrative burden, lenders have simplified procedures for receiving notification about a borrower's active duty service. Specifically, borrowers only need to contact the lender once to receive assistance, and lenders will also accept notification from someone acting on the borrower's behalf, such as a family member or commanding officer.

We found that most colleges and universities have had students leave for active duty service and have policies or practices in place to help them when they leave and when they return to school. Specifically, we estimate that about 80 percent of colleges and universities have had students who departed for active duty service, and nearly three-quarters have policies or practices to help them. About two-thirds of colleges reported that their policies were in place prior to the passage of the HEROES Act of 2001; some schools' policies may have been influenced by laws in 26 states that are designed to assist students when they leave school for active duty service. Schools reported a number of policies or practices to minimize the financial and academic impact of active duty service, such as providing tuition refunds and options to withdraw from classes or complete coursework later. Five of the seven students we interviewed chose to withdraw from their courses, often to give them time to put their personal affairs in order. We found that a majority of the colleges and universities with policies to minimize the academic impact of leaving for active duty service also have policies to help students reenroll, including suspending the requirement that they reapply for admission and waiving changes to degree requirements.

In this report, we recommend that the Secretary of Education undertake the congressionally mandated study to determine the extent to which eligible servicemembers are receiving assistance under HEROES.

We provided copies of a draft of this report to the Department of Education and the Department of Defense for review and comment. Education agreed with the report's findings and said the recommendation has merit. Education has agreed to explore options for conducting the congressionally mandated study. Education's written comments are in appendix III. The Department of Defense had no comments.

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## Background

Congress has demonstrated its commitment to providing education benefits to members of the armed forces who are interested in pursuing postsecondary education since the enactment of the Servicemen's Readjustment Act of 1944, also known as the GI Bill of Rights. Since that time other programs have been implemented to meet the educational needs of servicemembers, including the current Montgomery GI Bill, which provides education assistance to veterans and active duty, Reserve, and National Guard servicemembers. As of fiscal year 2007, active duty servicemembers can receive up to \$1,075 monthly for a maximum of 36 months, while Reservists can receive up to \$309 monthly for a maximum of 36 months. In fiscal year 2005, another program, the Reserve Educational Assistance Program, was implemented to provide benefits for Reservists who are called or ordered to active duty in response to a war or national emergency. Those who meet the length of service requirement can receive up to \$827 toward their education, per month for 36 months. Congress has also given the Army, Navy, Marines, Air Force, and Coast Guard the ability to provide tuition assistance to active duty servicemembers and members of the Reserves and National Guard. These servicemembers can currently receive up to \$4,500 in tuition assistance benefits annually.

In addition to these targeted programs, servicemembers may be eligible to participate in the federal student financial aid programs authorized by Title IV of the Higher Education Act, which authorizes federal grant and loan programs for all eligible students. Specifically, if their military education benefits, income, and assets do not fully cover the estimated cost of attendance, servicemembers may be eligible for federal Pell grants, which do not have to be repaid, as well as federally subsidized Stafford and Perkins student loans, on which the federal government pays the interest while the borrower is in school. Servicemembers, like other borrowers, may also qualify for unsubsidized federal Stafford and PLUS loans if they do not demonstrate financial need.<sup>5</sup> Because these loans are not subsidized by the federal government, borrowers are responsible for

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<sup>5</sup>Stafford loans for students and PLUS loans for parents and graduate students are made through two federal student loan programs. Loans in the Federal Family Education Loan program are made by private lenders and guaranteed by the federal government, while loans in the Direct Loan program are made directly by the federal government through a student's school. Perkins loans are low-interest loans (5 percent) for undergraduate and graduate students with exceptional financial need and are made by postsecondary schools that participate in Title IV Campus-Based Aid programs.

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paying all of the interest that accrues on the loan from the time the loan is disbursed until it is paid in full.

The Higher Education Relief Opportunities for Students (HEROES) Act of 2003 was enacted to recognize the difficulties that postsecondary students and federal student financial aid recipients serving on active duty may experience in transitioning in and out of college and repaying their student loans.<sup>6</sup> The law covers individuals who are serving on active duty, during a war, other military operation or national emergency, including members of the National Guard serving on full-time active duty and Reserves who are called to active duty.<sup>7</sup> The law extends much of the relief that Congress initially provided in the HEROES Act of 2001, following the tragic events of September 11, 2001.<sup>8</sup> Specifically, the HEROES Act of 2003 authorizes the Secretary of Education to waive or modify any statutory or regulatory provisions relating to federal student financial aid to minimize the financial impact and administrative requirements for individuals who are serving on active duty. The law requires Education to report to Congress on the impact of its efforts within 15 months of exercising its authority. While the law does not require postsecondary schools to assist students who leave for active duty service, it encourages them to provide tuition refunds for incomplete coursework and to minimize reapplication requirements.

Federal student financial aid provisions include a number of options designed to allow any federal student loan borrowers—whether serving on active duty in the military or not—to postpone repayment. For example, borrowers are not expected to make payments on their loans while enrolled in school on at least a half-time basis, while completing a graduate fellowship, or for the first 6 or 9 months after they have left school, known as the grace period.<sup>9</sup> There are also options that allow borrowers to postpone repayment if they are having difficulty meeting their repayment schedule. Borrowers may qualify for a deferment if they

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<sup>6</sup>Pub L. No. 108-76 (2003).

<sup>7</sup>In addition to members of the armed forces, individuals who live or work in an area that is declared a disaster area in connection with a national emergency, as well as those who suffer direct economic hardship as a result of a war, other military operation, or national emergency are covered by the Act.

<sup>8</sup>Pub. L. No. 107-122 (2002). The provisions of this Act expired on September 30, 2003.

<sup>9</sup>Federal Stafford loan borrowers are provided a 6-month grace period, while those in the Perkins Loan program are provided a 9-month grace period.

have been unable to find full-time employment or can demonstrate economic hardship.<sup>10</sup> Additionally, members of the armed forces may qualify for a military deferment while they are serving on active duty during a war, other military operation, or national emergency.<sup>11</sup> Borrowers who are not eligible for any of the deferment options can request forbearance, a temporary period during which loan payments are either reduced or postponed. While borrowers do not have to make loan payments during in-school, grace, deferment, or forbearance periods, whether or not they are responsible for paying the interest that continues to accrue depends on the type of loan and postponement, as shown in table 1.

**Table 1: Responsibility for Interest Payments by Postponement and Loan Type**

Type of postponement	Loan type	
	Subsidized	Unsubsidized
In-school	Federal government	Student
Grace	Federal government	Student
Deferment	Federal government	Student
Forbearance	Student	Student

Source: GAO analysis.

<sup>10</sup>Borrowers may be eligible for an economic hardship deferment if they are receiving payments under a federal or state public assistance program, such as Food Stamps or Supplemental Security Income, or serving as a Peace Corps volunteer, among other things.

<sup>11</sup>Until recently, military deferments were only available for borrowers repaying loans that were disbursed prior to July 1, 1993. However, enactment of the Higher Education Reconciliation Act of 2005 created a new military deferment. Pub. L. No. 109-171, Title VIII, Subtitle A (2006). Beginning July 1, 2006, borrowers performing qualifying active duty service can request a military deferment for loans that were first disbursed on or after July 1, 2001.

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**Education Has Issued Waivers and Modifications to Provide Relief for Aid Recipients Serving on Active Duty, but the Impact of These Changes Is Not Known**

Education has implemented HEROES by waiving and modifying certain federal student financial aid provisions to ease the financial impact and administrative burden of meeting aid obligations for recipients serving on active duty. The extent to which servicemembers are benefiting from these waivers and modifications is not known, however, because Education has not collected key information that would allow it to assess the impact of these changes as required by HEROES.

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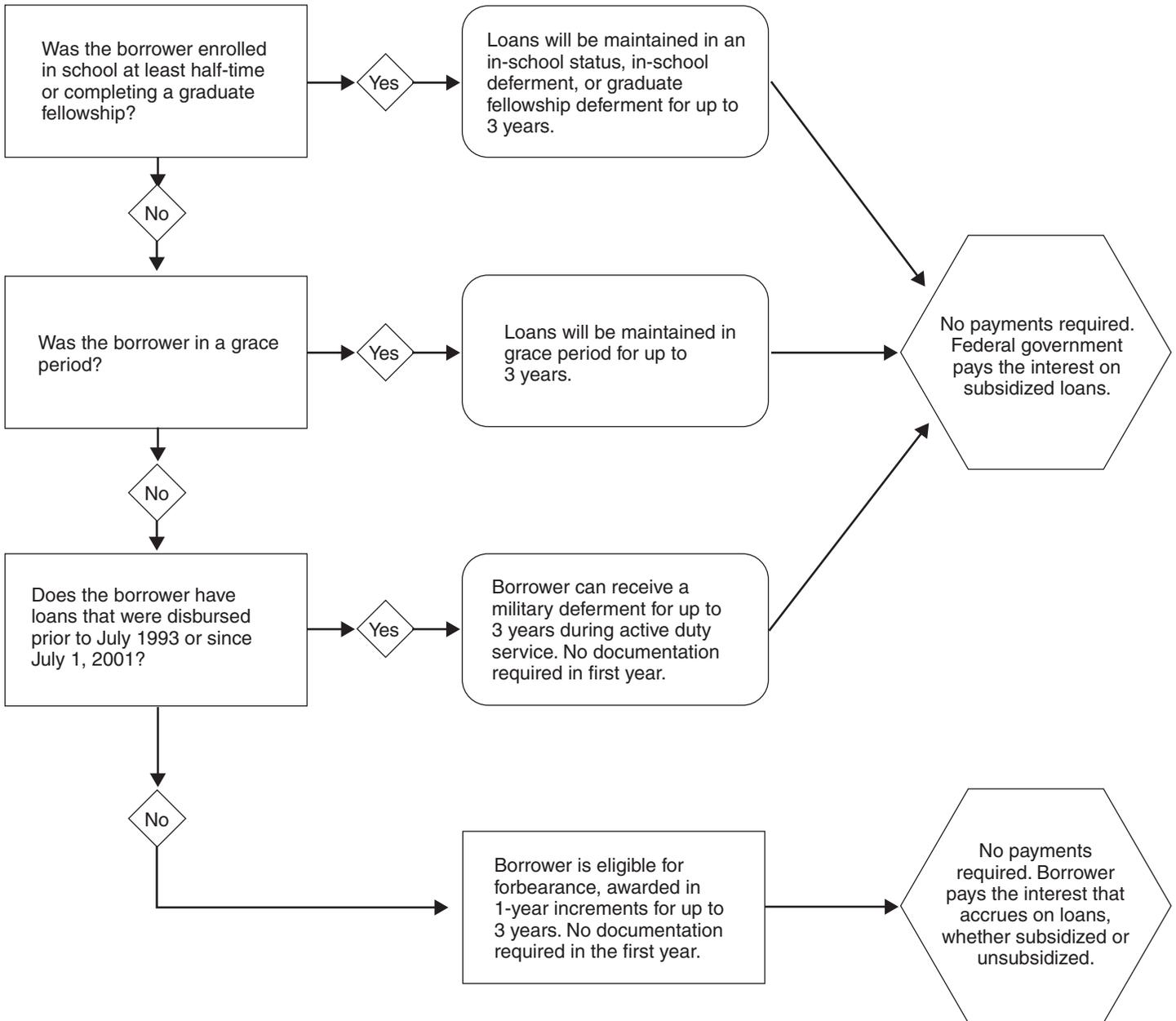
## Education's Waivers and Modifications under HEROES Aimed at Relieving Financial and Administrative Burden for Student Financial Aid Recipients Serving on Active Duty

To help federal student financial aid recipients who are serving on active duty avoid negative financial consequences, such as loan default, Education has expanded opportunities to avoid or postpone repayment of federal student grants and loans. Students who leave school for active duty service no longer have to return or repay federal grant funds for academic terms they were unable to complete. Moreover, students who leave school for active duty service are considered to be still enrolled in school, which means that they do not yet have to begin repaying their student loans. Similarly, Education has expanded opportunities to postpone repayment for borrowers serving on active duty who are out of school or enrolled less than half-time. Specifically, under the HEROES waivers, if borrowers were in a grace period at the time of departure, lenders are required to maintain loans in a grace period for up to 3 years while the borrower is performing active duty service and provide borrowers with a full 6-month or 9-month grace period once they return, depending on the type of loan.<sup>12</sup> Borrowers in repayment no longer have to provide their lender written documentation of active duty service to have loan repayment suspended for up to 1 year. Instead, under the HEROES waivers, lenders must suspend loan payments based on verbal notification from borrowers or another reliable source. Figure 1 illustrates the options available to suspend or postpone loan repayment for federal student loan borrowers serving on active duty.

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<sup>12</sup>Members of the Reserves were already eligible for this benefit based on federal student financial aid provisions, but Education has modified the provision to ensure coverage for all servicemembers eligible for relief under HEROES. Borrowers with federal Stafford loans are eligible for a 6-month grace period, while borrowers with federal Perkins loans are eligible for a 9-month grace period.

**Figure 1: Options Available to Suspend or Postpone Loan Repayment for Borrowers Serving on Active duty**



Source: GAO analysis.

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Education's waivers and modifications also cover borrowers who had already defaulted on their student loans at the time of departure.<sup>13</sup> Specifically, Education has waived the provisions that require schools and guaranty agencies to attempt to collect on defaulted loans while the borrower is performing active duty service.<sup>14</sup> Education has also waived requirements related to getting loans out of default. Specifically, once a borrower has defaulted on a loan, he or she can usually "rehabilitate" it by making 12 consecutive on-time payments. To ensure that borrowers on active duty service are not penalized, Education has waived the requirement so that any payments that are missed during active duty service or during a 3-month transition period upon return will not be treated as an interruption.

The waivers and modifications also encourage schools to use their professional judgment in determining financial need for students whose family income has been affected by active duty service, regardless of whether the student or the student's parent or spouse is serving on active duty. Education's waivers and modifications allow financial aid administrators to consider more current financial information than what students typically submit when applying for federal student financial aid if it reduces the amount the student and his or her family would be expected to pay toward the cost of attendance. For example, the expected family contribution for the 2006-2007 academic year would typically be calculated using financial information from the 2005 calendar year, but the waivers and modifications allow financial aid administrators to use financial information from the 2006 calendar year for those serving on active duty and their spouses and dependents. Financial aid administrators need not make this adjustment if doing so will provide no financial benefit to the student, such as in cases in which active duty service leads to an increase in income.

Education's waivers and modifications also ease the administrative, or "paperwork," burden federal student financial aid recipients may experience when they are serving on active duty. For example, Education

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<sup>13</sup>In the Direct and FFEL loan programs, default occurs when borrowers on a monthly payment schedule become 270 days delinquent. In the Perkins Loan program default occurs when borrowers miss one installment payment.

<sup>14</sup>Guaranty agencies are state or private not-for-profit agencies that guarantee payments to FFEL lenders if students fail to repay their loans. Schools are responsible for attempting to collect on defaulted Perkins Loans, and guaranty agencies are responsible for collecting on defaulted loans in the FFEL loan program.

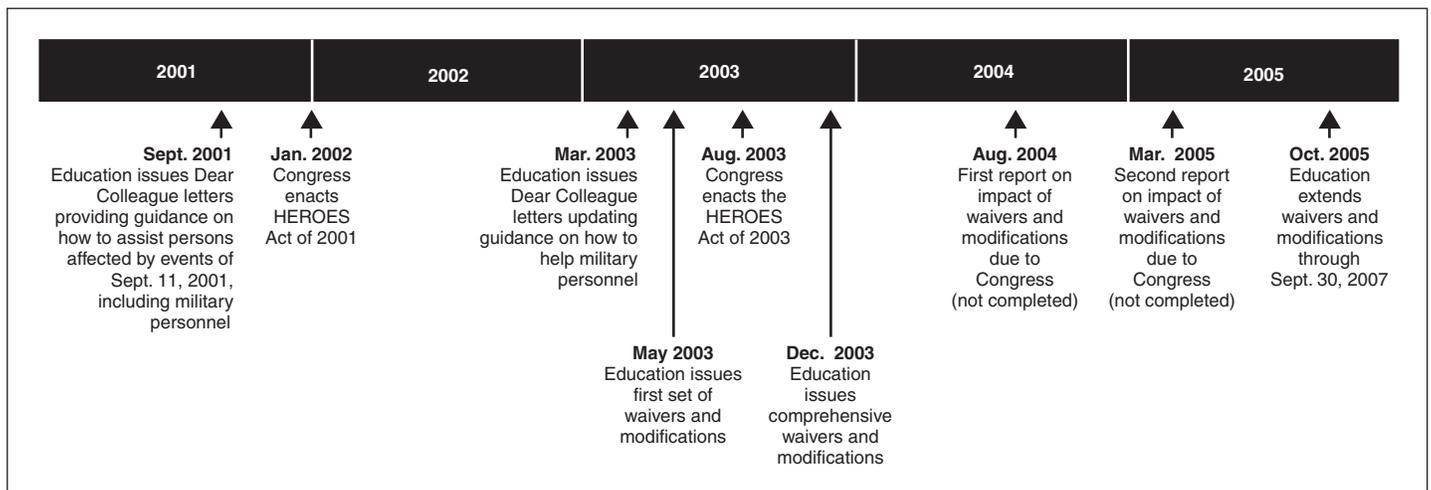
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has made allowances for borrowers who have to depart quickly by requiring lenders to accept notification from someone acting on the borrower's behalf, such as a spouse or parent. Education has also relaxed the requirement that postsecondary schools obtain written authorization from a borrower regarding the disbursement of financial aid when military service would make complying with this requirement difficult. Under the waivers and modifications, borrowers serving on active duty also have more time to cancel a student loan. While borrowers normally have 14 days from receiving notification from their school that their loan has been credited to their account to cancel all or a portion of their student loan, borrowers serving on active duty have 60 days.

Education officials told us that when they developed the waivers and modifications, they began by considering which federal student financial aid provisions could have negative financial consequences for individuals eligible for relief under HEROES and then conducted internal brainstorming sessions to identify options for relief. The officials said the process was guided by the understanding that Education was charged with waiving and modifying existing statutory and regulatory provisions, not creating new regulations or spending additional funds. Prior to issuing the waivers and modifications, Education officials reached out to industry groups, such as the National Association of Student Financial Aid Administrators and the National Council of Higher Education Loan Programs, to discuss the changes being considered and elicit additional ideas on how to best assist students and federal student financial aid recipients serving on active duty. Additionally, Education officials said the Department of Defense was instrumental in helping Education understand the deployment process, in particular how quickly deployment can occur and how little time servicemembers may have to attend to personal matters. One Education official said that understanding the nature of deployment was important in helping Education work through concerns about program integrity. Specifically, there were concerns that if administrative requirements were reduced by waiving written documentation requirements and allowing someone else to act on the borrower's behalf, program integrity might be adversely affected. Education decided that minimizing the obstacles to obtaining relief to ensure that borrowers did not inadvertently default on their student loans outweighed these concerns. Additionally, the official noted that the risks to the federal government are minimal since borrowers can only obtain 1 year of assistance without additional documentation, and they will eventually have to repay the remaining balance of their loans.

After the passage of HEROES, Education announced limited waivers to statutory and regulatory provisions in May 2003 and announced more comprehensive waivers and modifications in December 2003. As required by HEROES, Education published the waivers and modifications in the *Federal Register*, which also provided guidance to help postsecondary schools, lenders, and guaranty agencies understand the changes. The waivers and modifications announced as a result of HEROES update and expand much of the guidance Education issued to the higher education community through Dear Colleague Letters immediately following the terrorist attacks of September 11, 2001, and again in March 2003. The initial Dear Colleague Letters focused on providing relief for students and federal student loan borrowers affected by the terrorist attacks, including military personnel. In October 2005, Education extended these waivers and modifications through September 2007. (See fig. 2.)

**Figure 2: Timeline for HEROES-Related Activities**



Source: GAO analysis.

See appendix II for a full list of the waivers and modifications.

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## Education Has Not Assessed the Impact of Waivers and Modifications on Students and Federal Student Financial Aid Recipients, as Required

Education has not assessed the impact of waivers and modifications on federal student financial aid recipients and Title IV federal student financial aid programs as mandated by Congress. Specifically, both the 2001 and 2003 HEROES Acts required Education to report to Congress on the impact of its waivers and modifications within 15 months of first exercising its authority to waive or modify federal student financial aid provisions. Based on Education's issuance of comprehensive waivers and modifications in December 2003, a study should have been completed no later than March 2005. While HEROES does not specify how Education should go about assessing the impact of its waivers and modifications, Education officials interpreted the Act as requiring a rigorous experimental design that they say would be costly and cannot currently be supported with Education's data systems. Therefore, Education currently has no plans to complete the required study.

Currently, Education does not have a mechanism for identifying the total number of federal student financial aid recipients who have been provided assistance under HEROES within its data systems. Education maintains a central database of all federal student loans and Pell grants through its National Student Loan Data System, which tracks the status of loans and grants through their life cycle. The database collects required information on federal student aid recipients' enrollment status from schools and the status of their loans from lenders and guaranty agencies. Based on current reporting requirements, the system can only be used to identify two types of assistance provided to borrowers based on their military service, military deferment and military grace periods, which are coded uniquely in the system and existed prior to HEROES. Education officials told us that the system would have to be reengineered to identify other types of borrowers who received assistance under HEROES, such as those with loans in forbearance, because there are no additional codes in the system to explain what made the loan eligible for assistance, such as military service or financial difficulty.

When Education announced waivers and modifications, it included a provision requiring postsecondary schools and lenders to document their use of the waivers and modifications in such a way that they could report on their effect to Education upon request. However, the announcement did not include any specific guidance on what types of data Education wanted and how schools and lenders should collect it to ensure Education could use the data. Education officials told us that they thought the requirement went largely unnoticed and that lenders generally do not collect information on this population in such a way that would be reportable. For example, the officials said that while lenders maintain

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information on the reasons for forbearance in a borrower's individual loan record, they would not have a mechanism for running a query to identify every borrower granted forbearance based on active duty service. In our discussions with lenders we found that three of the nine could provide us some data on the number of borrowers whose loan payments had been suspended through forbearance as a result of military service. Moreover, these lenders could provide some data on borrowers whose loans had been maintained in an in-school period while serving on active duty.

Education has not explored other data sources that might be used in combination with its data systems to complete the congressionally required study. For example, the Department of Defense (DOD) has data that may be used in conjunction with Education's data to assess the number of federal student financial aid recipients who have been assisted by HEROES. DOD told us that it has extensive information on servicemembers, including mobilizations and deployments, through its Defense Manpower Data Center. DOD officials said it would be possible to conduct a match using common data points, such as Social Security numbers and dates of birth, with Education's National Student Loan Data System, to identify servicemembers who were participating in federal student financial aid programs at the time they were deployed. Once the target population has been identified, additional analysis to determine the extent to which these servicemembers received some relief might be possible. Education officials agreed that such a match would be possible, but said they would have concerns about being responsible for sensitive national security data of this nature. Additionally, they thought resources could be another limitation to such a match, since Education would likely have to provide funds to cover the work if it entered into a memorandum of understanding with DOD.

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## Lenders Are Assisting Borrowers as Required by Education and Some Are Providing Additional Benefits

Lenders have a variety of policies and practices in place designed to provide relief for federal student loan borrowers serving on active duty, many of which are required under Education's waivers and modifications. To minimize the financial impact on borrowers, lenders provide them with options to suspend or postpone repayment on their student loans. For example, borrowers who were enrolled in school on at least a half-time basis before leaving for active duty service are eligible to have their loans maintained in an in-school status period, which means that they do not enter repayment while they are serving on active duty and are provided additional time to reenroll after completing their service. For borrowers who are repaying their loans, lenders said they will suspend repayment through a military deferment or forbearance during active duty service.

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Because borrowers are responsible for paying the interest that accrues on loans in forbearance, lenders consider forbearance as the last option for suspending repayment on a loan when borrowers are not eligible for any other type of assistance.

Lenders also told us about policies or practices they have to minimize the financial impact on borrowers that go beyond the requirements of HEROES. Some lenders we interviewed reported practices to minimize the amount of interest that accrues while a loan is in forbearance during active duty service. While borrowers are not required to make any payments during a forbearance period, the interest on these loans continues to accrue, and ultimately the borrower is responsible for paying it. If the borrower elects not to pay any of the interest that has accrued during the forbearance period, the interest will eventually be capitalized by adding the accrued interest to the remaining principal balance. From that point on, interest will be assessed on the new, higher principal balance. Federal student financial aid provisions allow lenders to capitalize the interest that accrues on loans in forbearance either quarterly or at the end of the forbearance period, depending on when the loan was originally disbursed.<sup>15</sup> However, three lenders told us that they do not capitalize the interest on loans in forbearance as a result of active duty service, which reduces the total amount of interest that borrowers serving on active duty must pay. Additionally, one Pennsylvania-based lender has extended benefits beyond the requirements of HEROES by offering loan forgiveness for servicemembers who have lived in Pennsylvania or attended college there. The program provides a one-time loan-forgiveness benefit of \$2,500 for members of the armed forces who have been in an active duty status between September 11, 2001, and December 31, 2006.

Lenders also follow Education's waivers and modifications designed to reduce the administrative burden for borrowers serving on active duty, for example, by providing immediate assistance to borrowers based on verbal notification of their active duty service. A representative from one of the lenders we interviewed told us that the simplified documentation requirements allowed under the HEROES waivers and modifications have made it easier for lenders to quickly respond to borrower needs. She said that without this assistance, borrowers might have become delinquent on

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<sup>15</sup>For loans disbursed prior to July 1, 2000, lenders can capitalize the interest on loans in forbearance as often as quarterly. However, loans issued on or after July 1, 2000, can only be capitalized at the end of the forbearance period.

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their loans—which could adversely affect their credit rating—while waiting to be approved for forbearance because of the documentation requirements.

Lenders told us that with these simplified procedures, they could help servicemembers with just one short telephone call. For example, all the lenders we interviewed have toll-free numbers that borrowers can call to obtain information about or request assistance with their loans, and borrowers only need to contact the lender once to receive assistance, such as military deferment or forbearance. Lenders said the borrower is typically the one who contacts the lender about his or her active duty service, but they will also accept notification from someone acting on the borrower's behalf, such as a spouse, parent, or other reliable source. Three lenders explained that individuals who notify the lender must have sufficient information about the borrower's account to be considered a reliable source. During the initial contact, a customer service representative will determine what benefits the borrower is eligible for based on his or her individual circumstances. According to several lenders, this stage of the process can usually be completed in 5 to 10 minutes, and any changes that are made to the loan status will be processed within 3 to 5 days, at which time a notice is mailed to the borrower confirming the changes that were made and the time periods these changes will remain in effect.

The process is similar when borrowers return. However, since borrowers may not contact the lender when they return from active duty service, lenders said that they rely on information documented in the borrower's account to determine the length of the benefit period. Lenders send borrowers a notice by mail before the benefits lapse to inform them of what will happen to the loans at the end of the period, along with contact information should the borrower need additional assistance with their loans. For example, a borrower with a loan in forbearance would receive a notice indicating when the forbearance period is scheduled to end along with repayment terms, such as when the borrower will have to begin making payments and how much he or she will have to pay each month. The advance notice is designed to allow sufficient time for borrowers who are continuing to serve on active duty to submit copies of military orders to extend the assistance they are receiving with their loans. Borrowers need not take any action when they receive notification from the lender if they have returned from active duty service and do not require further assistance with their loans.

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While the benefits available to borrowers under HEROES end after the borrower has returned from active duty service and used any available transition period, most of the lenders we talked to said they would continue to work with any borrowers having difficulty making their monthly payment after returning from active duty service. For example, officials from one lender said they would offer borrowers other repayment alternatives, such as income-sensitive repayment to lower their monthly payment amount, or additional forbearance time as allowed under federal student financial aid provisions.

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### Most Schools Have Had Students Leave for Active Duty and Have Policies in Place to Aid Their Departure and Return

The majority of colleges and universities have had students who left school for active duty service before the end of their academic term and have policies to assist these students when they leave and when they return to school. Schools reported having policies covering refunds of tuition and room and board, grading, and changes to graduation and degree requirements that might occur while students are serving on active duty.

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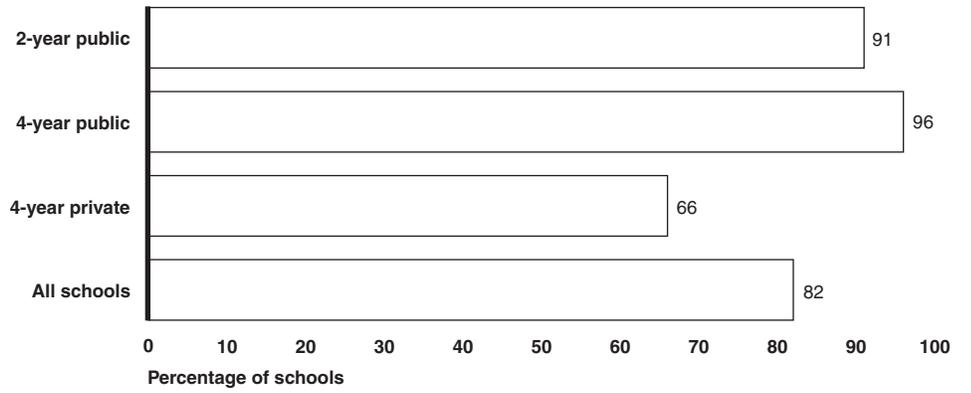
### Most Colleges and Universities Have Had Students Leave for Active Duty

The majority of colleges and universities—about 80 percent—have had students leave school for active duty service prior to the end of their academic term, according to our survey, with a greater percentage of public schools having experience with such departures.<sup>16</sup> For example, we estimate that 66 percent of 4-year private schools had students who left for the military compared to 96 percent of 4-year public schools (see fig. 3). Although the majority of schools had students who left for active duty service, most of these schools could not identify the number of students who left since HEROES was first enacted in January 2002. Officials at two of the universities we visited told us that more than 100 of their students had left and partly attributed the large number of departures to their campuses' proximity to military bases and National Guard units.

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<sup>16</sup>Our survey asked schools if they had any students who left for active duty service.

**Figure 3: Estimated Percentage of Schools with Students Who Have Left for Active Duty**



Source: GAO survey of colleges and universities.

Note: The 95 percent confidence interval for the estimated percentage of 4-year private schools is from 53 to 78 percent.

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## Most Schools Have Policies in Place to Aid Students When They Leave for Active Duty Service and Return to School

We estimate that nearly three-quarters of schools have policies or practices for students who leave for active duty service prior to the end of the academic term.<sup>17</sup> Schools with students who have left were more likely to report having policies. About two-thirds of schools reported that their policies were in place prior to the enactment of the first HEROES Act in 2001. For example, officials at one university we visited said the institution's policies were developed in the 1990s in response to the many students who had to leave school for active duty service in Kuwait. Some of these schools' policies may have been influenced by state law. Specifically, we identified 26 states that have laws to assist students who leave for active duty service (see fig. 4). Most of them apply only to public colleges and universities, and require schools to have nonpunitive withdrawal policies and issue tuition refunds for students who choose to withdraw. Both Texas and Florida, for example, require public colleges and universities to provide students with the option of receiving a full tuition refund for any course they withdraw from or completing it at a later date without penalty. Additionally, Texas provides professors with the flexibility to assign students a grade based on the work completed at the time of departure.

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<sup>17</sup>Policies and practices are referred to as policies here forward in the report.

**Figure 4: States with Laws to Assist Students Who Leave School for Active Duty**

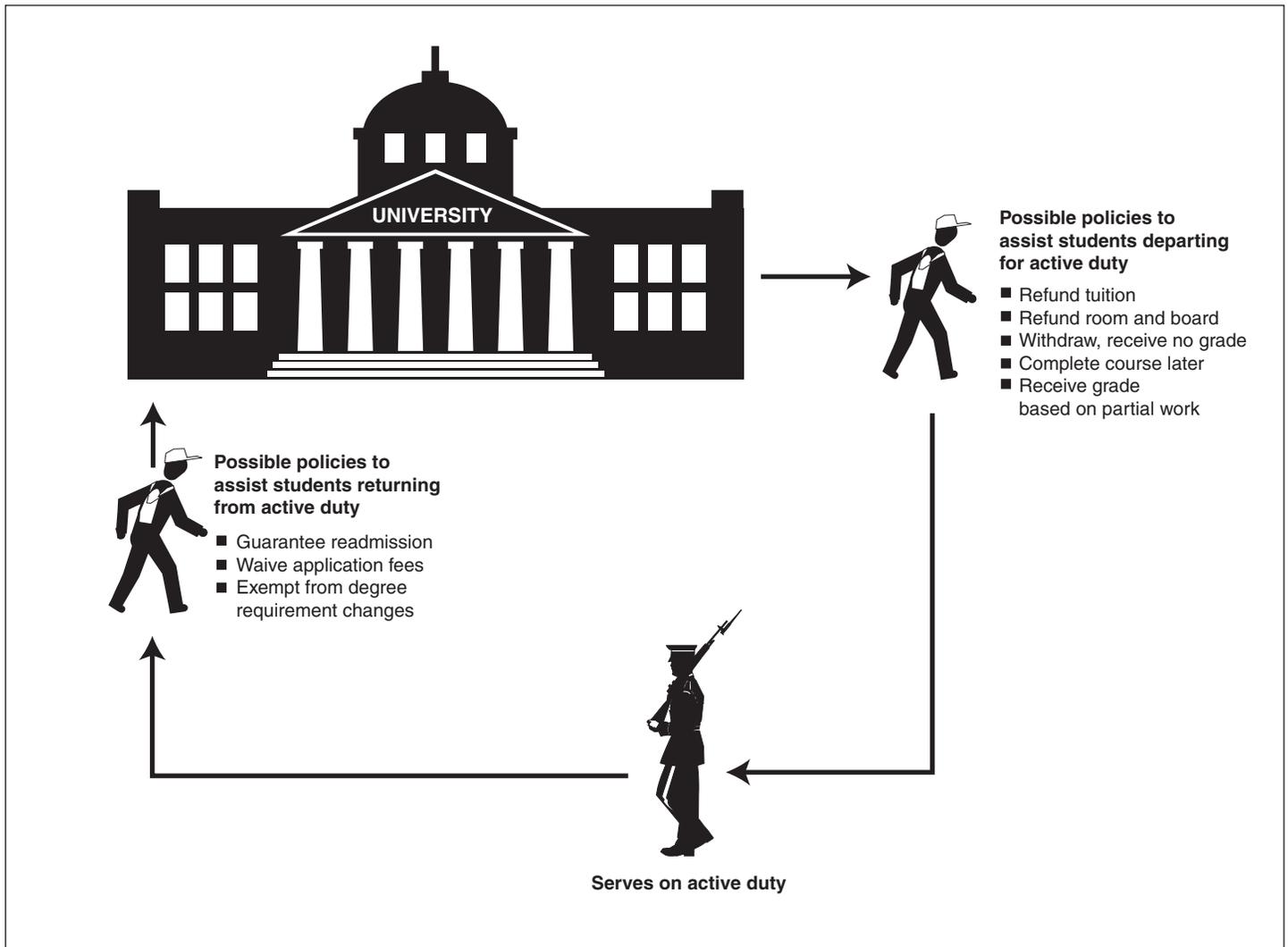


Sources: GAO (data); Copyright © Corel Corp. All rights reserved (map).

**School Policies Address the Broad Range of Issues Confronting Students Who Must Leave for Active Duty Service**

Most schools have policies in place to help students who leave for active duty service transition out of and back into school. Figure 5 illustrates the options that may be available to these students when they depart and return.

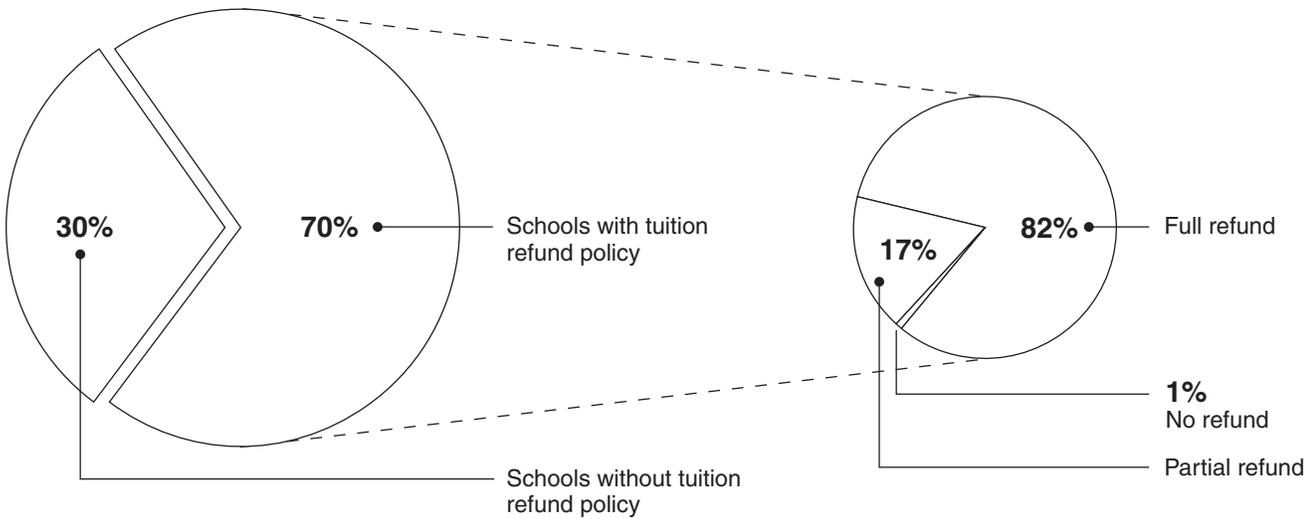
**Figure 5: Selected Options Available to Ease Departure and Return for Students Serving on Active Duty**



Source: GAO analysis.

For students who leave for active duty service before completing an academic term, the majority of schools offer tuition refunds and various options for withdrawing from courses. We estimate that 70 percent of colleges and universities have tuition refund policies for students leaving for active duty service, and most of them provide a full tuition refund for these students (see fig. 6). The majority of schools that provide a partial refund prorate the refund based on how much of the term the student has completed.

**Figure 6: Estimated Percentage of Schools with Policies on Tuition Refunds for Students Leaving for Active Duty**

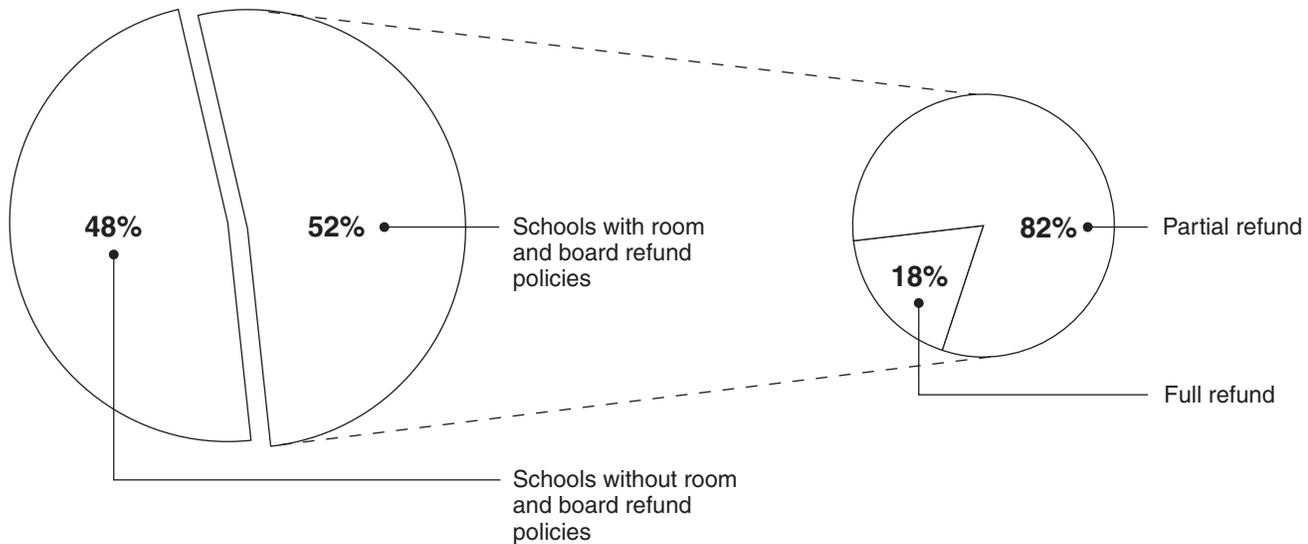


Source: GAO survey of colleges and universities.

Note: One percent of schools that have tuition refund policies reported that their policies do not allow for any portion of the tuition to be refunded.

Some schools also reported having policies that allow for the refund of room and board. Of the schools that offer campus housing, 52 percent reported having policies regarding room and board refunds. Of those, 82 percent reported that they provide a partial refund of room and board, usually based on the amount of the term completed, for students leaving for active duty (see fig. 7).

**Figure 7: Estimated Percentage of Schools That Offer Campus Housing with Room and Board Refund Policies for Students Leaving for Active Duty**



Source: GAO survey of colleges and universities.

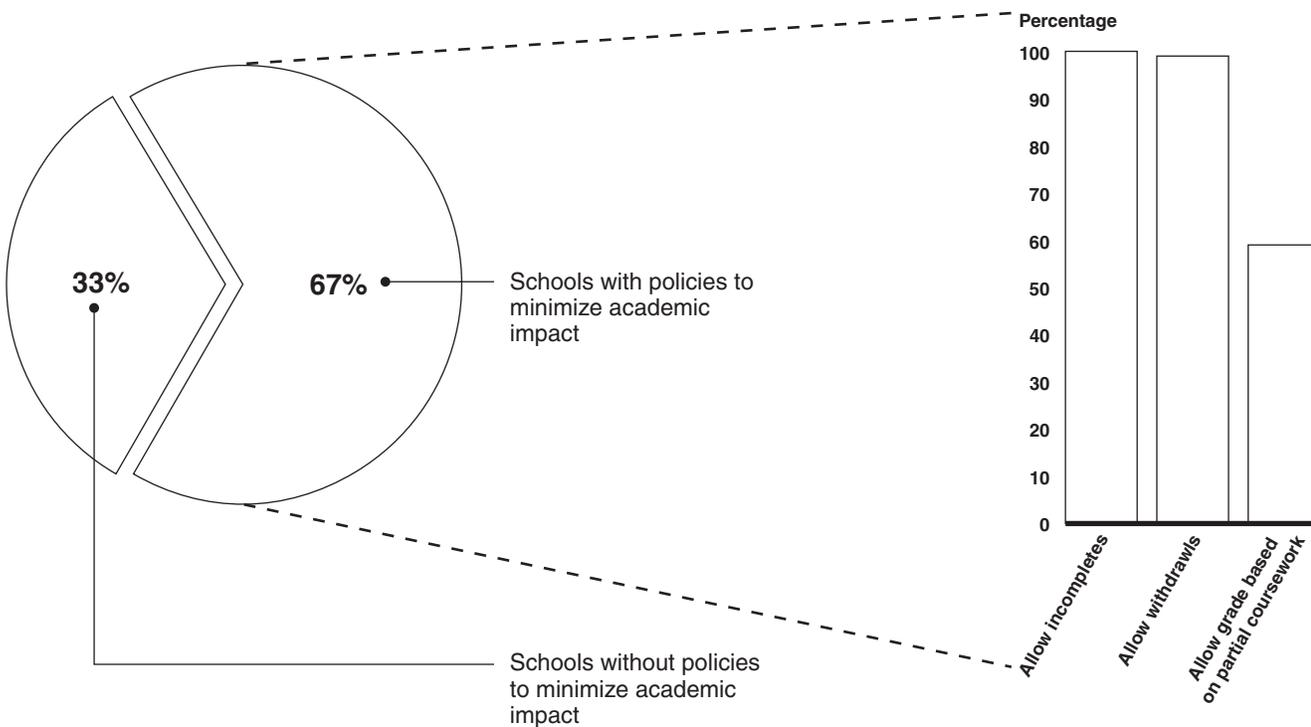
Note: This analysis includes only colleges and universities that offer campus housing based on data in the Integrated Postsecondary Education Data System (IPEDS). The 95 percent confidence interval for the estimated percentage of schools that offer a full refund is from 10 to 30 percent, and the 95 percent confidence interval for schools that provide a partial refund is from 70 to 90 percent.

Most of the schools require documentation of active duty service, such as a copy of military orders, before students can receive a refund of tuition or room and board, although in some cases students may not have documentation before leaving. For example, officials at one university we visited said that their students who left for active duty service shortly after September 11, 2001, did not receive their military orders before departing, and as a result their tuition refunds could not be processed before they left.

Students may also risk failing courses or delaying graduation when they leave school before the term has been completed, but about two-thirds of schools have put in place policies to help them minimize the academic impact of leaving (see fig. 8). Almost all of these schools allow students leaving for active duty service to receive a grade of “incomplete”—giving them the option to finish the class later—or withdraw from a course without receiving a grade. Of the schools that allow a student to receive an incomplete in an unfinished course, 68 percent require the student to complete the coursework within specific time frames—anywhere from

less than a month to 36 months—to receive a letter grade in the course. In addition, over half of schools that have policies to minimize academic impact allow instructors to assign a grade based on partially completed coursework.

**Figure 8: Estimated Percentage of Schools with Policies to Minimize the Academic Impact for Students Leaving for Active Duty**



Source: GAO survey of colleges and universities.

Of the seven students we interviewed, one was able to work with his instructors to complete remaining coursework for a grade before leaving for active duty service, and five opted to withdraw from their classes.<sup>18</sup> An undergraduate student in the Army National Guard we interviewed said that he withdrew from his classes as soon as he received the alert that his military unit would be deployed. He said that withdrawing from school allowed him to focus on ensuring that health insurance and medical care were in place for his son, who has a serious illness. A graduate student in

<sup>18</sup>One student we interviewed had been accepted by the university, but had not yet enrolled when called to active duty. He deferred enrollment until he returned from service.

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the Marine Reserves who received 1 week advance notice of deployment withdrew from classes to allow time to handle financial obligations. While withdrawing from classes ensures that students will not have failing grades to contend with, two students expressed concern about how the withdrawals on their transcripts would be perceived by other postsecondary schools when applying for a transfer or graduate study. The university these students attend has since begun allowing students to get these withdrawals deleted from their records, which means there would be no record of the student having attempted the course on their transcript. One undergraduate student we spoke to reported difficulty withdrawing from his classes. He told us that while he was deployed multiple times for durations of 1 to 3 weeks, his university approved only one of his requests to withdraw. Even though his deployments were relatively short, he said it was difficult for him to keep up with the coursework and his academic performance suffered as a result.

In addition to allowing students to withdraw or receive a grade of incomplete, some of the colleges we visited provided other options for students leaving for active duty service to complete classes. Officials at one college we visited said that some students who have left school for active duty service have been able to complete a course by delivering remaining assignments to their professor by Email or completing a classroom course via the Internet when it is offered in an online version. One university we visited that has a large number of military students reported great increases in online course enrollment in 7 years, from 20,000 to 150,000 students. Also, a college based in Texas with campuses on military bases worldwide offers courses using such tools as prerecorded and live lectures displayed over the Internet, interactive online discussions that can facilitate student participation, and course materials provided on compact disc.

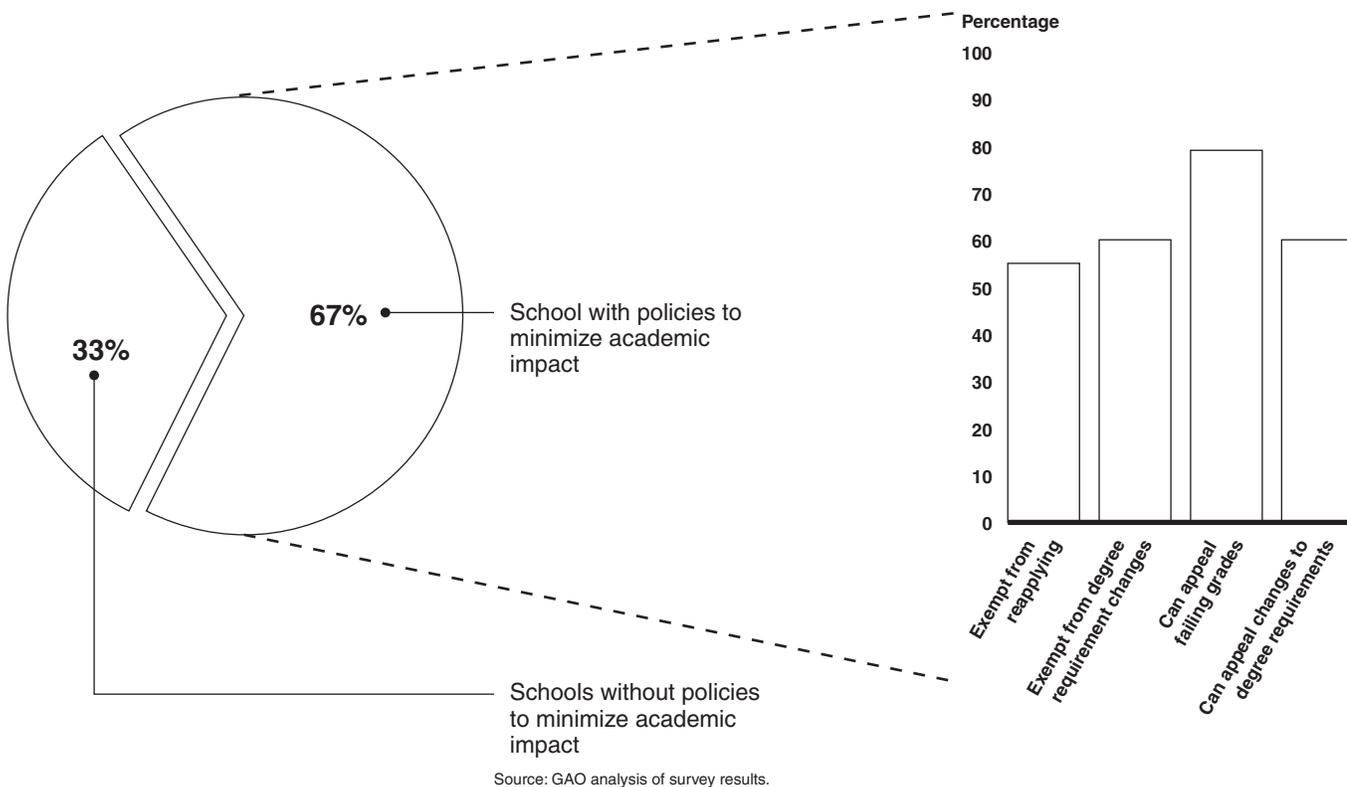
When students return to school from active duty service, most schools also have policies to ease their transition. Specifically, about half of schools with policies to minimize the academic impact of leaving for active duty service do not require students to reapply for admission (see fig. 9). Of those schools that require students to reapply, almost all guarantee readmission, and 84 percent waive application fees.<sup>19</sup> Officials at one college we visited reported that students returning from active duty

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<sup>19</sup>The 95 percent confidence interval for the estimated percentage of schools that waive application fees is from 73 to 92 percent.

service are required to reapply just to ensure that the school has updated contact information for the students. Moreover, a student may return from active duty to find that degree requirements have been changed, such as courses required for a major, which could delay graduation. Sixty percent of schools with policies designed to minimize the academic impact of leaving for active duty service exempt returning students from changes in degree requirements that occurred during their absence (see fig. 9). Additionally, the majority of schools with polices to minimize academic impact reported having mechanisms that allow returning students to appeal failing grades and changes to degree requirements.

**Figure 9: Estimated Percentage of Schools with Policies to Minimize the Academic Impact When Students Return from Active Duty**



## Conclusions

Our study showed that most colleges and universities have experienced military departures, and schools and lenders have marshaled behind servicemembers by putting in place policies and practices to minimize the

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impact of serving their country. Education issued waivers and modifications to federal student financial aid provisions to protect this population, and states also have laws in place to support them. However, critical information to gauge the usefulness of these waivers and modifications is missing. Specifically, Education does not have very basic information on the extent to which servicemembers are benefiting from the waivers and modifications. We know that more than 1.3 million servicemembers have been deployed since September 11, 2001, but information on the extent to which these individuals are college students or have federal student loans and are receiving relief under HEROES is unknown. While an impact study of HEROES as Education has interpreted the congressional requirement would be difficult and costly to undertake, important information such as this could be obtained without using a rigorous experimental design. Such information would be important to gauge the extent to which those eligible are taking advantage of HEROES and may provide Education with information about issues for future study.

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## Recommendation for Executive Action

To ensure that Congress knows the extent to which the waivers and modifications are being used, we recommend that the Secretary of Education undertake the congressionally mandated study to determine the extent to which eligible servicemembers are receiving assistance under HEROES.

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## Agency Comments

We provided copies of a draft of this report to the Department of Education and the Department of Defense for review and comment. In written comments, the Department of Education agreed with our findings. With respect to our recommendation, Education said it has merit and that it will explore options for completing the congressionally mandated study. Education commented that because highly sensitive national security data from DOD would be required, DOD should take the lead in extracting the data. Education said it would explore this possibility following discussions with Congress and DOD. As we stated and recommended in our report, the responsibility for conducting the study resides with Education. Education's written comments are in appendix III. DOD had no comments on the draft report.

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Copies of this report will be sent to the congressional committees and subcommittees responsible for the Higher Education Act, the Secretary of Education, the Secretary of Defense, and other interested parties. Copies

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will also be made available to others upon request. In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you have any questions about this report, please contact me on (202) 512-7215. Key contributors to this report are listed in appendix IV.

*Cornelia M. Ashby*

Cornelia M. Ashby  
Director, Education, Workforce,  
and Income Security Issues

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# Appendix I: Methodology for Survey of Colleges and Universities

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To determine what policies or practices colleges and universities have in place to assist students serving on active duty, we designed a Web-based survey and distributed it to school administrators of 2-year public, 4-year public, and 4-year private, nonprofit postsecondary schools. The survey asked such questions as whether schools had students that left for active duty service prior to the end of an academic term and what their policies were for refunding tuition and room and board for this population of students. The survey included questions about the types of grading policies they had in place to accommodate students who left prior to the end of the academic term. The survey also asked respondents to report on how they assist students when they return from active duty service and resume their studies, such as whether the student needed to reapply and how the school handled changes in degree requirements. The survey was conducted between January and March 2006.

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## Sample Design and Errors

Our sample was drawn using the Department of Education's 2002-2003 Integrated Postsecondary Education Data System (IPEDS), which contains the most comprehensive data on all postsecondary schools.<sup>1</sup> Our sample consisted of 2-year public, 4-year public and 4-year private, nonprofit postsecondary schools that participate in Title IV programs and have an undergraduate enrollment of at least 100 students. We drew a stratified random sample of 274 schools from the population of 2,974 that met our criteria. We selected our sample from four strata defined by size (student enrollment) and institution type (2-year public, 4-year public, and 4-year nonprofit private schools). Each school had a known probability of being selected. We received completed surveys from 75 percent of the 274 colleges and universities in our sample. Two schools in the sample were considered out of scope because of changes to their institutional status. The response rate, adjusted for out-of-scope respondents and weighted to reflect the population size in each stratum, was 77 percent. The population, sample, and survey respondents by strata are shown in table 2. We excluded private, for-profit schools from our sample because they represent a relatively small percentage of all postsecondary schools.

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<sup>1</sup>IPEDS is a system of surveys designed to collect data from all primary providers of postsecondary education. These surveys collect institution-level data in such areas as enrollments, program completions, faculty, staff, and finances. Data are collected annually from approximately 9,600 postsecondary schools, including over 6,000 schools eligible for the federal student aid programs.

**Table 2: Survey of Postsecondary Schools: Population, Sample, and Survey Respondents by Strata**

Strata	Population	Sample	In-Scope schools in sample	Survey respondents
4-Year Public, <10K enrollment	427	40	39	32
4-Year Nonprofit Private, <10K enrollment	1,208	71	71	56
2-Year Public, <10K enrollment	942	60	59	43
Enrollment ≥10K	397	103	103	74
<b>Total</b>	<b>2,974</b>	<b>274</b>	<b>272</b>	<b>205</b>

Source: GAO survey of colleges and universities.

Note: We stratified the schools in our population into these four groups to allow us to estimate either school type or school size. Because the population consists mostly of schools with an enrollment of less than 10,000 students (small schools), we sampled schools with more than 10,000 students (large schools) at a much higher rate. Because of the higher sampling rate of large schools and because almost all large schools were public, we did not need to further divide the large school stratum based on our desired maximum level of sampling error.

Our probability sample of colleges and universities is only one of a large number of samples that we might have drawn. Because each sample could have provided different estimates, we express our confidence in the precision of the results from our sample in confidence intervals. We are 95 percent confident that each of the confidence intervals for the items we examined from our survey includes the population value. Unless otherwise noted, all percentage estimates from our sample have margins of error of plus or minus 10 percentage points or less. We weighted each sampled school in the analysis to represent all the members of the population, which allows us to generalize the survey responses to the types of higher education schools surveyed.

## Nonsampling Errors

In addition to sampling errors, the practical difficulties of conducting any survey may introduce nonsampling errors. Examples of nonsampling errors include misinterpretation of questions and errors associated with manual data entry processes. We took several steps to minimize nonsampling errors. A draft of the survey was pretested with a number of postsecondary institution administrators to ensure that the questions were relevant, clearly stated, and easy to comprehend. On the basis of pretest findings, some slight changes were made to the instrument. All pretests were conducted between October and November 2005. Also, using a Web-based survey eliminated the errors associated with a manual data entry process by allowing school administrators to enter their responses directly into an electronic instrument, automatically creating a record in a data file for each respondent. While we did not fully verify the extent to which

schools adhered to their reported policies or practices, we followed up with some respondents to obtain additional information about the policies they reported. We also contacted respondents, if necessary, to clarify answers. Based on these checks, we believe our survey data are sufficiently reliable to be used in determining the policies or practices schools have in place to assist students who are called to active duty. In addition, programs used to analyze the survey data and make estimations were independently verified to ensure the accuracy of this work. To increase the number of survey respondents, once the Web survey was deployed, we followed up with school administrators through e-mail and by phone to remind them about the survey.

To assess the completeness of the IPEDS data, we reviewed the National Center for Education Statistics' documentation on how the data were collected and performed electronic tests to look for missing or out-of-range values. On the basis of these reviews and tests, we found the IPEDS data sufficiently reliable for defining our population of schools.

# Appendix II: Waivers and Modifications

69312 Federal Register / Vol. 68, No. 239 / Friday, December 12, 2003 / Rules and Regulations

Current section and paragraph	Redesignated section and paragraph
250.1014	250.1019.
<p>■ 4. The headings for newly redesignated §§ 250.1010 through 250.1014 are revised, and headings for newly redesignated §§ 250.1015 through 250.1019 are added to read as follows:</p> <p><b>§ 250.1009 Requirements to obtain pipeline right-of-way grants.</b> * * * * *</p> <p><b>§ 250.1010 General requirements for pipeline right-of-way holders.</b> * * * * *</p> <p><b>§ 250.1011 Bond requirements for pipeline right-of-way holders.</b> * * * * *</p> <p><b>§ 250.1012 Required payments for pipeline right-of-way holders.</b> * * * * *</p>	<p><b>§ 250.1013 Grounds for forfeiture of pipeline right-of-way grants.</b> * * * * *</p> <p><b>§ 250.1014 When pipeline right-of-way grants expire.</b> * * * * *</p> <p><b>§ 250.1015 Applications for pipeline right-of-way grants.</b> * * * * *</p> <p><b>§ 250.1016 Granting pipeline rights-of-way.</b> * * * * *</p> <p><b>§ 250.1017 Requirements for construction under pipeline right-of-way grants.</b> * * * * *</p> <p><b>§ 250.1018 Assignment of pipeline right-of-way grants.</b> * * * * *</p>
<p>■ 5. Redesignated § 250.1012 is revised to read as follows:</p> <p><b>§ 250.1012 Required payments for pipeline right-of-way holders.</b></p> <p>(a) You must pay MMS an annual rental of \$15 for each statute mile, or part of a statute mile, of the OCS that your pipeline right-of-way crosses.</p> <p>(b) This paragraph applies to you if you obtain a pipeline right-of-way that includes a site for an accessory to the pipeline, including but not limited to a platform. This paragraph also applies if you apply to modify a right-of-way to change the site footprint. In either case, you must pay the amounts shown in the following table.</p>	<p>Then...</p> <p>(1) Your accessory site is located in water depths of less than 200 meters; You must pay a rental of \$5 per acre per year with a minimum of \$450 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other facilities and devices associated with the accessory.</p> <p>(2) Your accessory site is located in water depths of 200 meters or greater; You must pay a rental of \$7.50 per acre per year with a minimum of \$675 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other facilities and devices associated with the accessory.</p>

(c) If you hold a pipeline right-of-way that includes a site for an accessory to your pipeline and you are not covered by paragraph (b) of this section, then you must pay MMS an annual rental of \$75 for use of the affected area.

(d) You may make the rental payments required by paragraphs (a), (b)(1), (b)(2), and (c) of this section on an annual basis, for a 5-year period, or for multiples of 5 years. You must make the first payment at the time you submit the pipeline right-of-way application. You must make all subsequent payments before the respective time periods begin.

(e) Late payments. An interest charge shall be assessed on unpaid and underpaid amounts from the date the amounts are due, in accordance with the provisions found in 30 CFR 218.54. If you fail to make a payment that is late after written notice from MMS, MMS may initiate cancellation of the right-of-use grant and easement under 30 CFR 250.1009(d).

[FR Doc. 03-30768 Filed 12-11-03; 8:45 am]  
BILLING CODE 4310-MR-P

## DEPARTMENT OF EDUCATION

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

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

AGENCY: Department of Education.

**ACTION:** Notice of waivers and modifications of statutory and regulatory provisions pursuant to the Higher Education Relief Opportunities for Students Act of 2003, Pub. L. 108-76.

**SUMMARY:** The Secretary of Education announces waivers and modifications of statutory and regulatory provisions that are appropriate to assist individuals (referred to in this notice as "affected individuals") who are applicants and recipients of student financial assistance under title IV of the Higher Education Act of 1965, as amended (HEA), and who—

- Are serving on active duty during a war or other military operation or national emergency;
  - Are performing qualifying National Guard duty during a war or other military operation or national emergency;
  - Reside or are 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.
- The Secretary is issuing these waivers and modifications under the authority of section 2(a) of the Higher Education Relief Opportunities for Students (HEROES) Act of 2003, Pub. L. 108-76. Section 2(b) of the HEROES Act requires the Secretary to publish, in a notice in the **Federal Register**, the waivers or modifications of statutory or regulatory provisions applicable to the student financial assistance programs under title IV of the HEA that the Secretary believes are appropriate to ensure that:

- Individuals who are recipients of student financial assistance under title IV are not placed in a worse position financially in relation to that student 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.

Section 2(b)(1) of 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 notice.

Section 5 of the HEROES Act defines the following terms used in this notice:

**Active duty**—The term “active duty” has the meaning given that term in 10 U.S.C. section 101(d)(1), but does not include active duty for training or attendance at a service school (e.g., the U.S. Military Academy or U.S. Naval Academy).

**Military operation**—The term “military operation” means a contingency operation as that term is defined in 10 U.S.C. section 101(a)(13).

**National emergency**—The term “national emergency” means a national emergency declared by the President of the United States.

**Serving on active duty**—The term “serving on active duty during a war or other military operation or national emergency” includes service by an individual who is—

(A) a Reserve member of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306, or any retired member of an Armed Force ordered to active duty under 10 U.S.C. 688, for service in connection with a war or other military operation or national emergency, regardless of the location at which that active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with any war, operation, or emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the individual is normally assigned.

**Qualifying National Guard duty**—The term “qualifying National Guard duty during a war or other military operation or national emergency” means service as a member of the National Guard on full-time National Guard duty (as defined in 10 U.S.C. 101(d)(5)) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f), in connection with a war, another military operation, or a national emergency declared by the President and supported by Federal funds.

Section 2(c) of the HEROES Act requires the Secretary to provide an impact report to the Committee on Education and the Workforce of the U.S. House of Representatives and the Committee on Health, Education, Labor, and Pensions of the U.S. Senate not later than 15 months after first exercising the authority to issue a waiver or modification under section 2(a) of the HEROES Act. The report will describe the impact of any waivers or modifications on affected individuals and the programs under title IV of the HEA, and the basis for that determination, and will include the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of the waivers or modifications. Therefore, a guaranty agency, lender, or institution must document its application of a waiver or modification made in accordance with this notice in such a manner that the institution can, upon request, report to the Secretary on the effect of the waivers and modifications.

**EFFECTIVE DATE:** December 12, 2003. The provisions of Pub. L. 108-76, and the waivers and modifications in this document, expire on September 30, 2005.

**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): Ms. Gail McLarnon or Mr. George Harris, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., (8th Floor), Washington, DC 20006. Internet and Telephone: [Gail.McLarnon@ed.gov](mailto:Gail.McLarnon@ed.gov) and (202) 219-

7048 or [GeorgeOPE.Harris@ed.gov](mailto:GeorgeOPE.Harris@ed.gov) and (202) 502-7521.

For other provisions: Ms. Wendy Macias, U.S. Department of Education, 1990 K Street, NW. (8th Floor), Washington, DC 20006. Internet and Telephone: [Wendy.Macias@ed.gov](mailto:Wendy.Macias@ed.gov) and (202) 502-7526.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:**

**Category 1:** The Secretary is waiving or modifying the following provisions of title IV of the HEA and the Department's regulations for ALL affected individuals specified in the **SUMMARY** section of this notice:

**Need Analysis**

Section 480 of the HEA provides that, in the calculation of an applicant's expected family contribution (EFC), the term “total income,” which is used in the determination of “annual adjusted family income” and “available income,” is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income. The HEROES Act allows an institution to substitute adjusted gross income 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 or the EFC based on the data from the first calendar year of the award year.

If an institution chooses to use the alternate EFC, it should use the administrative Professional Judgment procedures established by the Secretary as discussed in the following section on “Professional Judgment.”

**Professional Judgment**

Section 479A of the HEA specifically gives the financial aid administrator (FAA) the authority to use professional judgment to make adjustments on a case-by-case basis 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 Student Financial Aid Handbook.

The Secretary encourages FAAs to use professional judgment in order to reflect more accurately the financial need of affected individuals. To that end, the Secretary encourages institutions to determine need for any affected individual by determining the most beneficial of:

- The individual's need as determined using the adjusted gross income plus untaxed income and benefits received in the first calendar year of the award year;
- The individual's need as determined using professional judgment; or
- The individual's need as determined making no modifications. (For example, in some cases, an individual's income will increase as a result of serving on active duty or performing qualifying National Guard duty.)

The FAA must clearly document the reasons for any adjustment. As usual, any professional judgment decisions made by an FAA that affect a student's eligibility for a Federal Pell Grant must be reported to the Central Processing System (CPS).

**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)(ii) require a student to return or repay, as appropriate, 50 percent of any 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 an 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 an overpayment and does not take an action to resolve the overpayment; and
- Requires an institution to refer an overpayment to the Secretary under certain conditions.

Therefore, an institution is not required to contact the student, notify

NSLDS, or refer the overpayment to the Department. Note that this is a change from previous guidance that instructed institutions to refer these overpayments to the Department. 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 before paying any amount of the title IV credit balance to the student or parent, in the case of a PLUS loan.

**Return of Title IV Funds—Amount of Unearned Funds Owed by the Institution**

If the Return of Title IV Funds calculation results in the institution being required to return funds to one or more of the title IV programs, the institution must do so as it must for any student who withdraws. In many cases a return of funds by the institution will reduce the student's loan debt.

Section 484B(b)(1) of the HEA and 34 CFR 668.22(g) provide that an institution must return the lesser of (1) the total amount of unearned aid to be returned; or (2) an amount equal to the student's total institutional charges for the payment period or period of enrollment multiplied by the percentage of institutional charges is used even if the institution fully refunds or otherwise adjusts the amount of institutional charges after the student withdraws. For a student who withdraws because of his or her status as an affected individual, the Secretary is modifying this provision to exclude from the amount of a student's total institutional charges any institutional charges that the institution is required to cover, and has covered, with non-title IV sources of aid. For example, assume a student receives a state grant of \$800 that must be used only for tuition charges. The institution applies the state grant toward the total institutional charges of \$1,000. The student withdraws. The institution uses \$200, the difference between the full institutional charges and the amount of the state grant the institution was required to apply to the institutional charges, as the student's total institutional charges for the payment period or period of enrollment when determining the amount of unearned title IV funds that the institution must return.

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

34 CFR 668.57(a)(3) provides that when an individual whose income was used in the calculation of the EFC of an applicant for title IV assistance has not filed an income tax return because he or she has been granted a filing extension by the IRS, an institution must accept, in lieu of an income tax return for verification of AGI or 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 base year, or a copy of the IRS's approval of an extension beyond the automatic four-month extension if the individual requested an additional extension of the filing time; and
- A copy of each W-2 received for the base year, or for a self-employed individual, a statement signed by the individual certifying the amount of AGI for the base year.

The Secretary is modifying this provision so that the submission of a copy of IRS Form 4868 or a copy of the IRS extension approval is not required if an individual whose income was used in the calculation of the EFC:

- Has not filed and was not required to file an income tax return by the filing deadline 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
  - Was not required to file for an extension.
- For these individuals, an institution must accept, in lieu of an income tax return for verification of AGI or income tax paid:
- A statement from the individual certifying that he or she has not filed and was not required to file 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 base year, or for a self-employed individual, a statement signed by the individual certifying the amount of AGI for the base year.

The student must submit the tax return to the institution once it is filed with the IRS for the institution to re-verify the AGI and taxes paid.

Category 2: 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, 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 as described in the SUMMARY section of this notice:

**Return of Title IV Funds—  
Postwithdrawal Disbursements**

Under 34 CFR 668.22(a)(4)(ii)(A)(3) and (B), a student (or parent for a PLUS loan) must be provided a postwithdrawal disbursement if the student (or parent) responds to an institution's notification of the postwithdrawal disbursement within 14 days of the date that the institution sent the notice. If a student or parent submits a late response, an institution may, but is not required to, make the postwithdrawal 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 is eligible for a postwithdrawal 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. If the student or parent submits a response after the 45-day period, the institution may, but is not required to, make the postwithdrawal 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 postwithdrawal disbursement, or the institution chooses to make a postwithdrawal disbursement based on receipt of a late response, the institution must disburse the funds within 120 days of the date of the institution's determination that the student withdrew.

**Leaves of Absence**

34 CFR 668.22(d)(4)(iii)(B) requires a student 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, or at a later date if the student is prevented from providing a prior written request by unforeseen circumstances. 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. Therefore, the Secretary is waiving the requirement that the student provide a written request for affected individuals who would have difficulty providing a written request as a result of being an affected individual. 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 waiver be requested in writing.

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

Under 34 CFR 668.164(e), an institution must pay any credit balance to the student, or parent in the case of a PLUS loan, within 14 days after the balance occurred. However, if a student (or parent) has provided permission, an institution may use a title IV credit balance to reduce the borrower's loan debt.

Therefore, for students who withdraw because they are affected individuals, the Secretary is modifying 34 CFR 668.164(e) to consider an institution to have met the 14-day requirement if, within that timeframe, the institution attempts to contact the student to suggest that permission be given to the institution allowing it 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).

If an institution chooses to attempt to contact the student (or parent), it must allow the student (or parent) 45 days to respond. If there is no response within 45 days, the institution must promptly return the funds to the title IV programs. The institution may also choose to pay the credit balance to the student (or parent) without first requesting permission to return the funds to the loan program in order to reduce the borrower's debt.

**Cash Management—Borrower Request  
for Loan Cancellation**

Under 34 CFR 668.165(a)(4)(ii), an institution must return loan proceeds or cancel the loan, or both, if the institution receives a loan cancellation request from a borrower within 14 days after the date of the institution's notice to the borrower, or by the first day of the payment period if the institution sends the notice more than 14 days before the first day of the payment period. If an institution receives a late loan cancellation request from a borrower, the institution may, but is not required to, comply with the request. For a borrower who is an affected individual in this category, the Secretary is modifying this provision to require an institution to allow at least 60 days, rather than at least 14 days, for the borrower to request the cancellation of all or a portion of loan proceeds that

have been credited to the account at the institution. If an institution receives a loan cancellation request from a borrower after the 60-day period, the institution may, but is not required to, comply with the request.

**Cash Management—Student and Parent  
Authorizations**

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

- Disburse title IV funds to a bank account designated by the student or parent;
- Use title IV funds to pay for current charges other than tuition, fees, room, and board, if the student contracts with the school for 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 provisions to permit an institution to accept an authorization provided by a student (or parent for a 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.

**Satisfactory Academic Progress**

Institutions may, in cases where a student failed to meet 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(c)(3) of the regulations.

**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)(6), 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, not to exceed three years, 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, borrowers are entitled to another full six- or nine-month grace period, as applicable, upon completion of the excluded period of service.

The Secretary is modifying these statutory and regulatory provisions 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. Affected individuals in this category are also entitled to another full six- or nine-month grace period upon completion of the excluded period of service.

**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 school 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 provisions 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 or Graduate Fellowship Deferment**

Under sections 427(a)(2)(C)(i), 428(b)(1)(M)(i), 428B(a)(2), 428C(b)(4)(C), 455(f)(2)(A), and 464(c)(2)(A)(i)(I) of the HEA and 34 CFR 674.34(b)(1), 682.210(b)(1)(i) and (ii), 682.210(s)(2), 682.210(s)(3), and 685.204(b)(1)(i), 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; or 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 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 a graduate fellowship deferment or in-school deferment status for a period not to exceed three years during which the borrower is an affected individual. This period includes the time necessary for the borrower to resume his or her graduate fellowship 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 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 3-year cumulative limit on the length of forbearances that a Federal Perkins Loan borrower can receive. To assist Perkins 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 is excluded from the 3-year cumulative limit.

Under section 464(e) of the HEA and 34 CFR 674.33(d)(2) and (3), a school must receive a written 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 provisions 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 3-month "transition period" that immediately follows that period, 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 3-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 order to grant the borrower forbearance beyond the initial period, supporting documentation from the borrower, a member of the borrower's family, or another reliable source is required.

34 CFR 682.211(i)(1) requires an FFEL borrower who requests forbearance because of a military mobilization to 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 the borrower 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 that period, without providing the loan holder with documentation. In order to grant the borrower forbearance beyond this period, documentation supporting the borrower's military mobilization must be submitted to the holder of the loan.

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

**Collection of Defaulted Loans**

In accordance with 34 CFR Part 674, Subpart C-Due Diligence and 682.410, schools and guaranty agencies must attempt to recover amounts owed from defaulted Perkins and FFEL borrowers. 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. 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 must include the 3-month transition period. 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 of Education.

**Loan Cancellation**

Depending on the loan program, borrowers may qualify for loan

cancellation if they are employed full-time in specified occupations, such as teaching, childcare, or law enforcement, pursuant to sections 428(b)(1), 428K(d)(1), 460(b)(1)(A), and 465(a)(2)(A)-(I) and (a)(3) of the HEA, and 34 CFR 674.53(d), 674.55(a)(2), 674.55(b)(5), 674.55(c)(2), 674.56(d)(1), 674.57(b)(1), 674.58(b), 674.60(b), 682.215, 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 5 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 and/or consecutive, if the reason for the interruption is related to the borrower's status as an affected individual. Therefore, the period during which the borrower is an affected individual in this category, including the 3-month transition period, will not be considered an interruption in the required service for the borrower to receive an otherwise eligible loan cancellation. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

**Rehabilitation of Defaulted Loans**

A borrower of an HEA, title IV loan must make 12 consecutive, monthly, on-time payments to rehabilitate a defaulted loan in accordance with sections 428F(a) and 464(h)(1) of the HEA and 34 CFR 674.39(a)(2), 682.405, and 685.211(f)(1). 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 be consecutive. Loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category, or the 3-month transition period, as an interruption in the number of consecutive, monthly, on-time payments required for loan rehabilitation. When the borrower is no longer considered to be an affected individual in this category, 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 of Education.

**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, monthly, on-time 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 in order 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 as an interruption in the six consecutive, monthly, on-time payments required for reestablishing title IV eligibility. When the borrower is no longer considered to be an affected individual or in the 3-month transition period for purposes of this notice, 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 of Education.

**Consolidation of Defaulted Loans**

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 FFEL or Direct Loan borrower may establish eligibility to consolidate a defaulted loan by making three consecutive, monthly, on-time 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, monthly, on-time payments required for establishing eligibility to consolidate a defaulted loan. When the borrower is no longer considered to be an affected individual in this category or in the 3-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 of Education.

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 as described in the SUMMARY section of this notice:

**Military Deferment**

Under section 455(f)(4) of the HEA and 34 CFR 674.35(c)(1), 674.36(c)(1), 674.37(c)(1), 682.210(b)(2), and 685.204(d), certain borrowers are eligible for a deferment on their title IV loans for periods, not to exceed 3 years, during which the borrower is on active duty status in the United States Armed Forces. This provision includes a member of the National Guard or the Reserves serving a period of full-time active duty in the Armed Forces. The Secretary is modifying the statutory and regulatory requirements that limit military deferments to a 3-year cumulative period so that the time during which affected individuals in this category are serving on active duty is excluded from this time limit. The Secretary will pay interest that accrues on subsidized Stafford Loans during an extended period of deferment under this modification.

Under 34 CFR 674.38(a)(1) and 682.210(a)(4), a borrower must request the deferment and provide the institution or lender with supporting documentation to receive a deferment. The Secretary is modifying the regulations to allow a loan holder to grant an affected individual in this category a military deferment based on a request from a family member or another reliable source. The Secretary is also waiving documentation requirements to allow a loan holder to grant an affected individual in this category a military deferment for a one-year period without documentation. In order to grant a military deferment beyond the initial period, supporting documentation from the borrower, a member of the borrower's family, or another reliable source is required. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

**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 such students who are affected

individuals in this category. Specifically, institutions are urged to minimize deferral of enrollment or reapplication requirements and to provide the greatest flexibility possible with administrative deadlines related to those applications.

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.

However, 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 regulations for dependents and 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 as described in the SUMMARY section of this notice:

**Verification Signature Requirements**

34 CFR 668.57(b) and (c) require signatures to verify the number of family members in the household and the number of family members enrolled in postsecondary institutions. The Secretary is waiving the requirement that a dependent student submit a statement signed by one of the applicant's parents when no responsible parent can provide the required signature because of the parent's status as an affected individual in this category.

**Required Signatures on the Free Application for Federal Student Aid (FAFSA), Student Aid Report (SAR), and Institutional Student Information Record (ISIR)**

Generally, when a dependent applicant for title IV aid submits an application (FAFSA) or submits corrections to a previously submitted application, at least one parental signature is required. The Secretary is waiving this requirement so that an applicant need not provide a parent's signature when there is no responsible

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.

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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.

Program Authority: 20 U.S.C. 1071, 1082, 1087a, 1087aa, Pub. L. 108-76.

Dated: December 8, 2003.

Sally L. Stroup,  
Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03-30781 Filed 12-11-03; 8:45 am]  
BILLING CODE 4000-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 296-0427; FRL-7594-2]

**Interim Final Determination To Stay and Defer Sanctions, South Coast Air Quality Management District**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination to stay and defer imposition of sanctions based on a proposed approval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP) published elsewhere in today's Federal Register. The revisions concern SCAQMD Rule 1168.

**DATES:** This interim final determination is effective on December 12, 2003. However, comments will be accepted until January 12, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted rule revisions, EPA's technical support document (TSD), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted rule revisions by appointment at the following locations: Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdb1.txt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Fong, EPA Region IX, (415) 947-4117, [fong.yvonne@epa.gov](mailto:fong.yvonne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

**I. Background**

On April 26, 2002 (67 FR 20645), we published a limited approval and limited disapproval of SCAQMD Rule 1168. Table 1 lists the rule addressed by our prior limited approval and disapproval with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

# Appendix III: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Ms. Cornelia M. Ashby  
Director, Education, Workforce  
and Income Security Issues  
United States Government Accountability Office  
Washington, DC 20548

OCT 17 2006

Dear Ms. Ashby:

Thank you for the opportunity to review and provide comments on the U.S. Government Accountability Office's (GAO) draft report entitled "More Information Could Help Education Determine the Extent to Which Eligible Servicemembers Serving on Active Duty Benefited from Relief Provided by Lenders and Schools" (GAO-07-11). We appreciate GAO's examination of the U.S. Department of Education's (Department's) efforts to provide relief to students and student loan borrowers called to active duty. We also appreciate your suggestion with regard to a study to assess the impact of the waivers and modifications provided by the Department.

The report accurately describes the steps that the Department has taken, under the Higher Education Relief Opportunities for Students (HEROES) Act, to provide relief to members of our nation's armed forces who have been called to active duty. Specifically, the Department issued waivers and modifications to the federal student aid programs to minimize the financial impact and administrative burden for service members called to active duty. Under the waivers and modifications, institutions and lenders could more easily suspend or postpone loan payments. More significantly, under the modifications, borrowers who were called to active duty while still enrolled in postsecondary education were not required to begin repaying their student loans until they returned from active duty. These waivers provided significant relief to service members who qualified for these benefits.

With regard to the mandated study, the Department continues to give serious consideration to how to conduct a study of borrowers in repayment under the Federal student loan programs to determine the extent to which they were eligible for and received the benefits provided by HEROES. There are several challenges. If we study a nationally representative sample of borrowers in the federal student loan programs, the HEROES beneficiaries would represent a relatively small subset of student loan borrowers. In addition, the active duty service members that are of policy interest in this study are, in many cases, difficult to locate and contact, deployed in areas such as Iraq or Afghanistan.

The alternative suggested by GAO has merit. It would require the Department to obtain sensitive national security information from the Department of Defense (DoD). While we have great confidence and trust in our employees and contractors, and believe that our Information Technology security measures are of the highest quality, we do not believe

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Page 2 – Ms. Cornelia M. Ashby

that the Department should be given this highly sensitive information for an analytical purpose.

If such a study were to be conducted, we believe that it should be conducted by DoD with the Department providing a data extract from the National Student Loan Data System. DoD could then provide the Department with the results of the match recommended by the GAO with personally identifying information removed from the data file. We will explore this possibility further after discussions with the authorizing committees and DoD.

We appreciate the data that GAO collected from institutions, and we would like to receive the data file from GAO, if possible, with institutional identifying information removed, to conduct further analysis on this and related issues. Please contact David Bergeron, Director of Policy and Budget Development, at 202-502-7815, to make necessary arrangements to facilitate our receiving the data.

Again, we appreciate the opportunity to review the draft report.

Sincerely,



James F. Manning  
Acting Assistant Secretary

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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Cornelia M. Ashby, Director, (202) 512-7215, ashbyc@gao.gov

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## Staff

Sherri Doughty, Assistant Director

## Acknowledgments

Debra Prescott, Analyst-in-Charge

Summer Pachman, Senior Analyst

In addition to those named above, Avrum Ashery, Susan Bernstein, Karen Burke, Nancy Hess, Kevin Jackson, Jean McSween, John Mingus, Jim Rebbe, and Rachael Valliere made significant contributions to this report.

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