

§ 674.59

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(3) The Head Start program in which the borrower serves must operate for a complete academic year, or its equivalent.

(4) In order to qualify for cancellation, the borrower's salary may not exceed the salary of a comparable employee working in the local educational agency of the area served by the local Head Start program.

(b) The cancellation rate is 15 percent of the original loan principal, plus the interest on the unpaid balance accruing during the year of qualifying service, for each complete academic year, or its equivalent, of full-time teaching service.

(c)(1) "Head Start" is a preschool program carried out under the Head Start Act (subchapter B, chapter 8 of title VI of Pub. L. 97-35, the Budget Reconciliation Act of 1981, as amended; formerly authorized under section 222(a)(1) of the Economic Opportunity Act of 1964). (42 U.S.C. 2809 (a) (1))

(2) "Full-time staff member" is a person regularly employed in a full-time professional capacity to carry out the educational part of a Head Start program.

(Authority: 20 U.S.C. 425)

[52 FR 45758, Dec. 1, 1987. Redesignated and amended at 59 FR 61413, 61415, Nov. 30, 1994; 64 FR 58314, Oct. 28, 1999]

§ 674.59 Cancellation for military service.

(a) *Cancellation on a Defense loan.* (1) An institution shall cancel up to 50 percent of a Defense loan made after April 13, 1970, for the borrower's full-time active service starting after June 30, 1970, in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard.

(2) The cancellation rate is 12½ percent of the original loan principal, plus the interest on the unpaid balance accruing during the year of qualifying service, for the first complete year of qualifying service, and for each consecutive year of qualifying service.

(3) Service for less than a complete year, including any fraction of a year beyond a complete year of service, does not qualify for military cancellation.

(b) *Cancellation of an NDSL or Perkins loan.* (1) An institution shall cancel up

to 50 percent of an NDSL or Perkins loan for service as a member of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard in an area of hostilities that qualifies for special pay under section 310 of title 37 of the United States Code.

(2) The cancellation rate is 12½ percent of the original loan principal, plus the interest on the unpaid balance accruing during the year of qualifying service, for each complete year of qualifying service.

(3) Service for less than a complete year, including any fraction of a year beyond a complete year of service, does not qualify for military cancellation.

(Authority: 20 U.S.C. 425(b)(3) and 1087ee)

[52 FR 45758, Dec. 1, 1987. Redesignated at 59 FR 61413, Nov. 30, 1994]

§ 674.60 Cancellation for volunteer service—Perkins loans, NDSLs and Defense loans.

(a)(1) An institution must cancel up to 70 percent of the outstanding balance on a Perkins loan, and 70 percent of the outstanding balance of an NDSL made on or after October 7, 1998, for service as a volunteer under The Peace Corps Act or The Domestic Volunteer Service Act of 1973 (ACTION programs).

(2) An institution must cancel up to 70 percent of the outstanding balance on an NDSL or Defense loan for service as a volunteer under The Peace Corps Act or The Domestic Volunteer Service Act of 1973 (ACTION programs) performed on or after October 7, 1998, if the cancellation benefits provided under this section are not included in the terms of the borrower's promissory note.

(b) Cancellation rates are—

(1) Fifteen percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for each of the first and second twelve-month periods of service;

(2) Twenty percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for each

of the third and fourth twelve-month periods of service.

(Authority: 20 U.S.C. 1087ee)

[52 FR 45758, Dec. 1, 1987, as amended at 57 FR 32347, July 21, 1992. Redesignated at 59 FR 61413, Nov. 30, 1994, as amended at 64 FR 58314, Oct. 28, 1999]

§ 674.61 Cancellation for death or disability.

(a) *Death.* An institution must discharge the unpaid balance of a borrower's Defense, NDSL, or Perkins loan, including interest, if the borrower dies. The institution must discharge the loan on the basis of an original or certified copy of the death certificate. Under exceptional circumstances and on a case-by-case basis, the chief financial officer of the institution may approve a discharge based upon other reliable documentation supporting the discharge request.

(b) *Total and permanent disability.* (1) If the Secretary has made an initial determination that the borrower is totally and permanently disabled, as defined in §674.51(s), the loan is conditionally discharged for up to three years from the date that the borrower became totally and permanently disabled, as certified by a physician. The Secretary suspends collection activity on the loan from the date of the initial determination of total and permanent disability until the end of the three-year conditional period. If the borrower satisfies the criteria for a total and permanent disability discharge during and at the end of the conditional discharge period, the balance of the loan is discharged at the end of the conditional discharge period and any payments received after the date the borrower became totally and permanently disabled as certified under §674.61(b)(3) are returned to the sender.

(2) A borrower satisfies the criteria for a discharge of a loan based on a total and permanent disability if, during and at the end of the three-year conditional discharge period described in paragraph (b)(1) of this section—

(i) The borrower's annual earnings from employment do not exceed 100 percent of the poverty line for a family of two, as determined in accordance with the Community Service Block Grant Act; and

(ii) The borrower does not receive a new loan under the Perkins, FFEL or Direct Loan programs, except for a FFEL or Direct Consolidation Loan that does not include any loans that are in a conditional discharge status.

(3) If a borrower becomes totally and permanently disabled after receiving a Defense, NDSL, or Perkins loan, the institution must assign the loan to the Secretary if the borrower submits a certification by a physician and the institution reviewed the application and determined that it is complete and that it supports the conclusion that the borrower has a total and permanent disability as defined in §674.51(s).

(4) At the time the loan is assigned to the Secretary the institution must notify the borrower that the loan has been assigned to the Secretary for determination of eligibility for a total and permanent disability discharge.

(5) If the Secretary determines that the certification provided by the borrower does not support the conclusion that the borrower meets the criteria for a total and permanent disability discharge, the Secretary notifies the borrower that the application for a disability discharge has been denied, and that the loan is due and payable under the terms of the promissory note.

(6) If the Secretary makes an initial determination that the borrower is totally and permanently disabled, the Secretary notifies the borrower that the loan will be in a conditional discharge status for a period of up to three years after the date the borrower became totally and permanently disabled as certified under §674.61(b)(3). This notification identifies the conditions of the conditional discharge period specified in paragraphs (b)(6) through (b)(9) of this section and specifies that all or part of the three-year period may predate the Secretary's initial determination.

(7) During the conditional discharge period, the borrower—

(i) Is not required to make any payments on the loan;

(ii) Is not considered past due or in default on the loan, unless the loan was past due or in default at the time the conditional discharge was granted;