

(a) *The borrower has a valid defense on the loan.* The Secretary refrains from collection against the borrower or endorser to the extent of any defense that the Secretary concludes is valid. Examples of a valid defense include expiration of the statute of limitations and infancy.

(b) *A school owes the borrower a refund for the period covered by the loan.* In this situation, the Secretary refrains from collection to the extent of the unpaid refund if the borrower assigns to the Secretary the right to receive the refund.

(c) *The school or lender or holder is the subject of a lawsuit or Federal administrative proceeding.* In this situation, if the Secretary determines that the proceeding involves allegations that, if proven, would provide the borrower with a full or partial defense on the loan, then the Secretary may suspend collection activity on all or part of a loan until the proceeding ends. The Secretary suspends collection activity only for so long as the proceeding is being energetically prosecuted in good faith and the allegations that relate to the borrower's defense are reasonably likely to be proven.

(d) *The borrower dies or becomes totally and permanently disabled.* In this situation, the Secretary terminates all collection activity against the borrower. If the borrower dies or becomes totally and permanently disabled, the Secretary also terminates all collection activity against any endorser.

[48 FR 38988, Aug. 26, 1983, as amended at 52 FR 747, Jan. 8, 1987; 57 FR 28795, June 29, 1992]

#### § 60.21 Refunds.

(a) *Student authorization.* By applying for a HEAL loan, a student authorizes a participating school to make payment of a refund that is allocable to a HEAL loan directly to the original lender (or to a subsequent holder of the loan note, if the school has knowledge of the holder's identity).

(b) *Treatment by lenders or holders.* (1) A holder of a HEAL loan must treat a refund payment received from a HEAL school as a downward adjustment in the principal amount of the loan.

(2) When a lender receives a school refund check for a loan it no longer holds, the lender must transfer that

payment to the holder of the loan and either inform the borrower about the refund check and where it was sent or, if the borrower's address is unknown, notify the current holder that the borrower was not informed. The current holder must provide the borrower with a written notice of the refund payment.

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[48 FR 38988, Aug. 26, 1983, as amended at 57 FR 28795, June 29, 1992]

### Subpart D—The Lender and Holder

#### § 60.30 Which organizations are eligible to apply to be HEAL lenders and holders?

(a) A HEAL lender may make and hold loans under the HEAL program.

(b) The following types of organizations are eligible to apply to the Secretary to be HEAL lenders:

(1) A financial or credit institution (including a bank, savings and loan association, credit union, or insurance company) which is subject to examination and supervision in its capacity as a lender by an agency of the United States or of the State in which it has its principal place of business;

(2) A pension fund approved by the Secretary;

(3) An agency or instrumentality of a State;

(4) A HEAL school; and

(5) A private nonprofit entity, designated by the State, regulated by the State, and approved by the Secretary.

(c) The following types of organizations are eligible to apply to the Secretary to be HEAL holders:

(1) Public entities in the business of purchasing student loans;

(2) The Student Loan Marketing Association (popularly known as "Sallie Mae"); and

(3) Other eligible lenders.

(d) HEAL holders must comply with any provisions in the regulations required of HEAL lenders including, but not limited to, provisions regarding applications, contracts, and due diligence.

[48 FR 38988, Aug. 26, 1983, as amended at 57 FR 28795, June 29, 1992]