

loan. It must also indicate the amount of each repayment credited to principal, interest, collection costs, and either penalty or late charges.

(ii) The history must also show the date, nature, and result of each contact with the borrower in the collection of an overdue loan. The institution shall include in the repayment history copies of all correspondence to or from the borrower, except bills, routine overdue notices, and routine form letters.

(3) *Period of retention of repayment records.* An institution shall retain repayment records, including cancellation and deferment requests, for at least three years from the date on which a loan is assigned to the Department of Education, canceled, or repaid.

(4) *Manner of retention of promissory notes and repayment schedules.* An institution shall keep the original promissory notes and repayment schedules until the loans are satisfied. If required to release original documents in order to enforce the loan, the institution must retain certified true copies of those documents.

(i) An institution shall keep the original paper promissory note or original paper Master Promissory Note (MPN) and repayment schedules in a locked, fireproof container.

(ii) If a promissory note was signed electronically, the institution must store it electronically and the promissory note must be retrievable in a coherent format.

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

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

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

(Approved by the Office of Management and Budget under control number 1845-0019)

(Authority: 20 U.S.C. 1087cc, 1087hh, 1094, and 1232f)

[52 FR 45747, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988; 57 FR 32345, July 21, 1992; 59 FR 61408, 61415, Nov. 30, 1994; 59 FR 61722, Dec. 1, 1994; 60 FR 61814, Dec. 1, 1995; 61 FR 60492, Nov. 27, 1996; 62 FR 50847, Sept. 26, 1997; 64 FR 58315, Oct. 28, 1999; 67 FR 67076, Nov. 1, 2002]

**§ 674.20 Compliance with equal credit opportunity requirements.**

(a) In making a loan, an institution shall comply with the equal credit opportunity requirements of Regulation B (12 CFR part 202).

(b) The Secretary considers the Federal Perkins Loan program to be a credit assistance program authorized by Federal law for the benefit of an economically disadvantaged class of persons within the meaning of 12 CFR 202.8(a)(1). Therefore, the institution may request a loan applicant to disclose his or her marital status, income from alimony, child support, and spouse's income and signature.

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(Authority: 20 U.S.C. 1087aa-1087hh)

[52 FR 45747, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988; 59 FR 61415, Nov. 30, 1994; 64 FR 58315, Oct. 28, 1999]

**Subpart B—Terms of Loans**

SOURCE: 52 FR 45754, Dec. 1, 1987, unless otherwise noted.

**§ 674.31 Promissory note.**

(a) *Promissory note.* (1) An institution may use only the promissory note that the Secretary provides. The institution may make only nonsubstantive changes, such as changes to the type style or font, or the addition of items such as the borrower's driver's license number, to this note.

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(2)(i) The institution shall print the note on one page, front and back; or

(ii) The institution may print the note on more than one page if—

(A) The note requires the signature of the borrower on each page; or

(B) Each page of the note contains both the total number of pages in the complete note as well as the number of each page, e.g., page 1 of 4, page 2 of 4, etc.

(iii) The promissory note must state the exact amount of the minimum monthly repayment amount if the institution chooses the option under § 674.33(b).

(b) *Provisions of the promissory note—*

(1) *Interest.* The promissory note must state that—

(i) The rate of interest on the loan is 5 percent per annum on the unpaid balance; and

(ii) No interest shall accrue before the repayment period begins, during certain deferment periods as provided by this subpart, or during the grace period following those deferments.

(2) *Repayment.* (i) Except as otherwise provided in § 674.32, the promissory note must state that the repayment period—

(A) For NDSLs made on or after October 1, 1980, begins 6 months after the borrower ceases to be at least a half-time regular student at an institution of higher education or a comparable institution outside the U.S. approved for this purpose by the Secretary, and normally ends 10 years later;

(B) For NDSLs made before October 1, 1980 and Federal Perkins Loans, begins 9 months after the borrower ceases to be at least a half-time regular student at an institution of higher education or a comparable institution outside the U.S. approved for this purpose by the Secretary, and normally ends 10 years later;

(C) For purposes of establishing the beginning of the repayment period for NDSL or Perkins loans, the 6- and 9-month grace periods referenced in paragraph (b)(2)(i) of this section exclude any period during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of Title 10, United States Code is called or ordered to active duty for a period of more than 30

days. Any single excluded period may not exceed three years and includes the time necessary for the borrower to resume enrollment at the next available regular enrollment period. Any Direct or Perkins loan borrower who is in a grace period when called or ordered to active duty as specified in this paragraph is entitled to a new 6- or 9-month grace period upon completion of the excluded period.

(D) May begin earlier at the borrower's request; and

(E) May vary because of minimum monthly repayments (see § 674.33(b)), extensions of repayment (see § 674.33(c)), forbearance (see § 674.33(d)), or deferments (see §§ 674.34, 674.35, and 674.36);

(ii) The promissory note must state that the borrower shall repay the loan—

(A) In equal quarterly, bimonthly, or monthly amounts, as the institution chooses; or

(B) In graduated installments if the borrower requests a graduated repayment schedule, the institution submits the schedule to the Secretary for approval, and the Secretary approves it.

(3) *Cancellation.* The promissory note must state that the unpaid principal, interest, collection costs, and either penalty or late charges on the loan are canceled upon the death or permanent and total disability of the borrower.

(4) *Prepayment.* The promissory note must state that—

(i) The borrower may prepay all or part of the loan at any time without penalty;

(ii) The institution shall use amounts repaid during the academic year in which the loan was made to reduce the original loan amount and not consider these amounts to be prepayments;

(iii) If the borrower repays amounts during the academic year in which the loan was made and the initial grace period ended, only those amounts in excess of the amount due for any repayment period shall be treated as prepayments; and

(iv) If, in an academic year other than that described in paragraph (b)(4)(iii) of this section, a borrower repays more than the amount due for any repayment period, the institution shall use the excess to prepay the principal

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unless the borrower designates it as an advance payment of the next regular installment.

(5) *Late charge.* (i) An institution shall state in the promissory note that the institution will assess a late charge if the borrower does not—

(A) Repay all or part of a scheduled repayment when due; or

(B) File a timely request for cancellation or deferment with the institution. This request must include sufficient evidence to enable the institution to determine whether the borrower is entitled to a cancellation or deferment.

(ii)(A) The amount of the late charge on a Federal Perkins Loan or an NDSL Loan made to cover the cost of attendance for a period of enrollment that began on or after January 1, 1986 must be determined in accordance with §674.43(b) (2), (3) and (4).

(B) The amount of the late or penalty charge on an NDSL made for periods of enrollment that began before January 1, 1986 may be—

(1) For each overdue payment on a loan payable in monthly installments, a maximum monthly charge of \$1 for the first month and \$2 for each additional month.

(2) For each overdue payment on a loan payable in bimonthly installments, a maximum bimonthly charge of \$3.

(3) For each overdue payment on a loan payable in quarterly installments, a maximum charge per quarter of \$6. (See appendix E of this part)

(iii) The institution may—

(A) Add either the penalty or late charge to the principal the day after the scheduled repayment was due; or

(B) Include it with the next scheduled repayment after the borrower receives notice of the late charge.

(6) *Security and endorsement.* The promissory note must state that the loan shall be made without security and endorsement.

(7) *Assignment.* The promissory note must state that a note may only be assigned to—

(i) The United States or an institution approved by the Secretary; or

(ii) An institution to which the borrower has transferred if that institution is participating in the Federal Perkins Loan program.

(8) *Acceleration.* The promissory note must state that an institution may demand immediate repayment of the entire loan, including any late charges, collection costs and accrued interest, if the borrower does not—

(i) Make a scheduled repayment on time; or

(ii) File cancellation or deferment form(s) with the institution on time.

(9) *Cost of collection.* The promissory note must state that the borrower shall pay all attorney's fees and other loan collection costs and charges.

(10) *Disclosure of information.* The promissory note must state that—

(i) The institution must disclose to at least one national credit bureau the amount of the loan made to the borrower, along with other relevant information.

(ii) If the borrower defaults on the loan, the institution shall disclose that the borrower has defaulted on the loan, along with other relevant information, to the same national credit bureau to which it originally reported the loan; and

(iii) If the borrower defaults on the loan and the loan is assigned to the Secretary for collection, the Secretary may disclose to a national credit bureau that the borrower has defaulted on the loan, along with other relevant information.

(Approved by the Office of Management and Budget under control number 1845-0019)

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

[52 FR 45754, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988; 57 FR 32345, July 21, 1992; 59 FR 61408, 61415, Nov. 30, 1994; 60 FR 61814, Dec. 1, 1995; 62 FR 50848, Sept. 26, 1997; 64 FR 58309, Oct. 28, 1999]

§ 674.32 Special terms: loans to less than half-time student borrowers.

(a) The promissory note used with regard to loans to borrowers enrolled on a less than half-time basis must state that the repayment period begins—

(1) On the date of the next scheduled installment payment on any outstanding loan to the borrower; or

(2) If the borrower has no outstanding loan, at the earlier of—

(i) Nine months from the date the loan was made, or

(ii) The end of a nine-month period that includes the date the loan was