

Off. of Postsecondary Educ., Education

§ 674.9

paragraph (a)(1) of this section in award year 1993-94; and

(ii) ICC equal to at least one-third of the FCC described in paragraph (a)(1) of this section in award year 1994-95 and succeeding award years;

(3) ICC equal to the amount of FCC described in paragraph (a)(1) of § 674.7 for an institution that has been granted permission by the Secretary to participate in the ELO under the Federal Perkins Loan program;

(4) Payments of principal, interest, late charges, penalty charges, and collection costs on loans from the Fund;

(5) Payments to the institution as the result of loan cancellations under section 465(b) of the Act;

(6) Any other earnings on assets of the Fund, including the interest earnings of the funds listed in paragraphs (a)(1) through (4) of this section net of bank charges incurred with regard to Fund assets deposited in interest-bearing accounts; and

(7) Proceeds of short-term no-interest loans made to the Fund in anticipation of collections or receipt of FCC.

(b) The institution shall use the money in the Fund only for—

(1) Making loans to students;

(2) Administrative expenses as provided for in 34 CFR 673.7;

(3) Capital distributions provided for in section 466 of the Act;

(4) Litigation costs (see § 674.47);

(5) Other collection costs, agreed to by the Secretary in connection with the collection of principal, interest, and late charges on a loan made from the Fund (see § 674.47); and

(6) Repayment of any short-term, no-interest loans made to the Fund by the institution in anticipation of collections or receipt of FCC.

(c) The institution shall submit an annual report to the Secretary containing information that determines its cohort default rate that includes—

(1) For institutions in which 30 or more of its current or former students first entered repayment in an award year—

(i) The total number of borrowers who first entered repayment in the award year; and

(ii) The number of those borrowers in default by the end of the following award year; or

(2) For institutions in which less than 30 of its current or former students entered repayment in an award year—

(i) The total number of borrowers who first entered repayment in any of the three most recent award years; and

(ii) The number of those borrowers in default before the end of the award year immediately following the year in which they entered repayment.

(d)(1) If an institution determines not to service or collect a loan, the institution may assign its rights to the loan to the United States without recompense at the beginning of a repayment period; or

(2) If a loan is in default despite due diligence on the part of the institution in collecting the loan, the institution may assign its rights to the loan to the United States without recompense.

(e) To assist institutions in collecting outstanding loans, the Secretary provides to an institution the names and addresses of borrowers or other information relevant to collection which is available to the Secretary.

(f) The institution shall provide the loan information required by section 463A of the HEA to a borrower.

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

(Authority: 20 U.S.C. 1087cc, 1087cc-1, 1094)

[52 FR 45747, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988; 57 FR 32344, July 21, 1992; 59 FR 61407, 61415, Nov. 30, 1994; 61 FR 60396, Nov. 27, 1996; 64 FR 58315, Oct. 28, 1999]

§ 674.9 Student eligibility.

A student at an institution of higher education is eligible to receive a loan under the Federal Perkins Loan program for an award year if the student—

(a) Meets the relevant eligibility requirements contained in 34 CFR 668.32;

(b) Is enrolled or accepted for enrollment as an undergraduate, graduate, or professional student at the institution, whether or not engaged in a program of study abroad approved for credit by the home institution;

(c) Has financial need as determined in accordance with part F of title IV of the HEA. A member of a religious order (an order, community, society, agency, or organization) who is pursuing a course of study at an institution of

§ 674.9

34 CFR Ch. VI (7-1-03 Edition)

higher education is considered to have no financial need if that religious order-

(1) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(2) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(3) Directs the member to pursue the course of study or provides subsistence support to its members;

(d) Has received for that award year, if an undergraduate student—

(1) A SAR as a result of applying for a grant under the Federal Pell Grant Program; or

(2) A preliminary determination of eligibility or ineligibility for a Federal Pell Grant by the institution's financial aid administrator after applying for a SAR with a Federal Pell Grant Processor;

(e) Is willing to repay the loan. Failure to meet payment obligations on a previous loan is evidence that the student is unwilling to repay the loan;

(f) Provides to the institution a driver's license number, if any, at the time of application for the loan;

(g)(1) In the case of a borrower whose prior loan under title IV of the Act was discharged after a final determination of total and permanent disability, obtains a certification from a physician that the borrower is able to engage in substantial gainful activity;

(2) Signs a statement acknowledging that any new Federal Perkins or NDSL the borrower received cannot be discharged in the future on the basis of any present impairment, unless that condition substantially deteriorates; and

(3) In the case of a borrower whose previous loan under title IV of the HEA was discharged due to a total and permanent disability on or after July 1, 2001 and before July 1, 2002, meets the requirements of (g)(1) and (g)(2) of this section. If the borrower applies for another loan within three years from the date the borrower became totally and permanently disabled, as certified by the physician, the borrower must reaffirm the previously discharged loan before receiving the new loan; and

(h) In the case of a borrower whose previous loan under title IV of the HEA was conditionally discharged based on an initial determination that the borrower was totally and permanently disabled, the borrower must—

(1) Comply with the requirements of paragraphs (h)(1) and (h)(2) of this section; and

(2) Sign a statement acknowledging that—

(i) The loan that has been conditionally discharged prior to a final determination of total and permanent disability cannot be discharged in the future on the basis of any impairment present when the borrower applied for a total and permanent disability discharge or when a new loan is made, unless that impairment substantially deteriorates; and

(ii) Collection activity will resume on any loan in a conditional discharge period, as described in §674.61(b)(9).

(i) Does not have any loans under title IV of the HEA on which collection activity has been suspended based on a conditional determination that the borrower was totally and permanently disabled. If a borrower applies for a loan under title IV of the HEA during the conditional discharge period described in §§674.61(b), 682.402(c), or 685.213(a), the suspension of collection activity must be ended before the borrower becomes eligible to receive any additional loans.

(j) In the case of a borrower who is in default on a Federal Perkins Loan, NDSL or Defense loan, satisfies one of the conditions contained in §674.5(c)(3)(i) or (ii) except that—

(1) For purposes of this section, voluntary payments made by the borrower under paragraph (i) of this section are those payments made directly by the borrower; and

(2) Voluntary payments do not include payments obtained by Federal offset, garnishment, or income or asset execution.

(k) For purposes of this section, reaffirmation means the acknowledgment of the loan by the borrower in a legally binding manner. The acknowledgement may include, but is not limited to, the borrower—

(1) Signing a new promissory note or new repayment agreement; or

(2) Making a payment on the loan.

(Authority: 20 U.S.C. 1087aa, 1087dd, and 1091)
 [52 FR 45747, Dec. 1, 1987, as amended at 59 FR 61407, 61415-61416, Nov. 30, 1994; 60 FR 34167, June 30, 1995; 62 FR 50847, Sept. 26, 1997; 64 FR 58309, Oct. 28, 1999; 65 FR 65690, Nov. 1, 2000; 66 FR 44006, Aug. 21, 2001; 67 FR 67076, Nov. 1, 2002]

§ 674.10 Selection of students for loans.

(a)(1) An institution shall make loans under this part reasonably available, to the extent of available funds, to all students eligible under §674.9 but shall give priority to those students with exceptional financial need.

(2) The institution shall define exceptional financial need for the purpose of the priority described in paragraph (a)(1) of this section and shall develop procedures for implementing that priority.

(b) If an institution's allocation of Federal Capital Contribution is directly or indirectly based in part on the financial need demonstrated by students attending the institution as less-than-full-time or independent students, a reasonable portion of the dollar amount of loans made under this part must be offered to those students.

(c) The institution shall establish selection procedures and these procedures must be—

- (1) In writing;
- (2) Uniformly applied; and
- (3) Maintained in the institution's files.

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

[52 FR 45747, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988; 59 FR 61407, Nov. 30, 1994; 64 FR 58292, 58315, Oct. 28, 1999]

§ 674.11 [Reserved]

§ 674.12 Loan maximums.

(a) The maximum annual amount of Federal Perkins Loans and NDSLs an eligible student may borrow is—

- (1) \$4,000 for a student who is enrolled in a program of undergraduate education; and
- (2) \$6,000 for a graduate or professional student.

(b) The aggregate unpaid principal amount of all Federal Perkins Loans

and NDSLs received by an eligible student may not exceed—

(1) \$20,000 for a student who has successfully completed two years of a program leading to a bachelor's degree but who has not received the degree;

(2) \$40,000 for a graduate or professional student; and

(3) \$8,000 for any other student.

(c) The maximum annual amounts described in paragraph (a) of this section and the aggregate maximum amounts described in paragraph (b) of this section may be exceeded by 20 percent if the student is engaged in a program of study abroad that is approved for credit by the home institution at which the student is enrolled and that has reasonable costs in excess of the home institution's cost of attendance.

(d) For each student, the maximum annual amounts described in paragraphs (a) and (c) of this section, and the aggregate maximum amounts described in paragraphs (b) and (c) of this section, include any amounts borrowed previously by the student under title IV, part E of the HEA at any institution.

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

[59 FR 61407, Nov. 30, 1994, as amended at 64 FR 58309, Oct. 28, 1999]

§ 674.13 Reimbursement to the Fund.

(a) The Secretary may require an institution to reimburse its Fund in an amount equal to that portion of the outstanding balance of—

(1) A loan disbursed by the institution to a borrower in excess of the amount that the borrower was eligible to receive, as determined on the basis of information the institution had, or should have had, at the time of disbursement; or

(2) Except as provided in paragraph (b) of this section, a defaulted loan with regard to which the institution failed—

(i) To record or retain the loan note in accordance with the requirements of this part;

(ii) To record advances on the loan note in accordance with the requirements of this part; or

(iii) To exercise due diligence in collecting in accordance with the requirements of this part.