

§ 537.107

(d) *Employee responsibility.* The employee will be responsible for making loan payments on the portion of the loan(s) that continues to be the employee's responsibility. Payments under this part do not exempt an employee from his or her responsibility and/or liability for any loan(s) the individual has taken out. The employee will also be responsible for any income tax obligations resulting from the loan repayment benefit.

§ 537.107 Service agreements.

(a) Before any loan repayments may be made, an agency must require that the employee sign a written agreement to complete a specified period of employment with the agency and to reimburse the agency for loan repayment benefits, when required by § 537.109. This agreement may also specify any other employment conditions the agency considers to be appropriate, such as, but not limited to, the employee's position and the duties he or she is expected to perform, work schedule, or level of performance.

(b) The minimum period of employment to be established under a service agreement must be 3 years, regardless of the amount of loan repayment authorized. Agencies can state in their service agreements that increases or renewals of payments made under this part can be made without requiring the employee to enter into a new service agreement.

(c) A service agreement made under this part in no way constitutes a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service. This language should be stated in the service agreement.

§ 537.108 Loss of eligibility for loan repayment benefits.

(a) An employee receiving loan repayment benefits from an agency will be ineligible for continued benefits from that agency if the employee:

- (1) Separates from the agency; or
- (2) Does not maintain an acceptable level of performance, as determined under standards and procedures prescribed by the head of the agency; or
- (3) Violates any of the conditions of the service agreement.

5 CFR Ch. I (1-1-03 Edition)

(b) For the purpose of applying paragraph (a) of this section, in the case of an employee covered by an appraisal system established under part 430, subpart B, of this chapter, the employee's most recent rating of record must be at least level 3 ("Fully Successful").

§ 537.109 Employee reimbursements to the Government.

(a) Except as provided in paragraph (d) of this section, an employee who fails to complete the period of employment established under a service agreement will be indebted to the Federal Government and must reimburse the paying agency for the amount of any student loan repayment benefits the employee received.

(b) Failure to complete the period of employment established under a service agreement occurs when the employee's service with the agency terminates before the employee completes the period of employment specified in the service agreement because:

(1) The employee is separated involuntarily on account of misconduct or performance; or

(2) The employee leaves the agency voluntarily.

(c) If an employee fails to reimburse the agency for the amount owed under paragraph (a) of this section, a sum equal to the amount outstanding must be recovered from the employee under the agency's regulations for collection by offset from an indebted Government employee under 5 U.S.C. 5514 and subpart K of part 550 of this chapter, or through the appropriate provisions governing debt collection if the individual is no longer a Federal employee.

(d) Paragraph (a) of this section does not apply when the employee fails to complete a period of employment established under a service agreement because:

(1) The employee is involuntarily separated for reasons other than misconduct or performance; or

(2) The employee leaves the agency voluntarily to enter into the service of any other agency, unless reimbursement to the paying agency is otherwise specified in the service agreement.

(e) The head of an agency may waive, in whole or in part, a right of recovery