

§ 674.11

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§ 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.

(b) The Secretary does not require an institution to reimburse its Fund for the portion of the outstanding balance of a defaulted loan described in paragraph (a)(2) of this section—

(1) That the institution—

(i) Recovers from the borrower or endorser; or

(ii) Demonstrates, to the Secretary's satisfaction, would not have been collected from the borrower even if the institution complied in a timely manner with the due diligence requirements of subpart C of this part; or

(2) On which the institution obtains a judgment.

(c) An institution that is required to reimburse its Fund under paragraph (a) of this section shall also reimburse the Fund for the amount of the administrative cost allowance claimed by the institution for that portion of the loans to be reimbursed.

(d) An institution that reimburses its Fund under paragraph (a) of this section thereby acquires for its own account all the right, title and interest of the Fund in the loan for which reimbursement has been made.

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

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

[52 FR 45747, Dec. 1, 1987, as amended at 59 FR 61407, Nov. 30, 1994; 64 FR 58315, Oct. 28, 1999; 65 FR 65614, Nov. 1, 2000]

§§ 674.14-674.15 [Reserved]

§ 674.16 Making and disbursing loans.

(a)(1) Before an institution makes its first disbursement to a student, the student shall sign the promissory note and the institution shall provide the student with the following information:

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(i) The name of the institution and the address to which communications and payments should be sent.

(ii) The principal amount of the loan and a statement that the institution will report the amount of the loan to a national credit bureau at least annually.

(iii) The stated interest rate on the loan.

(iv) The yearly and cumulative maximum amounts that may be borrowed.

(v) An explanation of when repayment of the loan will begin and when the borrower will be obligated to pay interest that accrues on the loan.

(vi) The minimum and maximum repayment terms which the institution may impose and the minimum monthly repayment required.

(vii) A statement of the total cumulative balance owed by the student to that institution, and an estimate of the monthly payment amount needed to repay that balance.

(viii) Special options the borrowers may have for loan consolidation or other refinancing of the loan.

(ix) The borrower's right to prepay all or part of the loan, at any time, without penalty, and a summary of the circumstances in which repayment of the loan or interest that accrues on the loan may be deferred or canceled including a brief notice of the Department of Defense program for repayment of loans on the basis of specified military service.

(x) A definition of default and the consequences to the borrower, including a statement that the institution may report the default to a national credit bureau.

(xi) The effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.

(xii) The amount of any charges collected by the institution at or prior to the disbursement of the loan and any deduction of such charges from the proceeds of the loan or paid separately by the borrower.

(xiii) Any cost that may be assessed on the borrower in the collection of the loan including late charges and collection and litigation costs.

(2) The institution shall provide the information in paragraph (a)(1) of this section to the borrower in writing—

(i) As part of the written application material;

(ii) As part of the promissory note; or

(iii) On a separate written form.

(b)(1) Except as provided in paragraphs (c) and (f) of this section, an institution shall advance in each payment period a portion of a loan awarded for a full academic year.

(2) The institution shall determine the amount advanced each payment period by the following fraction:

Loan amount

N

Where Loan Amount = the total loan awarded for an academic year and N = the number of payment periods that the institution expects the student will attend in that year.

(3) An institution may advance funds, within each payment period, at such time and in such amounts as it determines best meets the student's needs.

(c) If a student incurs uneven costs or estimated financial assistance amounts during an academic year and needs additional funds in a particular payment period, the institution may disburse loan funds to the student for those uneven costs.

(d)(1) The institution shall disburse funds to a student or the student's account in accordance with 34 CFR 668.164.

(2) The institution shall ensure that each loan is supported by a legally enforceable promissory note as proof of the borrower's indebtedness.

(3) If the institution uses a Master Promissory Note (MPN), the institution's ability to make additional loans based on that MPN will automatically expire upon the earliest of—

(i) The date the institution receives written notification from the borrower requesting that the MPN no longer be used as the basis for additional loans;

(ii) Twelve months after the date the borrower signed the MPN if no disbursements are made by the institution under that MPN; or

(iii) Ten years from the date the borrower signed the MPN or the date the institution receives the MPN, except that a remaining portion of a loan may be disbursed after this date.

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(e) The institution shall advance funds to a student in accordance with the provisions of § 668.164.

(f)(1) The institution shall return to the Fund any amount advanced to a student who, before the first day of classes—

(i) Officially or unofficially withdraws; or

(ii) Is expelled.

(2) A student who does not begin class attendance is deemed to have withdrawn.

(g) Only one advance is necessary if the total amount the institution awards a student for an academic year under the Federal Perkins Loan program is less than \$501.

(h) An institutional official may not, without prior approval from the Secretary, obtain a student's power of attorney to endorse any check used to disburse loan funds.

(i)(1) An institution must report to at least one national credit bureau—

(i) The amount and the date of each disbursement;

(ii) Information concerning the repayment and collection of the loan until the loan is paid in full; and

(iii) The date the loan was repaid, canceled, or discharged for any reason.

(2) An institution must promptly report any changes to information previously reported on a loan to the same credit bureaus to which the information was previously reported.

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

(Authority: 20 U.S.C. 1987cc, 1087cc-1, 1087dd, 1091 and 1094)

[52 FR 45747, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988; 59 FR 61408, Nov. 30, 1994; 59 FR 61722, Dec. 1, 1994; 60 FR 34433, June 30, 1995; 60 FR 61814, Dec. 1, 1995; 61 FR 60608, Nov. 29, 1996; 64 FR 58309, Oct. 28, 1999; 67 FR 67076, Nov. 1, 2002; 71 FR 45697, Aug. 9, 2006]

§ 674.17 Federal interest in allocated funds—transfer of Fund.

(a) If an institution responsible for a Federal Perkins Loan fund closes or no longer wants to participate in the program, the Secretary directs the institution to take one of the following steps to protect the outstanding loans and the Federal interest in that Fund:

(1) A capital distribution of the liquid assets of the Fund according to section 466(c) of the Act.

(2) The assignment of the outstanding loans to the United States.

(b) An institution that assigns outstanding loans under this paragraph relinquishes its interest in those loans.

(Authority: 20 U.S.C. 1087cc, 1087ff, and 1087hh)

[52 FR 45747, Dec. 1, 1987, as amended at 59 FR 61415, Nov. 30, 1994; 60 FR 61814, Dec. 1, 1995; 67 FR 67076, Nov. 1, 2002]

§ 674.18 Use of funds.

(a) *General.* An institution shall deposit the funds it receives under the Federal Perkins Loan program into its Fund. It may use these funds only for making loans and the other activities specified in § 674.8(b).

(b) *Transfer of funds.* (1) An institution may transfer up to 25 percent of the sum of its initial and supplemental Federal Perkins Loan allocations for an award year to the Federal Work-Study program or Federal Supplemental Educational Opportunity Grant program, or to both.

(2) An institution may transfer up to the total of the sum of its initial and supplemental Federal Perkins Loan allocations for an award year to the Work-Colleges program.

(3) An institution shall use transferred funds according to the requirements of the program to which they are transferred.

(4) An institution shall report any transferred funds on the Fiscal Operations Report required under § 674.19(d).

(5) An institution shall transfer back to the Federal Perkins Loan program any funds unexpended at the end of the award year that it transferred to the FWS program, the FSEOG program, or the Work-Colleges program from the Federal Perkins Loan program.

(Authority: 20 U.S.C. 1087cc, 1087dd, and 1096)

[52 FR 45747, Dec. 1, 1987, as amended at 57 FR 32345, July 21, 1992; 59 FR 61408, 61415, Nov. 30, 1994; 61 FR 60396, Nov. 27, 1996]

§ 674.19 Fiscal procedures and records.

(a) *Fiscal procedures.* (1) In administering its Federal Perkins Loan program, an institution shall establish