

## § 674.17

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(2) A student who does not begin class attendance is deemed to have withdrawn.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

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(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

and maintain an internal control system of checks and balances that ensures that no office can both authorize payments and disburse funds to students.

(2)(i) A separate bank account for Federal funds is not required, except as provided in paragraph (b) of this section.

(ii) An institution shall notify any bank in which it deposits Federal funds of the accounts into which those funds are deposited by—

(A) Ensuring that the name of the account clearly discloses the fact that Federal funds are deposited in the account; or

(B) Notifying the bank, in writing, of the names of the accounts in which it deposits Federal funds. The institution shall retain a copy of this notice in its files.

(3)(i) The institution shall ensure that the cash balances of the accounts into which it deposits Federal Perkins Loan Fund cash assets do not fall below the amount of Fund cash assets deposited in those accounts but not yet expended on authorized purposes in accordance with applicable title IV HEA program requirements, as determined from the records of the institution.

(ii) If the cash balances of the accounts at any time fall below the amount described in paragraph (a)(3)(i) of this section, the institution is deemed to make any subsequent deposits into the accounts of funds derived from other sources with the intent to restore to that amount those Fund assets previously withdrawn from those accounts. To the extent that these institutional deposits restore the amount previously withdrawn, they are deemed to be Fund assets.

(b) *Account for Perkins Loan Fund.* An institution shall maintain the funds it receives under this part in accordance with the requirements in § 668.163.

(c) *Deposit of ICC into Fund.* An institution shall deposit its ICC into its Fund prior to or at the same time it deposits any FCC.

(d) *Records and reporting.* (1) An institution shall establish and maintain program and fiscal records that are reconciled at least monthly.

(2) Each year an institution shall submit a Fiscal Operations Report plus

other information the Secretary requires. The institution shall insure that the information reported is accurate and shall submit it on the form and at the time specified by the Secretary.

(e) *Retention of records—*(1) *Records.* An institution shall follow the record retention and examination provisions in this part and in 34 CFR 668.24.

(2) *Loan records.* (i) An institution shall maintain a repayment history for each borrower. This repayment history must show the date and amount of each repayment over the life of the 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,

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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.

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

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### § 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.

(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