

## §674.61

## 34 CFR Ch. VI (7-1-07 Edition)

(1) Fifteen percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for each of the first and second twelve-month periods of service;

(2) Twenty percent of the original principal loan amount plus the interest on the unpaid balance accruing during the year of qualifying service, for each of the third and fourth twelve-month periods of service.

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

[52 FR 45758, Dec. 1, 1987, as amended at 57 FR 32347, July 21, 1992. Redesignated at 59 FR 61413, Nov. 30, 1994, as amended at 64 FR 58314, Oct. 28, 1999]

### §674.61 Discharge for death or disability.

(a) *Death.* An institution must discharge the unpaid balance of a borrower's Defense, NDSL, or Perkins loan, including interest, if the borrower dies. The institution must discharge the loan on the basis of an original or certified copy of the death certificate. Under exceptional circumstances and on a case-by-case basis, the chief financial officer of the institution may approve a discharge based upon other reliable documentation supporting the discharge request.

(b) *Total and permanent disability.* (1) If the Secretary has made an initial determination that the borrower is totally and permanently disabled, as defined in §674.51(s), the loan is conditionally discharged for up to three years from the date that the borrower became totally and permanently disabled, as certified by a physician. The Secretary suspends collection activity on the loan from the date of the initial determination of total and permanent disability until the end of the three-year conditional period. If the borrower satisfies the criteria for a total and permanent disability discharge during and at the end of the conditional discharge period, the balance of the loan is discharged at the end of the conditional discharge period and any payments received after the date the borrower became totally and permanently disabled as certified under §674.61(b)(3) are returned to the sender.

(2) A borrower satisfies the criteria for a discharge of a loan based on a

total and permanent disability if, during and at the end of the three-year conditional discharge period described in paragraph (b)(1) of this section—

(i) The borrower's annual earnings from employment do not exceed 100 percent of the poverty line for a family of two, as determined in accordance with the Community Service Block Grant Act; and

(ii) The borrower does not receive a new loan under the Perkins, FFEL or Direct Loan programs, except for a FFEL or Direct Consolidation Loan that does not include any loans that are in a conditional discharge status.

(3) If a borrower becomes totally and permanently disabled after receiving a Defense, NDSL, or Perkins loan, the institution must assign the loan to the Secretary if the borrower submits a certification by a physician and the institution reviewed the application and determined that it is complete and that it supports the conclusion that the borrower has a total and permanent disability as defined in §674.51(s).

(4) At the time the loan is assigned to the Secretary the institution must notify the borrower that the loan has been assigned to the Secretary for determination of eligibility for a total and permanent disability discharge.

(5) If the Secretary determines that the certification provided by the borrower does not support the conclusion that the borrower meets the criteria for a total and permanent disability discharge, the Secretary notifies the borrower that the application for a disability discharge has been denied, and that the loan is due and payable under the terms of the promissory note.

(6) If the Secretary makes an initial determination that the borrower is totally and permanently disabled, the Secretary notifies the borrower that the loan will be in a conditional discharge status for a period of up to three years after the date the borrower became totally and permanently disabled as certified under §674.61(b)(3). This notification identifies the conditions of the conditional discharge period specified in paragraphs (b)(6) through (b)(9) of this section and specifies that all or part of the three-year period may predate the Secretary's initial determination.

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(7) During the conditional discharge period, the borrower—

(i) Is not required to make any payments on the loan;

(ii) Is not considered past due or in default on the loan, unless the loan was past due or in default at the time the conditional discharge was granted;

(iii) Must promptly notify the Secretary of any changes in address or phone number;

(iv) Must promptly notify the Secretary if the borrower's annual earnings from employment exceed the amount specified in paragraph (b)(2)(i) of this section; and

(v) Must provide the Secretary, upon request, with additional documentation or information related to the borrower's eligibility for discharge under this section.

(8) If, during and at the end of the conditional discharge period, the borrower continues to satisfy the eligibility criteria for a total and permanent disability discharge, as described in paragraph (b)(2) of this section, the balance of the loan is discharged.

(9) If, at any time during or at the end of the three-year conditional discharge period, the borrower does not continue to meet the eligibility requirements for total and permanent disability discharge, the Secretary resumes collection activity on the loan. The Secretary does not require the borrower to pay any interest that accrued on the loan from the date of the initial determination described in paragraph (b)(6) of this section through the end of the conditional discharge period.

(10) If the institution receives any payments from or on behalf of the borrower on or attributable to a loan that has been assigned to the Secretary for determination of eligibility for a total and permanent disability discharge, the institution must forward those payments to the Secretary for crediting to the borrower's account. At the same time that the institution forwards the payment, it must notify the borrower that there is no obligation to make payments on the loan while it is conditionally discharged prior to a final determination of eligibility for a total and permanent disability discharge, unless the Secretary directs the borrower otherwise.

(11) When the Secretary makes a final determination to discharge the loan, the Secretary returns to the sender any payments received on the loan after the date the borrower became totally and permanently disabled.

(c) *No Federal reimbursement.* No Federal reimbursement is made to an institution for cancellation of loans due to death or disability.

(d) *Retroactive.* Cancellation for death or disability applies retroactively to all Defense, NDSL or Perkins loans.

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

(Authority: 20 U.S.C. 425 and 1087dd and sec. 130(g)(2) of the Education Amendments of 1976, Pub. L. 94-482)

[52 FR 45758, Dec. 1, 1987, as amended at 53 FR 49147, Dec. 6, 1988. Redesignated and amended at 59 FR 61413, 61415, Nov. 30, 1994; 64 FR 58315, Oct. 28, 1999; 65 FR 65690, Nov. 1, 2000; 66 FR 44007, Aug. 21, 2001]

**§ 674.62 No cancellation for prior service—no repayment refunded.**

(a) No portion of a loan may be cancelled for teaching. Head Start, volunteer or military service if the borrower's service is performed—

(1) During the same period that he or she received the loan; or

(2) Before the date the loan was disbursed to the borrower.

(b) The institution shall not refund a repayment made during a period for which the borrower qualified for a cancellation unless the borrower made the payment due to an institutional error.

(Authority: 20 U.S.C. 425 and 1067ee)

[52 FR 45758, Dec. 1, 1987. Redesignated at 59 FR 61413, Nov. 30, 1994]

**§ 674.63 Reimbursement to institutions for loan cancellation.**

(a) *Reimbursement for Defense loan cancellation.* (1) The Secretary pays an institution each award year its share of the principal and interest canceled under §§ 674.55 and 674.59(a).

(2) The institution's share of cancelled principal and interest is computed by the following ratio:

$$\frac{I}{I + F}$$