

HIGHER EDUCATION RECONCILIATION ACT (HERA)



FREQUENTLY ASKED QUESTIONS

LEGISLATIVE

When was the Higher Education Reconciliation Act (HERA) legislation signed by the President?

HERA is Title VIII of the Deficit Reduction Act of 2005 (DRA), which was signed by President Bush on Feb. 8, 2006.

Are provisions from this legislation effective immediately?

There are varying effective dates associated with these provisions. The majority of these provisions are effective July 1, 2006. Specific triggering effective dates can be found in the [Dear Colleague /Partner Letters](#).

Does this legislation replace Higher Education Act (HEA) Reauthorization?

No. DRA extended the FFELP through 2012. There are other programs authorized by HEA that are scheduled to expire June 30, 2007. Legislative action will be needed to extend those programs. Various reauthorization bills containing proposals were not included in DRA because they didn't impact the federal budget.

INTEREST RATES

How will Stafford loan interest rates for existing borrowers be impacted?

If the borrower's Stafford loans were disbursed before July 1, 2006, the loans continue to have a variable interest rate that changes each July 1. If the first disbursement of the borrower's new Stafford loan occurs on or after July 1, 2006, the interest rate will be the fixed rate of 6.8%. This can result in a borrower having loans at different interest rates.

Are interest rates for PLUS loans impacted by these changes?

PLUS loan interest rates will be set at a fixed rate of 8.5% for loans first disbursed on or after July 1, 2006. If the borrower's PLUS loans were disbursed before July 1, 2006, the loans will continue to have a variable interest rate that changes each July 1. This can result in a borrower having loans at different interest rates.

Has the interest rate for Consolidation loans changed?

The interest rate formula for Consolidation loans hasn't changed. The rate is determined by taking the weighted average of the loans being consolidated rounded up to the nearest eighth of a percent or 8.25%, whichever is less.

What are the interest rates for FFELP loans when borrowers are in an in-school, grace, deferment or repayment period?

Throughout the life of the loan, a Stafford or PLUS loan disbursed on or after July 1, 2006 will have a fixed interest rate. The fixed interest rate for Stafford loans will be 6.8% while PLUS loans will have a fixed interest rate of 8.5%.

FEES

When are the origination fee reductions effective?

The fee reduction from 3% to 2% is effective for FFELP Stafford loans first disbursed on or after July 1, 2006.

Are PLUS loans affected by the origination fee changes?

No. The mandatory 3% origination fee will continue to be charged to PLUS loan borrowers.

What is the origination fee correction response file called?

The origination fee correction response file is @1M and was sent June 26, 2006.

HIGHER EDUCATION RECONCILIATION ACT (HERA)



INSURANCE RATES

What is the effective date for the reduction in insurance reimbursement for claims submitted by an exceptional performer lender or servicer?

The insurance percentage rate for exceptional performers will be reduced from the current 100 percent to 99 percent effective for any default claim submitted by the exceptional performer on or after July 1, 2006.

What is the status of the Promissory Notes Addendum?

Refer to Dear Colleague Letter (DCL) FP-06-05. This DCL announced promissory note addenda and revised Plain Language Disclosures and provided guidance on awarding PLUS Loans to graduate and professional students.

DCL FP-06-12 announced the revised application and promissory note addendum that explains the changes to terms and conditions of Consolidation loans by the Emergency Supplemental Appropriations Act for Defense, the Global war on Terrorism, and Hurricane Recovery, P.L. 109-234. Read the [Dear Colleague /Partner Letters](#) on our Web site.

ANNUAL STAFFORD LOAN LIMITS

What are the new annual Stafford loan limits and when will they become effective?

The new annual Stafford loan limits will increase for undergraduate first year students from \$2,625 to \$3,500 and undergraduate second year students from \$3,500 to \$4,500.

The annual unsubsidized Stafford loan limits for graduate/professional students increases from \$10,000 to \$12,000. Instead of a maximum of \$18,500, graduate/professional students would be eligible for up to \$20,500 in Stafford loans funds, where no more than \$8,500 is subsidized.

The annual unsubsidized Stafford loan limits for students with an undergraduate degree who enrolled in courses needed for enrollment in a degree-granting program, and students enrolled in a program necessary for professional certification as required for employment as a teacher increases from \$5,000 to \$7,000. Instead of a maximum of \$10,500, these students would be eligible for up to \$12,500 in Stafford loans, of which no more than \$5,500 may be subsidized.

As of the November 1, 2006, Final Regulations, the increased Stafford loan limits are effective for loans first disbursed on or after July 1, 2007.

The department has noted that the school may certify Stafford loans for these new loan amounts provided that both of the following parameters apply:

- The loan is made for a loan period that includes July 1, 2007, or that begins after that date.
- The loan is first disbursed on or after July 1, 2007.

If the school certifies a loan for a loan period that includes July 1, 2007, but has a first disbursement date prior to July 1, 2007, then on or after July 1, the school may certify a new loan up to the applicable new annual maximum limit.

HIGHERD EDUCATION RECONCILIATION ACT (HERA)



ANNUAL STAFFORD LOAN LIMITS (CONT.)

The loan limit chart on page 7 of DCL GEN-06-02 doesn't look correct. Am I missing something?

Good catch! NCHelp has identified a couple of errors in the chart and will be contacting the Department of Education. For third year and beyond undergraduate, the additional unsubsidized amount should be \$5,000 (not \$10,500) and for preparatory coursework (for enrollment in an undergraduate program) the additional unsubsidized amount should be \$4,000 (not \$6,625). See DCL GEN- 06-03 for more details regarding the correction to the chart.

When the subsidized Stafford loan limits increase to \$3,500 for grade level 1 and \$4,500 for grade level 2 students, will these students also still be eligible for the additional \$4,000 in unsubsidized loans?

Based on guidance in DCL GEN-06-02/FP-06-01, grade level 1 borrowers, if eligible, could receive the maximum \$3,500 subsidized/unsubsidized combined annual loan limit plus the \$4,000 additional unsubsidized loan for a total of \$7,500. Grade level 2 borrowers, if eligible, could receive the maximum \$4,500 subsidized/unsubsidized combined annual loan limit in plus the \$4,000 additional unsubsidized loan for a total of \$8,500.

DISBURSEMENT RULES

What changes are occurring with the reinstatement of the two expired 2002 disbursement rules for low cohort schools - the rule for single disbursements and the exemption from delayed disbursement?

Two disbursement rules that expired in 2002 have been reinstated with an effective date of 2/8/06 and are listed below:

- Rule for Single Disbursements - Schools that have a cohort default rate of less than 10% for each of the 3 most recent fiscal years for which data is available are permitted to disburse any loan in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months.
- Exemption from Delayed Disbursement - Schools that have a cohort default rate of less than 10% for the 3 most recent fiscal years for which data is available are exempt from the rule requiring the 30-day delayed delivery of funds for any student who is entering the first year of program of undergraduate education, and who has not previously obtained a FFELP loan.

PROCESSING

Will the borrower be required to read the addendum through the electronic loan processing method?

Yes. The borrower will need to read addendum before they will be able to e-sign and print the promissory note.

SCHOOL AS LENDER

Can a "School as Lender" make PLUS loans to graduate/professional students?

The HERA eliminates the ability of "School as Lender" schools to originate PLUS loans.

HIGHER EDUCATION RECONCILIATION ACT (HERA)



GRADUATE/PROFESSIONAL PLUS LOANS

Is the credit criteria that will be used for grad/PLUS the same as the current PLUS program?

PLUS loan borrowers in both categories will have the same credit criteria. Refer to DCL FP-06-05 for more guidance.

Are Graduate PLUS recipients required to do the FAFSA? Will that requirement change?

Yes, Graduate PLUS loan borrowers are required to complete a FAFSA per DCL GEN-06-02 (FP-06-01) and DCL FP-06-05. We do not anticipate future changes to the FAFSA requirement.

Is Stafford loan eligibility required to be awarded before Grad PLUS eligibility is established?

Per DCL GEN- 06-02/FP-06-01, "They also must have applied for their annual loan maximum eligibility with the Federal Subsidized and Unsubsidized Stafford Loan Program before applying for a Graduate/Professional PLUS loan." This is supported by DCL FP-06-05, "However, a graduate or professional student is not required to receive Federal Stafford Loan funds as a condition for receiving a Federal PLUS Loan, and a school may not require a graduate or professional student to receive Federal Stafford Loan funds before the student may apply for a Federal PLUS loan."

If a graduate/professional student hasn't responded to an offer of Stafford loan eligibility and requests a PLUS loan, is the school required to count the available loan eligibility as estimated financial aid when calculating the PLUS loan eligibility? What if the student declined the Stafford loan offered?

If the student hasn't responded or declined the Stafford loan but applies for the Graduate PLUS Loan, schools aren't required to include the Stafford loan eligibility as estimated assistance.

When was the EAGLE system able to accommodate Grad PLUS?

The EAGLE system modification to accommodate Grad PLUS loans occurred June 24, 2006.

Until supporting modification to Common Account Maintenance (CAM) file specifications were implemented, was OGSFP able to process Grad PLUS loans the same way it's processed Parent PLUS loans?

Yes. Grad PLUS loans were processed in the same manner as the Parent PLUS loans. In other words, our system was able to recognize a PLUS record with the following attributes as a Grad PLUS loan: Student and borrower SSN and date of birth are equal AND the record includes a graduate grade level.

Can the school initiate the Grad PLUS application?

Yes.

Can the student add an endorser to the Grad PLUS loan?

Yes, a Graduate/Professional student can get an endorser under the PLUS loan program if they are deemed not credit-worthy by the lender. DCL FP-06-05 guidance states, "As is the case with Parent PLUS applicants, a graduate or professional student PLUS applicant who is determined to have an adverse credit history may receive a Federal PLUS loan if he or she obtains an endorser who does not have an adverse credit history."

When does the repayment period begin for the Grad PLUS loan?

Repayment begins 60 days after the loan is fully disbursed, the same as for a Parent PLUS loan. Refer to DCL FP-06-05 for more details.

HIGHER EDUCATION RECONCILIATION ACT (HERA)



GRADUATE/PROFESSIONAL PLUS LOANS (CONT.)

Will Grad PLUS borrowers be eligible for in-school deferment?

Yes, a graduate/professional PLUS loan borrower may receive a deferment while enrolled at least half-time at an eligible school. The normal enrollment process can be used so the borrower will not actually have to apply for a deferment. However, per DCL FP-06-05, "Upon dropping to less than half-time enrollment status, the borrower is not entitled to a grace period and there is no authority for lenders to align payments of principal on a student PLUS borrower's Stafford and PLUS loans."

What are the Common Line status codes for Grad PLUS loans?

The Loan Program Type code will be "GB" and the application form code will be "G."

Until service providers can implement the addendum language electronically, how will the Grad PLUS borrower apply for a loan?

A Pre-Addendum-Borrower can get a credit decision only and the transaction will suspend. Post-Addendum-Borrowers can get credit decision, e-sign and print. This transaction will suspend as well, because in both scenarios, the school cannot complete the certification until July 1, 2006.

Can schools that participate in the PLUS Loan Program not loan to graduate/professional students?

No. A school that participates in the PLUS Loan Program must make PLUS loans available to both parent and graduate/professional student borrowers, as applicable. A school may not choose to make PLUS loans available only to its parent borrowers, or only to its graduate/professional student borrowers.

Can lenders that participate in the PLUS Loan Program not loan to graduate/professional students?

Yes. A lender that participates in the PLUS Loan Program has the option to make PLUS loans available to parent and/or graduate/professional student borrowers, as applicable.

Can a Direct Loan school make Stafford loans in one program and PLUS loans on another?

A Direct Loan school could choose to participate in Direct Loan for one type of loan and FFELP for the other. Example: Direct Loans for Stafford loan and PLUS loan (including Grad PLUS) in FFELP or vice versa.

What guidelines are used for disbursing Grad PLUS loans?

Grad PLUS loans are disbursed using the same guidelines as parent PLUS loans. Refer to Common Manual, Chapter 6, sections 6.4 through 6.4.B. for more detailed information.

MASTER PROMISSORY NOTE (MPN)

Will there be a new promissory note for the Grad PLUS loan and does ED know when it will be available?

Parent and Grad PLUS borrowers will utilize the same PLUS MPN. The existing PLUS MPN will be used with the Department approved Addendum for approximately 18-24 months, until the PLUS MPN is revised. DCL FP-06-05 explains the use of the addendum as well as guidance on Federal PLUS loans to graduate and professional students.

HIGHER EDUCATION RECONCILIATION ACT (HERA)



MASTER PROMISSORY NOTE (MPN) (CONT.)

How will the MPN addenda and Plain Language Disclosures work?

DCL FP-06-05 instructs that, "The appropriate revised Plain Language Disclosure (PLD) must be provided to all borrowers who are receiving a subsequent Federal Stafford or Federal PLUS loan under a previously signed MPN or who have completed an initial MPN before the addenda were made available. The revised PLD must be provided to these borrowers in conjunction with the required disbursement disclosures or other existing processes."

For current borrowers who aren't completing new Stafford or PLUS MPNs or receiving subsequent loans under an existing MPN, per DCL FP-06-05, program participants may use existing processes such as annual letters, notices of changes in variable interest rate, Web sites and publications to notify borrowers of changes to loan terms and conditions that may apply to their loans. This applies to Federal Consolidation Loan borrowers as well.

INSTITUTIONAL REFUNDS

What is the effective date for the Title IV institutional refund provisions?

Per DCL GEN-06-05, the effective date for the provisions is for withdrawals that occur on or after July 1, 2006.

How do you handle a borrower consolidation while in school when there is a refund to process before July 1?

As with other schools refunds, we would expect the school to forward the refund to the original lender who will then forward to the consolidating lender.

REPAYMENT

When consolidating can borrowers attend summer semesters to keep from having to start repayment?

The "summer bridge" doesn't count in calculation of grace period unless the borrower that attended school in the spring did not go back in the fall.

MILITARY DEFERMENT

What are the changes to the military deferment?

There is a new military deferment type that provides up to three years of deferment for eligible borrowers (including National Guard personnel) on active duty during war, national emergency or military operation.

The change also adds new definitions for the following:

Active Duty - The term "active duty" has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term doesn't include active duty for training or attendance at a service school.

Military Operation - The term "military operation" means a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

National Emergency - The term "national emergency" means the national emergency by reason of certain terrorist attacks declared by the President on Sept. 14, 2001, or subsequent national emergencies declared by the President.

HIGHERD EDUCATION RECONCILIATION ACT (HERA)



MILITARY DEFERMENT (CONT.)

Serving on Active Duty - The term "serving on active duty during war or other military operation or national emergency" means service by an individual who is -

- a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304 or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and
- any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

Qualifying National Guard Duty - The term "qualifying National Guard duty during a war or other military operation or national emergency" means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502 (f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.

Can you clarify the difference between loan level vs. borrower level for the new military deferment type?

Only loans first disbursed on or after July 1, 2001 qualify for this deferment. If a borrower had loans disbursed prior to AND after July 1, 2001 only the loans disbursed after July 1, 2001 are eligible.

LEAVE OF ABSENCE

Although schools are allowed to grant multiple leaves of absence (LOA), can it limit the number it will grant?

Neither the HEA, the regulations nor the SFA handbook specifically say that; however, the language in the NPRM sent out Aug. 8, 2002, preceding the publication of regulations on Nov. 1, 2002, that addressed the multiple LOA issue, do give the indication that this was meant to be at the school's discretion (see below). Generally speaking, the regulations outline the most generous policy allowed before a school must treat a student as withdrawn. The school must write its LOA policy within those parameters and can be more strict, but not more lenient.

Do the summer months count in the leave of absence?

Yes - for non-term programs. If it's a term based program and isn't a situation where the borrower can pick up where they left off without additional charges, then it can't be counted as an LOA. The student must be treated as withdrawn.

SINGLE HOLDER RULE

If a student has all their loans with one lender but also has a school held loan, do they fall under the single holder rule?

No, the single holder rule doesn't apply since the borrower has two holders, the school and lender. The single holder rule was repealed in the Emergency Supplemental Appropriations Act for Defense, the Global war on Terrorism, and Hurricane Recovery. The repeal means that an eligible borrower may consolidate loans with any eligible consolidation lender in the FFELP, even if the borrower's outstanding loans are held by only one FFELP holder. This is effective for any Federal Consolidation loan based on an application received by an eligible lender on or after June 15, 2006.

HIGHER EDUCATION RECONCILIATION ACT (HERA)



STUDENT ELIGIBILITY DRUG CONVICTION

What is the effective date of the student eligibility drug conviction?

Per DCL GEN-06-05, the effective date for student eligibility for drug-related offenses is for loan periods beginning on or after July 1, 2006.

TEACHER LOAN FORGIVENESS (TLF)

Who administers the competency tests the teachers take?

There is not a test specifically designed for TLF. The tests the regulations refer to are the normal competency tests each licensed teacher is required to take as part of their regular teacher certification process. In the case of the "new" non-profit private school teacher that is exempt from full state licensure, those tests are administered by various bodies, and are valid for TLF purposes as long as they are recognized in five states.

Is the \$17,500 retroactive to Oct. 1, 2005, and does the Oct. 1, 1998, date still apply?

The \$17,500 is retroactive to Oct. 1, 2005, and applies to new borrowers as of Oct. 1, 1998, who meet the additional prior eligibility requirements. The \$17,500 amount continues to only apply to highly qualified, full-time mathematics or science teachers in secondary schools.

LOAN REHABILITATION

Will notices be sent out to rehabilitation borrowers advising of the changes on July 1, 2006?

On June 8, 2006, OGSLP sent out a special letter to borrowers who have a rehabilitation agreement in place to alert them to these changes. Also OGSLP mailed special letters beginning Aug. 28, 2006, to AWG borrowers urging them to take advantage of the nine voluntary payments to rehabilitate their loan and remove it from AWG status.

After the rehabilitation, the borrower's repayment terms were previously re-established by deducting the 12 payments made to OGSLP for the rehabilitation. After July 1, 2006 will the nine payments be deducted from the repayment term instead of 12?

Yes, the nine payments would be used rather than 12. Common Manual Policy Update-101 reflects the update that a borrower is eligible to rehabilitate a defaulted loan after making nine full monthly payments.

CONSOLIDATION

How is credit reporting handled on Consolidation loans and rehabilitations?

For loan rehabilitation, the derogatory credit is removed from the credit report. For loan Consolidation the derogatory credit isn't removed from the credit report, but is reflected as a paid in full defaulted loan.

Since the "single holder" rule has been repealed, can a borrower reconsolidate a single Consolidation loan?

FFELP borrowers can't reconsolidate a single Consolidation loan unless they are getting a Direct Consolidation loan for the purpose of the income contingent repayment (ICR) plan. Source: DCL GEN-06-20/FP-06-16

HIGHER EDUCATION RECONCILIATION ACT (HERA)



WAGE GARNISHMENT

What determines whether an account goes to AWG versus IRS offset when a borrower is in default?

There is no determination to do either administrative wage garnishment (AWG) or IRS offset. They are both non-voluntary payment methods. Determination is made as an effort to collect from a borrower that will not or cannot enter into voluntary payments. Both AWG and IRS offsets are considered involuntary payments, so a borrower can be in wage garnishment and still have their IRS refund intercepted.

Do the IRS offsets vary from state to state?

No, all guarantors participate in the Treasury Offset Program, in which the IRS is one of several federal participants. In addition, OGSLP also works with the Oklahoma Tax Commission regarding state tax offsets. These state programs can vary depending on the guarantor and the states.

HAVE QUESTIONS?

If you have additional questions about the HERA, contact Policy, Compliance and Training at 405.234.4440 or pct@ogslp.org.