



## **Higher Education Relief Opportunities for Students Act of 2003 (HEROES)**

The Higher Education Relief Opportunities for Students Act of 2003, better known as the HEROES Act requires ED to waive and modify certain provisions under Title IV of the Higher Education Act of 1965, as amended (HEA) and the associated regulations. The December 12, 2003 Federal Register provides those waivers and modifications appropriate to ensure that applicants and recipients for federal student financial aid, including loans made under the Federal Family Education Loan Program (FFELP), are not penalized or otherwise placed in a worse position because they are individuals affected by wars, military operation, and national emergencies, for the following categories:

### **Category 1 – Affected individuals who:**

- are serving on active duty during a war or other military operation or national emergency;
- are performing qualifying National Guard duty during a war or other military operation or national emergency;
- reside or are employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency; or
- suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

### **Category 2 – Affected individuals who:**

- are serving on active duty during a war or other military operation or national emergency;
- are performing qualifying National Guard duty during a war or other military operation or national emergency; or
- reside or are employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency.

### **Category 3 – Affected individuals who:**

- are serving on active duty during a war or other military operation or national emergency, or
- are performing qualifying National Guard duty during a war or other military operation or national emergency.

### **Category 4 - For dependents and spouses of affected individuals who:**

- are serving on active duty during a war or other military operation or national emergency, or
- are performing qualifying National Guard duty during a war or other military operation or national emergency.

**Effective Date**

These provisions became effective Dec. 12, 2003. On September 30, 2005, President Bush signed into law an extension of the HEROES Act (H.R. 2132) from the original expiration date of September 30, 2005 to September 30, 2007.

On September 30, 2007, President Bush signed, H.R. 3625 (Pub. L. 110-93), which eliminated the September 30, 2007 expiration date making permanent the Secretary's authority to issue waivers and modifications of statutory and regulatory provisions under the HEROES Act of 2003.

The *Federal Register* (Vol.72, No.246, pages 72947-72948) dated December 26, 2007, gives notice that effective December 26, 2007, the action announced in the December 12, 2003, *Federal Register* notice and extended in the October 20, 2005, *Federal Register*, notice are applicable from September 30, 2007, until September 30, 2012.

The actions will remain in effect until September 30, 2012, unless the Secretary issues a notice in the *Federal Register* terminating or changing those actions before September 30, 2012.

**Documentation Requirements**

Any school or lender must document its application of a waiver or modification as a result of the provisions in the HEROES Act in such a manner that the institution can, upon request, report to ED on the effect of the waivers and modifications.

**For Further Information**

For detailed terms and definitions applicable to the HEROES Act waivers, refer to the Dec. 12, 2003 Federal Register. If you have questions concerning the waivers outlined in this chart, send an email to [policytrainingcommunications@ogslp.org](mailto:policytrainingcommunications@ogslp.org).

**About this Chart**

The OGSLP HEROES chart is intended to provide you with a brief description of the waivers and modifications based on the categories of individuals and in the order provided in the Dec. 12 Federal Register. The use of the term "affected individuals" throughout refers to the categories outlined above and identified in the first column of the chart.

<b>Borrower Category</b>	<b>Subject &amp; Statutory/Regulation Cite</b>	<b>Normal Processing Requirement</b>	<b>Summary of Waiver Provision</b>
Category 1	<b>Need Analysis</b>  HEA 480	In calculating the Expected Family Contribution (EFC), the school must use the adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income.	The waiver allows the school to use an affected individual's original EFC or one that is based on the data from the first calendar year of the award year. If the school uses this method to calculate EFC, it should use the administrative professional judgment procedures (waivers outlined below) to document its actions.
Category 1	<b>Professional Judgment</b>  HEA 479A	The HEA gives the school authority to use professional judgment on a case-by-case basis to adjust the cost of attendance or other financial data used in calculating the EFC.	The waiver allows the school to use professional judgment across the board for these affected individuals as long as the school clearly documents the reasons for any adjustments in the student's need calculation.

Borrower Category	Subject & Statutory/Regulation Cite	Normal Processing Requirement	Summary of Waiver Provision
Category 1	<p data-bbox="369 272 747 407"><b>Return of Title IV Funds (RT4) – Grant Overpayments Owed by the Student</b></p> <p data-bbox="369 456 747 553">HEA 484B(b)(2) 34 CFR 668.22(h)(3)(ii) &amp; (4)</p>	<p data-bbox="774 272 1356 440">The HEA and regulations require a student to return or repay, as appropriate, 50 percent of any unearned grant funds for which the student is responsible under the RT4 calculation.</p>	<p data-bbox="1383 272 1965 483">For students who withdraw from school due to their status as affected individuals, ED is waiving the requirements so that a student is not required to return or repay an overpayment of grant funds based on RT4 provisions.</p> <p data-bbox="1383 492 1535 516">The school:</p> <ul data-bbox="1383 524 1965 959" style="list-style-type: none"> <li>• may not deny Title IV eligibility to an affected individual who owes an overpayment.</li> <li>• is not required to contact the student.</li> <li>• is not required to notify the National Student Loan Data System (NSLDS).</li> <li>• does not need to refer the overpayment to ED (this is a change to previous guidance).</li> <li>• must not apply any Title IV credit balance to the grant overpayment before paying any amount of the Title IV credit balance to the student or parent, in the case of a PLUS loan.</li> </ul> <p data-bbox="1383 1003 1965 1101">The school must document the amount of the overpayment in the student’s file for reporting purposes.</p>

Borrower Category	Subject & Statutory/Regulation Cite	Normal Processing Requirement	Summary of Waiver Provision
Category 1	<p data-bbox="367 271 751 375"><b>Return of Title IV Funds (RT4) – Unearned Funds Owed by the School</b></p> <p data-bbox="367 415 604 485">HEA 484B(b)(1) 34 CFR 668.22(g)</p>	<p data-bbox="772 271 1358 667">The HEA and regulations require that if the student withdraws, the school must return to the lender the lesser of (1) the total amount of unearned aid; or (2) an amount equal to the student's total school charges for the payment period or period of enrollment multiplied by the percentage of unearned aid. The school must use in this calculation the total initial charges assessed even if it fully refunds or adjusts the amount of the school charges after the student withdraws.</p>	<p data-bbox="1379 271 1965 412">If the RT4 calculation requires a school to return funds to one or more of the Title IV programs, the school must do so as it must for any student who withdraws.</p> <p data-bbox="1379 453 1965 630">For affected individuals, a school may exclude from the amount of a student's total institutional charges any institutional charges that the school paid using non-Title IV sources of aid.</p>
Category 1	<p data-bbox="367 677 751 781"><b>Verification of Adjusted Gross Income (AGI) and U.S. Income Tax Paid</b></p> <p data-bbox="367 821 642 852">34 CFR 668.57(a)(3)</p>	<p data-bbox="772 677 1358 922">The regulations provide that the school must accept certain documentation in lieu of the tax return if an individual whose income was used in the EFC calculation for a Title IV applicant has not filed a tax return because the individual has been granted a filing extension.</p>	<p data-bbox="1379 677 1965 1073">The specific documentation requirements have been modified. Rather than submitting a copy of the IRS Form 4868 or a copy of the IRS's approval of an additional extension, the individual may provide a statement certifying that he or she has not filed a return and was not required to file one or a request for an extension because the individual was called for active duty or for qualifying National Guard duty during a war or other military operation or national emergency.</p> <p data-bbox="1379 1114 1965 1255">The student must submit the tax return to the institution once it is filed with the IRS for the institution to re-verify the AGI and taxes paid.</p>

<b>Borrower Category</b>	<b>Subject &amp; Statutory/Regulation Cite</b>	<b>Normal Processing Requirement</b>	<b>Summary of Waiver Provision</b>
Category 2	<b>Return of Title IV Funds Funds (RT4) – Post-Withdrawal Disbursements</b>  34 CFR 668.22(a)(4)(ii) (A)(3) and (B)	A student, or parent in the case of a PLUS loan, must be provided a post-withdrawal disbursement if the student or parent responds to the school's notification of the post-withdrawal disbursement within 14 days of the date the school sent the notice. If the student or parent responds late, the school may make, but is not required to make, the post-withdrawal disbursement.	The 14-day time frame by which a student or parent has to respond has been extended to 45 days for affected individuals. If the student or parent responds after the 45-day period, the school may, but is not required to, make the post-withdrawal disbursement. As always, the school must disburse the funds within 120 days of the student's withdrawal date.
Category 2	<b>Leaves of Absence (LOA)</b>  34 CFR 668.22(d)(4)(iii)(B)	The student must provide a written, signed and dated request for the LOA prior to the LOA or at a later date if the student is prevented from providing an earlier notice by unforeseen circumstances.	The school is not required to obtain a written request from an affected individual who would have difficulty providing a written request. The school must document its decision to grant the LOA including the reason for the LOA and the school's reason for waiving the written requirement.
Category 2	<b>Credit Balances</b>  34 CFR 668.164(e)	The school must pay any credit balance to the student, or parent in the case of a PLUS loan, within 14 days of the date the balance occurred. In some cases, the school may use the credit balance to reduce the loan debt.	In the case where a student withdraws due to his or her affected status, the school may: 1) deliver the funds to the student or parent borrower within 14 days, or 2) attempt, within 14 days, to contact the borrower to obtain permission to return the credit balance to the loan program to reduce the borrower's debt. If the school chooses the second option, the school must allow 45 days for the borrower to respond. The school should then deliver or return the funds in accordance with the borrower's request. If there is no response within 45 days, the funds must be promptly returned to the Title IV programs.

Borrower Category	Subject & Statutory/Regulation Cite	Normal Processing Requirement	Summary of Waiver Provision
Category 2	<b>Cash Management – Loan Cancellation</b>  34 CFR 668.165(a)(4)(ii)	The school must return loan funds or cancel a loan, or both, if the student, or parent in the case of a PLUS loan, requests that the loan be canceled. The borrower's request must be received within 14 days of the date of the school's notice to the borrower, or by the first day of the payment period, if the school sends the notice more than 14 days before the first day of the payment period. If the school receives a loan cancellation request after the 14th day, it may, but is not required to, initiate the loan's cancellation.	For affected individuals, the school must permit up to 60 days for the borrower to respond to the school's notice and request cancellation of all or a portion of the loan's proceeds. If the school receives a loan-cancellation request more than 60 days after the notice date, the school may, but is not required to, comply with the request.
Category 2	<b>Cash Management – Student and Parent Authorizations</b>  34 CFR 668.165(b)(1)	The school must obtain written permission from the student, or parent in the case of a PLUS loan, in order to perform any of the following functions: <ul style="list-style-type: none"> <li>• Disburse Title IV funds to a bank account designated by the student or parent.</li> <li>• Use Title IV funds to pay for current charges other than tuition, fees, room and board.</li> <li>• Hold on behalf of the student or parent any Title IV funds that would otherwise be paid to the student or parent.</li> </ul>	For affected individuals, the school may obtain the necessary authorizations verbally rather than in writing. (Schools should carefully document the verbal authorizations.)
Category 2	<b>Satisfactory Academic Progress</b>  34 CFR 668.34(c)(3)	Schools must monitor and assure that students are meeting standards of satisfactory academic progress in order to determine their eligibility for Title IV aid.	A school may apply the exception provision of “other special circumstances” for students who fail to make satisfactory academic progress due to their status as an affected individual.

Borrower Category	Subject & Statutory/Regulation Cite	Normal Processing Requirement	Summary of Waiver Provision
Category 2	<p><b>Grace Period</b></p> <p>HEA 428(b)(7)(D) and 464(c)(7)  34 CFR 674.31(b)(2)(i)(C), 682.209(a)(6)</p>	<p>A borrower who is a member of the Armed Forces reserve and is called to active duty for a period of more than 30 days may have his or her grace period extended for a single period of not more than three years, including the time necessary to re-enroll. These borrowers are entitled to a full grace period when they complete the period of military service.</p>	<p>For affected individuals with Perkins or FFELP loans, ED has modified this provision to exclude from the borrower's initial grace period any period of time not to exceed three years during which the borrower is in an affected status. The excluded period must include time for the borrower to resume enrollment, if applicable. The borrower is also entitled to another 6- or 9-month grace period (depending on whether the loan is a FFELP or Perkins loan) upon completion of the excluded period of service.</p>
Category 2	<p><b>In-School Period</b></p> <p>HEA 428(b)(7) and 464(c)(1)(A)  34 CFR 674.31(b)(2), 682.209(a)</p>	<p>A student is considered to be "in-school" as long as the student is enrolled at least half-time at an eligible school. When the student ceases to be enrolled at least half-time, the grace period begins, and the borrower is obligated to begin payments after the grace period ends.</p>	<p>ED has modified the provisions that obligate an "in-school" borrower who has dropped below half-time status to begin repayment if the borrower is an affected individual in this category. The loan holder must maintain the loan in an "in-school" status for a period not to exceed three years, including the time necessary for the borrower to resume enrollment in the next regular enrollment period, if the borrower is planning to go back to school.</p> <p>The loan holder may bill interest on a subsidized Stafford loan to ED during this extended in-school period.</p>

Borrower Category	Subject & Statutory/Regulation Cite	Normal Processing Requirement	Summary of Waiver Provision
Category 2	<p><b>In-School and Graduate-Fellowship Deferment</b></p> <p>HEA 427(a)(2)(C)(i), 428(b)(1)(M)(i), 428B(a)(2), 428C(b)(4)(C), 455(f)(2)(A), and 464(c)(2)(A)(i)(I) 34 CFR 674.34(b)(1), 682.210(b)(1)(i) and (ii), 682.210(s)(2) &amp; (3)</p>	<p>A student who is (1) enrolled at least half-time at an eligible school (or, enrolled full-time if required by the terms of the promissory note), or (2) engaged in a graduate-fellowship program is eligible for deferment for the period of at least half-time study or until the fellowship is completed or the student is no longer participating.</p>	<p>For borrowers who were required to interrupt their deferment due to their affected status, ED is instructing the loan holder to maintain the loan in an in-school or graduate fellowship deferment status not to exceed three years during which the borrower is an affected individual. This period includes the time for a borrower to resume enrollment during the next available period, if applicable.</p> <p>The loan holder may bill interest on a subsidized Stafford loan to ED during these extended deferment periods.</p>
Category 2	<p><b>Forbearance</b></p> <p>HEA 464(e) 34 CFR 682.211(i)(1), 674.33(d)(2) and (3)</p>	<p>A borrower must request forbearance based on military mobilization and provide the loan holder with documentation to substantiate that the borrower is subject to that mobilization.</p> <p>For Perkins loans, there is a three-year cumulative limit on the length of forbearances.</p>	<p>The loan holder may grant forbearance for affected borrowers at the request of the borrower, a member of the borrower's family, or another reliable source, without documentation. The forbearance may be granted for a one-year period, including a three-month transition period that immediately follows the initial forbearance period. To grant forbearance beyond the initial period, the loan holder must obtain documentation of the borrower's military mobilization.</p> <p>In addition, for Perkins loans, any forbearance based on a borrower status as an affected individual is excluded from the three-year cumulative limit.</p>

Borrower Category	Subject & Statutory/Regulation Cite	Normal Processing Requirement	Summary of Waiver Provision
Category 2	<p><b>Collection of Defaulted Loans</b></p> <p>34 CFR Part 674, Subpart C- Due Diligence, 682.410</p>	<p>The regulations require specific due diligence activities in an effort to recover amounts owed from defaulted FFELP and Perkins borrowers.</p>	<p>Based on notification by the borrower, a member of the borrower’s family or another reliable source, schools and guaranty agencies may cease collection activities on defaulted loans for the time period during which the borrower is an affected individual.</p> <p>After the borrower has notified the school or guaranty agency that he or she is no longer an affected individual, collection activities must resume after a three-month transition period.</p> <p>The loan holder must document why it suspended collection activities, but is not required to obtain evidence of the borrower’s status.</p>
Category 2	<p><b>Loan Cancellation (Forgiveness)</b></p> <p>HEA 428J(b)(1), 428K(d)(1), 460(b)(1)(A), and 465(a)(2)(A)-(I) and (a)(3) 34 CFR 674.53(d), 674.55, 674.56(d)(1), 674.57(b)(1), 674.58(b), 674.60(b), 682.215</p>	<p>Certain borrowers may qualify for loan cancellation by performing uninterrupted qualifying service for a specified length of time (for example, one year) or for consecutive periods of time, such as five consecutive years.</p>	<p>The period during which a borrower is an affected individual, including a three-month transition period, will not be considered an interruption in this required service obligation.</p>

Borrower Category	Subject & Statutory/Regulation Cite	Normal Processing Requirement	Summary of Waiver Provision
Category 2	<p><b>Consecutive Payments for:</b></p> <ul style="list-style-type: none"> <li>• <b>Rehabilitation of Defaulted Loans</b> HEA 428F(a) and 464(h)(1) 34 CFR 674.39(a)(2), 682.405</li> <li>• <b>Reinstatement of Title IV Eligibility</b> HEA 428F(b) and 464(h)(2) 34 CFR 668.35(a)(2), 674.2(b), 682.200(b)</li> <li>• <b>Consolidation of Defaulted Loans</b> 34 CFR 682.200(b)</li> </ul>	Borrowers must make consecutive, monthly, on-time payments to be eligible for rehabilitation, reinstatement of Title IV eligibility and consolidation of a defaulted loan.	During the time that a borrower is an affected individual in this category or during the three-month transition period, the loan holder should not treat any missed payment as an interruption in the consecutive, monthly, on-time payments requirement.
Category 3	<p><b>Military Deferment</b></p> <p>HEA 455(f)(4) 34 CFR 674.35(c)(1), 674.36(c)(1), 674.37(c)(1), 682.210(b)(2) 34 CFR 674.38(a)(1) and 682.210(a)(4)</p>	New Stafford loan borrowers before July 1, 1993, and some PLUS-loan borrowers, are eligible for a military deferment for periods not to exceed a three-year limit. (See Common Manual subsection 10.7.A for information regarding borrower eligibility for military deferment.) Borrowers must provide the loan holder with documentation substantiating full-time, active-duty status.	<p>For qualifying borrowers, the time that an affected individual spends serving on active duty is excluded from this three-year limit for military deferments. In addition, loan holders may process the initial deferment period for one year without documentation. To grant deferment beyond the initial one year period, the loan holder must obtain documentation from the borrower, a member of the borrower's family, or another reliable source.</p> <p>The loan holder may bill interest on a subsidized Stafford loan to ED during the extended deferment period.</p>

<b>Borrower Category</b>	<b>Subject &amp; Statutory/Regulation Cite</b>	<b>Normal Processing Requirement</b>	<b>Summary of Waiver Provision</b>
Category 3	<b>Institutional Charges and Refunds</b>		<p>The HEROES Act encourages schools to provide a full refund or credit for institutional charges for the period of instruction that the student was unable to complete because he or she is an affected individual.</p> <p>A school must perform the RT4 calculation before making a refund. The school may take into consideration any reduction of institutional charges in this calculation. Of those same funds, ED does not expect for a school to return funds to both the Federal programs and provide a refund to the student.</p> <p>In addition, schools should consider providing flexible reenrollment options for these affected individuals who choose to resume their education.</p>
Category 4	<b>Verification Signature</b> 34 CFR 668.57(b) & (c)	A dependent student must submit a statement signed by his or her parent verifying the number of family members enrolled in higher education.	When no parent is available because they are an affected individual in this category, the student is not required to submit the signed statement.
Category 4	<b>Required Signatures on the FAFSA, SAR &amp; ISIR</b>	At least one parental signature is required when a dependent student submits a Free Application for Federal Student Aid (FAFSA) or a correction to a previous FAFSA.	If no parent is available because they are an affected individual in this category, the parent's signature is not required. A student may obtain signatures from the student's high-school counselor, or the financial aid administrator may sign on behalf of the parent as long as the applicant provides sufficient documentation concerning the parent's inability to sign the form.