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20 U.S. Code § 1087dd - Terms of loans

U.S. Code Notes

(a) TERMS AND CONDITIONS

(1) Loans from any student loan fund established pursuant to an agreement under section 1087cc of this title to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)

(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) \$5,500, in the case of a student who has not successfully completed a program of undergraduate education; or

(ii) \$8,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate unpaid principal amount for all loans made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) \$60,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary,

and including any loans from such funds made to such person before such person became a graduate or professional student);

(ii) \$27,500, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary), and including any loans from such funds made to such person before such person became such a student; and

(iii) \$11,000, in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) DEMONSTRATION OF NEED AND ELIGIBILITY REQUIRED

(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part F of this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan. A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.

(2) If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, then a reasonable portion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.

(c) CONTENTS OF LOAN AGREEMENT

(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)

(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than \$40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than \$40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of \$5, be rounded to the next highest whole dollar amount that

is a multiple of \$5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (i) prior to the beginning date of repayment determined under paragraph (2)(A)(i), or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be cancelled—

(i) upon the death of the borrower;

(ii) if the borrower becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(iii) if the borrower is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months; or

(iv) if the borrower is determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 1087cc(a)(6) ^[1] of this title;

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20

percent of the amount of the monthly payment of the borrower;
and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to consumer reporting agencies under section 1087cc(c) of this title.

(2)

(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) during which the borrower—

(I) is serving on active duty during a war or other military operation or national emergency; or

(II) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in subclause (I) or (II);

(iv) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(o) of this title, has caused or will cause the borrower to have an economic hardship;

(v) during which the borrower is engaged in service described

in section 1087ee(a)(2) of this title; or

(vi) during which the borrower is receiving treatment for cancer and the 6 months after such period;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (A) of paragraph (1).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(C) An individual with an outstanding loan balance who meets the eligibility criteria for a deferment described in subparagraph (A) as in effect on October 7, 1998, shall be eligible for deferment under this paragraph notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such deferment.

(3)

(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1) (H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload (as described in paragraph (1)(A)) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(d) AVAILABILITY OF LOAN FUND TO ALL ELIGIBLE STUDENTS

An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) FORBEARANCE

(1) The Secretary shall ensure that, as documented in accordance with paragraph (2), an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(A) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income;

(B) the institution determines that the borrower should qualify for forbearance for other reasons; or

(C) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10 and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j), except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j).

(2) For the purpose of paragraph (1), the terms of forbearance agreed to by the parties shall be documented by—

(A) confirming the agreement of the borrower by notice to the borrower from the institution of higher education; and

(B) recording the terms in the borrower's file.

(f) SPECIAL REPAYMENT RULE AUTHORITY

(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;

(B) the interest due on such loan; and

(C) any collection fees due on such loan;

in a lump sum payment.

(g) DISCHARGE**(1) IN GENERAL**

If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 1099c(c) of this title.

(2) ASSIGNMENT

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE

The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter.

(4) SPECIAL RULE

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this subchapter for which the borrower would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall be treated as an amount canceled under section 1087ee(a) of this title.

(5) REPORTING

The Secretary or institution, as the case may be, shall report to consumer reporting agencies with respect to loans that have been discharged pursuant to this subsection.

(h) REHABILITATION OF LOANS**(1) REHABILITATION****(A) In general**

If the borrower of a loan made under this part who has defaulted on the loan makes 9 on-time, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, or by the Secretary in the case of a loan held by the Secretary, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall request that any consumer reporting agency to which the default was reported remove the default from the borrower's credit history.

(B) Comparable conditions

As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

(C) Additional assistance

The borrower of a rehabilitated loan shall not be precluded by section 1091 of this title from receiving additional grant, loan, or work assistance under this subchapter (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

(D) Limitations

A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

(2) RESTORATION OF ELIGIBILITY

If the borrower of a loan made under this part who has defaulted on that loan makes 6 on-time, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this subchapter shall be restored to the extent that the borrower is otherwise eligible. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

(i) INCENTIVE REPAYMENT PROGRAM**(1) IN GENERAL**

Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

(2) LIMITATION

No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, or with institutional funds from the student loan fund.

(j) ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS**(1) AUTHORITY**

Using funds received by transfer to the Secretary under section 2174 of title 10 or section 3078 of title 33 for the payment of interest on a loan made under this part to a member of the Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE

During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(1)(C).

(k) ADDITIONAL SAFEGUARDS

The Secretary may develop such additional safeguards as the Secretary determines necessary to prevent fraud and abuse in the cancellation of liability under subsection (c)(1)(F). Notwithstanding subsection (c)(1)(F), the Secretary may promulgate regulations to resume collection on loans cancelled under subsection (c)(1)(F) in any case in which—

(1) a borrower received a cancellation of liability under subsection (c)(1)(F) and after the cancellation the borrower—

(A) receives a loan made, insured, or guaranteed under this subchapter; or

(B) has earned income in excess of the poverty line; or

(2) the Secretary determines necessary.

(Pub. L. 89-329, title IV, § 464, as added Pub. L. 99-498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1448; amended Pub. L. 100-50, § 13(i), June 3, 1987, 101 Stat. 349; Pub. L. 100-369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101-239, title II, § 2002(a)(3), Dec. 19, 1989, 103 Stat. 2111; Pub. L. 102-325, title IV, § 464, July 23, 1992, 106 Stat. 580; Pub. L. 103-208, § 2(f)(9)-(11), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105-244, title IV, § 464, Oct. 7, 1998, 112 Stat. 1725; Pub. L. 107-314, div. A, title VI, § 651(d), Dec. 2, 2002, 116 Stat. 2580; Pub. L. 109-171, title VIII, § 8007(c), Feb. 8, 2006, 120 Stat. 160; Pub. L. 110-84, title II, § 202(c), Sept. 27, 2007, 121 Stat. 792; Pub. L. 110-315, title IV, §§ 432(b)(7), 464(a), (b)(1), (c), Aug. 14, 2008, 122 Stat. 3246, 3266, 3267; Pub. L. 111-39, title IV, § 405(4), July 1, 2009, 123 Stat. 1947; Pub. L. 115-245, div. B, title III, § 309(d), Sept. 28, 2018, 132 Stat. 3106; Pub. L. 116-259, title II, § 202(b)(2), Dec. 23, 2020, 134 Stat. 1163.)

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