

Higher Education Act of 1965, as amended, and previously named the National Direct Student Loan (NDSL) Program, is a continuation of the National Defense Loan Program authorized by title II of the National Defense Education Act of 1958. All rights, privileges, duties, functions, and obligations existing under title II before the enactment of title IV-E continue to exist.

(2) The Secretary considers any student loan fund established under title IV-E to include the assets of an institution's student loan fund established under title II.

*(c) Provisions in these regulations that are common to all campus-based programs are identified with an asterisk.

(d) Provisions in these regulations that refer to "loans" or "student loans" apply to all loans made under title IV-E of the HEA or title II of the National Defense Education Act.

(Authority: 20 U.S.C. 1087aa-1087hh; Pub. L. 92-318, sec. 137(d)(1))

[52 FR 45747, Dec. 1, 1987, as amended at 57 FR 32344, July 21, 1992; 59 FR 61415, Nov. 29, 1994; 64 FR 18002, Apr. 6, 2000]

§ 674.2 Definitions.

(a) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

Academic Competitiveness Grant (ACG) Program
 Academic year
 Award year
 Defense loan
 Enrolled
 Expected family contribution (EFC)
 Federal Family Education Loan (FFEL) programs
 Federal Pell Grant
 Federal Perkins loan
 Federal Perkins Loan Program
 Federal PLUS Program
 Federal SLS Program
 Federal Supplemental Educational Opportunity Grant (FSEOG) Program
 Federal Work-Study (FWS) Program
 Full-time student
 Graduate or professional student
 Half-time student
 HEA
 National Defense Student Loan Program
 National Direct Student Loan (NDSL) Program

National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program

Payment period

Secretary

Teacher Education Assistance for College and Higher Education (TEACH) Grant Program

TEACH Grant

Undergraduate student

(b) The Secretary defines other terms used in this part as follows:

Default: The failure of a borrower to make an installment payment when due or to comply with other terms of the promissory note or written repayment agreement.

Enter repayment: The day following the expiration of the initial grace period or the day the borrower waives the initial grace period. This date does not change if a forbearance, deferment, or cancellation is granted after the borrower enters repayment.

Federal capital contribution (FCC): Federal funds allocated or reallocated to an institution for deposit into the institution's Fund under section 462 of the HEA.

Financial need: The difference between a student's cost of attendance and his or her EFC.

Fund (Federal Perkins Loan Fund): A fund established and maintained according to § 674.8.

Initial grace period: That period which immediately follows a period of enrollment and immediately precedes the date of the first required repayment on a loan. This period is generally nine months for Federal Perkins loans, Defense loans, and NDSLs made before October 1, 1980, and six months for other Direct loans.

Institution of higher education (institution): A public or private nonprofit institution of higher education, a proprietary institution of higher education, or a postsecondary vocational institution.

Institutional capital contribution (ICC): Institutional funds contributed to establish or maintain a Fund.

Making of a loan: When the institution makes the first disbursement of a loan to a student for an award year.

Master Promissory Note (MPN): A promissory note under which the borrower may receive loans for a single award year or multiple award years.

National credit bureau: Any one of the national credit bureaus with which the Secretary has an agreement.

**Need-based employment:* Employment provided by an institution itself or by another entity to a student who has demonstrated to the institution or the entity (through standards or methods it establishes) a financial need for the earnings from that employment for the purpose of defraying educational costs of attendance for the award year for which the employment is provided.

Post-deferment grace period: That period of six consecutive months which immediately follows the end of certain periods of deferment and precedes the date on which the borrower is required to resume repayment on a loan.

Satisfactory repayment arrangement: For purposes of regaining eligibility for grant, loan, or work assistance under Title IV of the HEA, to the extent that the borrower is otherwise eligible, the making of six (6) on-time, consecutive, monthly payments on a defaulted loan. A borrower may obtain the benefit of this paragraph with respect to renewed eligibility once on a defaulted loan.

Student loan: For this part means an NDSL Loan, Defense Loan, or a Federal Perkins Loan.

Total monthly gross income: The gross amount of income received by the borrower from employment (either full-time or part-time) and from other sources.

(Authority: 20 U.S.C. 1070g, 1094)

[52 FR 45747, Dec. 1, 1987, as amended at 53 FR 52580, Dec. 28, 1988; 57 FR 32344, July 21, 1992; 59 FR 61404, 61415–61416, Nov. 30, 1994; 60 FR 61814, Dec. 1, 1995; 61 FR 60608, Nov. 29, 1996; 64 FR 58308, Oct. 28, 1999; 65 FR 18002, Apr. 6, 2000; 67 FR 67076, Nov. 1, 2002; 69 FR 12276, Mar. 16, 2004; 71 FR 38003, July 3, 2006; 72 FR 62030, Nov. 1, 2007; 73 FR 35494, June 23, 2008]

§§ 674.3–674.4 [Reserved]

§ 674.5 Federal Perkins Loan program cohort default rate and penalties.

(a) *Default penalty.* If an institution's cohort default rate meets the following levels, a default penalty is imposed on the institution as follows:

(1) *FCC reduction.* If the institution's cohort default rate equals or exceeds 25

percent, the institution's FCC is reduced to zero.

(2) *Ineligibility.* For award year 2000–2001 and succeeding award years, an institution with a cohort default rate that equals or exceeds 50 percent for each of the three most recent years for which cohort default rate data are available is ineligible to participate in the Federal Perkins Loan Program. Following a review of that data and upon notification by the Secretary, an institution is ineligible to participate for the award year, or the remainder of the award year, in which the determination is made and the two succeeding award years. An institution may appeal a notification of ineligibility from the Secretary within 30 days of its receipt.

(i) *Appeal procedures—(A) Inaccurate calculation.* An institution may appeal a notice of ineligibility based upon the submission of erroneous data by the institution, the correction of which would result in a recalculation that reduces the institution's cohort default rate to below 50 percent for any of the three award years used to make a determination of ineligibility. The Secretary considers the edit process, by which an institution adjusts the cohort default rate data that it submits to the Secretary on its Fiscal Operations Report, to constitute the procedure to appeal a determination of ineligibility based on a claim of erroneous data.

(B) *Small number of borrowers entering repayment.* An institution may appeal a notice of ineligibility if, on average, 10 or fewer borrowers enter repayment for the three most recent award years used by the Secretary to make a determination of ineligibility.

(C) *Decision of the Secretary.* The Secretary issues a decision on an appeal within 45 days of the institution's submission of a complete, accurate, and timely appeal. An institution may continue to participate in the program until the Secretary issues a decision on the institution's appeal.

(ii) *Liquidation of an institution's Perkins Loan portfolio.* Within 90 days of receiving a notification of ineligibility or, if the institution appeals, within 90 days of the Secretary's decision to deny the appeal, the institution must—