

§ 674.32

34 CFR Ch. VI (7-1-11 Edition)

advance payment of the next regular installment.

(5) *Late charge.* (i) An institution shall state in the promissory note that the institution will assess a late charge if the borrower does not—

(A) Repay all or part of a scheduled repayment when due; or

(B) File a timely request for cancellation or deferment with the institution. This request must include sufficient evidence to enable the institution to determine whether the borrower is entitled to a cancellation or deferment.

(ii)(A) The amount of the late charge on a Federal Perkins Loan or an NDSL Loan made to cover the cost of attendance for a period of enrollment that began on or after January 1, 1986 must be determined in accordance with § 674.43(b) (2), (3) and (4).

(B) The amount of the late or penalty charge on an NDSL made for periods of enrollment that began before January 1, 1986 may be—

(1) For each overdue payment on a loan payable in monthly installments, a maximum monthly charge of \$1 for the first month and \$2 for each additional month.

(2) For each overdue payment on a loan payable in bimonthly installments, a maximum bimonthly charge of \$3.

(3) For each overdue payment on a loan payable in quarterly installments, a maximum charge per quarter of \$6. (See appendix E of this part)

(iii) The institution may—

(A) Add either the penalty or late charge to the principal the day after the scheduled repayment was due; or

(B) Include it with the next scheduled repayment after the borrower receives notice of the late charge.

(6) *Security and endorsement.* The promissory note must state that the loan shall be made without security and endorsement.

(7) *Assignment.* The promissory note must state that a note may only be assigned to—

(i) The United States or an institution approved by the Secretary; or

(ii) An institution to which the borrower has transferred if that institution is participating in the Federal Perkins Loan program.

(8) *Acceleration.* The promissory note must state that an institution may demand immediate repayment of the entire loan, including any late charges, collection costs and accrued interest, if the borrower does not—

(i) Make a scheduled repayment on time; or

(ii) File cancellation or deferment form(s) with the institution on time.

(9) *Cost of collection.* The promissory note must state that the borrower shall pay all attorney's fees and other loan collection costs and charges.

(10) *Disclosure of information.* The promissory note must state that—

(i) The institution must disclose to at least one national credit bureau the amount of the loan made to the borrower, along with other relevant information.

(ii) If the borrower defaults on the loan, the institution shall disclose that the borrower has defaulted on the loan, along with other relevant information, to the same national credit bureau to which it originally reported the loan; and

(iii) If the borrower defaults on the loan and the loan is assigned to the Secretary for collection, the Secretary may disclose to a national credit bureau that the borrower has defaulted on the loan, along with other relevant information.

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

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

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§ 674.32 Special terms: loans to less than half-time student borrowers.

(a) The promissory note used with regard to loans to borrowers enrolled on a less than half-time basis must state that the repayment period begins—

(1) On the date of the next scheduled installment payment on any outstanding loan to the borrower; or

(2) If the borrower has no outstanding loan, at the earlier of—

(i) Nine months from the date the loan was made, or

(ii) The end of a nine-month period that includes the date the loan was

made and began on the date the borrower ceased to be enrolled as at least a half-time regular student at an institution of higher education or comparable institution outside the U.S. approved for this purpose by the Secretary.

(b) The note must otherwise conform to the provisions of § 674.31.

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

[52 FR 45754, Dec. 1, 1987, as amended at 57 FR 32345, July 21, 1992]

§ 674.33 Repayment.

(a) *Repayment Plan.* (1) The institution shall establish a repayment plan before the student ceases to be at least a half-time regular student.

(2) If the last scheduled payment would be \$25 or less the institution may combine it with the next-to-last repayment.

(3) If the installment payment for all loans made to a borrower by an institution is not a multiple of \$5, the institution may round that payment to the next highest dollar amount that is a multiple of \$5.

(4) The institution shall apply any payment on a loan in the following order:

- (i) Collection costs.
- (ii) Late charges.
- (iii) Accrued interest.
- (iv) Principal.

(b) *Minimum monthly repayment*—(1) *Minimum monthly repayment option.* (i) An institution may require a borrower to pay a minimum monthly repayment if—

(A) The promissory note includes a minimum monthly repayment provision specifying the amount of the minimum monthly repayment; and

(B) The monthly repayment of principal and interest for a 10-year repayment period is less than the minimum monthly repayment; or

(ii) An institution may require a borrower to pay a minimum monthly repayment if the borrower has received loans with different interest rates at the same institution and the total monthly repayment would otherwise be less than the minimum monthly repayment.

(2) *Minimum monthly repayment of loans from more than one institution.* If a borrower has received loans from more

than one institution and has notified the institution that he or she wants the minimum monthly payment determination to be based on payments due to other institutions, the following rules apply:

(i) If the total of the monthly repayments is equal to at least the minimum monthly repayment, no institution may exercise a minimum monthly repayment option.

(ii) If only one institution exercises the minimum monthly repayment option when the monthly repayment would otherwise be less than the minimum repayment option, that institution receives the difference between the minimum monthly repayment and the repayment owed to the other institution.

(iii) If each institution exercises the minimum repayment option, the minimum monthly repayment must be divided among the institutions in proportion to the amount of principal advanced by each institution.

(3) *Minimum monthly repayment of both Defense and NDSL or Federal Perkins loans from one or more institutions.* If the borrower has notified the institution that he or she wants the minimum monthly payment determination to be based on payments due to other institutions, and if the total monthly repayment is less than \$30 and the monthly repayment on a Defense loan is less than \$15 a month, the amount attributed to the Defense loan may not exceed \$15 a month.

(4) *Minimum monthly repayment of loans with differing grace periods and deferments.* If the borrower has received loans with different grace periods and deferments, the institution shall treat each note separately, and the borrower shall pay the applicable minimum monthly payment for a loan that is not in the grace or deferment period.

(5) *Hardship.* The institution may reduce the borrower's scheduled repayments for a period of not more than one year at a time if—

(i) It determines that the borrower is unable to make the scheduled repayments due to hardship (see § 674.33(c)); and