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# Loan Notes

Courtesy of American Education Services

## THE EXTENSION AND REAUTHORIZATION OF THE HIGHER EDUCATION ACT

On May 13, 2008, President Bush signed Public Law (P.L.) 110-230 which extends the expiry date on the existing programs under the Higher Education Act (HEA) from April 30, 2008 to May 31, 2008. This is the 11th extension of the HEA in the absence of a full reauthorization.

The last reauthorization of the HEA occurred ten years ago in 1998. The HEA is normally reauthorized approximately every five years. The reauthorization process allows the U.S. Congress to determine and make changes to the Title IV student aid programs. Currently, the U.S. House of Representatives and the U.S. Senate each have bills addressing reauthorization of the HEA. The House of

Representatives passed their version (H.R. 4137) of reauthorization on February 7, 2008 and the Senate version (S. 1642) was passed on July 24, 2007. This latest extension of the HEA provided a 30-day period for Congress to work on the differences between the two bills.

As of the publication date of this issue of *Loan Notes*, Scott Miller, AES Federal Relations Director, stated that "The odds of reauthorization happening by May 31st are about 50-50 because the bills are huge (about 100 pages long) and there are dozens and dozens of substantive differences between the House and Senate versions of the bill." He also added that "while the chances are probably 75% or better that a final package will be agreed to before the summer recess in August, it is almost impossible to predict the date that will happen."

## NOTICE OF NEGOTIATED RULEMAKING

In the January 8, 2008 *Federal Register* (available at [ifap.ed.gov](http://ifap.ed.gov)), the U.S. Department of Education (ED) announced the establishment of two negotiated rulemaking committees. One committee was charged with developing proposed regulations for the Teacher Education Assistance for College and Higher Education (TEACH) Grant program and the other committee was charged with developing proposed regulations for other Federal Student Aid programs authorized by Title IV of the HEA.

Having reached consensus on the issues, the TEACH Grant Committee published a notice of proposed rulemaking in the March 21, 2008 *Federal Register*. The comment period ended on April 21, 2008. ED will review the comments and plans to publish Final Rules in mid to late June 2008.

On March 6, 2008, the Student Loan Committee finished the third negotiated rulemaking session and then extended their original schedule to include a

fourth session for April 14 and 15, 2008. This group also reached consensus. The provisions of the College Cost Reduction and Access Act (CCRAA) discussed by the negotiators in the Student Loan Committee included the Income-Based Repayment plan (IBR), conforming the IBR with the Economic Hardship Deferment, Public Service Loan Forgiveness, a definition of Not-for-Profit Holder, and Harmonizing Heroes Waivers with other Benefits Provided to Returning and Active Duty Military.

In addition, the CCRAA provisions discussed by the Student Loan Committee included the topic of the Federal preemption of state laws related to improper inducements and arrangements between schools, lenders, and other entities in the student loan programs.

Consensus was reached by the negotiators, and ED will publish - in the *Federal Register* - the proposed regulations developed by the Student Loan Committee for public comment. ED anticipates that proposed regulations developed by the Student Loan Committee will be published in June 2008.



American Education Services

## 2008-2009 APPLICATION AND VERIFICATION GUIDE AVAILABLE

Over the past several months, the U.S. Department of Education (ED) has published and posted - as of the preparation date for this issue of *Loan Notes* - on [ifap.ed.gov](http://ifap.ed.gov), the following sections of the 2008-2009 *Federal Student Aid Handbook*:

- The Application and Verification Guide (AVG).
- Volume 1 – Student Eligibility
- Volume 2 – School Eligibility and Operations
- Volume 4 – Processing Aid and Managing Federal Student Aid Funds
- Volume 5 – Overaward, Overpayments, & Withdrawal Calculations
- Volume 6 – Campus Based Programs

Beginning with the AVG, *Loan Notes* will review the policy as opposed to operational changes between the 2007-2008 and the 2008-2009 editions of the Handbook. In future issues of *Loan Notes*, there will be similar reviews of Volumes 1, 2, 4, 5, and 6 – and, when published, Volume 3. **The chart detailing the changes within the AVG follows:**

PAGE	CHANGES MADE
AVG-11	<p>Consistent with changes made in the Final Rules published on November 1, 2007, ED has modified the definitions of undergraduate and graduate/professional students.</p> <p>AN UNDERGRADUATE STUDENT IS DEFINED AS:</p> <ul style="list-style-type: none"> <li>• A student who is enrolled in a program of study that usually does not exceed four academic years or is enrolled in a longer program that is designed to lead to a first degree at the baccalaureate level.</li> <li>• A student enrolled in a program that lasts longer than five years is considered an undergraduate for only the first four years.</li> </ul> <p>Students enrolled in dual degree programs are undergraduates for at least the first three years of the program. After the first three years, the school determines the point at which the student ceases to be an undergraduate.</p> <p>A GRADUATE STUDENT IS DEFINED AS:</p> <ul style="list-style-type: none"> <li>• a student who is not receiving aid as an undergraduate for the same period of enrollment;</li> <li>• is enrolled in a program above the bachelor's level or one leading to a first professional degree; and</li> <li>• has completed the equivalent of at least three academic years of full-time study, either before entrance into the program or as part of it.</li> </ul> <p>Additional guidance for defining undergraduate students for purposes of FSEOG, Pell, ACG and National SMART grants is provided.</p>
AVG-13	Effective for 2008-2009, the FAFSA application will be rejected if a non-filer's work income exceeds the tax filing threshold.
AVG-28	Students at a U.S. military academy are not included in the number in college because most – as opposed to all – of their primary educational expenses are paid for.
AVG-35	ED clarifies in an added margin note that a person who filed a Form 1040 solely to claim a tax credit is not disqualified from being considered for the simplified formula, or automatic zero EFC calculations.
AVG-38	The employment expense allowance has been increased to \$3,300 for 2008-2009, an increase of \$100 from 2007-2008. The allowance recognizes extra expenses which two- and single-parent working families may incur from working outside the home such as transportation, meals away from home, and housekeeping costs.
AVG-40	The income protection allowance (IPA) for a dependent student has been increased to \$3,080.
AVG-42	The income protection allowance (IPA) for independent students who are unmarried, married with a spouse enrolled at least half-time, and married with a spouse not enrolled at least half-time have been increased to \$6,220, \$6,220, and \$9,970, respectively.
AVG-79	ED has updated the margin note under the HEROES Act to indicate that the waivers and modifications of the Act which were set to expire on September 30, 2007, have been made permanent.

## TO FEE OR NOT TO FEE, THAT IS THE QUESTION

As a result of the implementation of the College Cost Reduction and Access Act (CCRAA), Federal Family Education Loan Program (FFELP) loans may now have fees associated with them. When schools are constructing the Cost of Attendance (COA) for students receiving FFELP loans, the COA includes origination and federal default fees associated with each Stafford or PLUS loan for which the student or parent borrower is applying. According to the 2007- 2008 *Federal Student Aid Handbook*, Volume 3, Chapter 2, page 3-21, the school “may also include the fees required for nonfederal student loans (that is, nonfederal loans that must be considered Estimated Financial Assistance for the student when packaging aid).”

Schools can use either the exact loan fees charged to the student, or an average of fees charged to borrowers of the same type of loan at the school. To be included in the COA, any loan fees for private loans must be charged to the borrower during the period of enrollment for which the loan is intended.

## WEB REFUNDS TOOL

After a loan is guaranteed by AES, a school may identify a need to increase or decrease a borrower's loan amount. If the school needs to increase the loan amount, the school reports the change through OneLINK. If the school is decreasing the loan amount by a refund through the Web Refunds Tool, the school does not need to report the decrease through OneLINK because the Web Refunds Tool automatically updates the OneLINK system.

The Web Refunds Tool also communicates the decrease in the loan amount to the appropriate lender if the lender uses AES as a disbursing and servicing agent. This Tool allows schools to return AES disbursed loan funds via an online, automated roster that reads the AES disbursement system in real-time.

Although a school is no longer required to certify a student's cost of attendance (COA), expected family contribution (EFC), and estimated financial assistance (EFA), the school must maintain the COA, EFC, and EFA data used in computing or revising the borrower's loan eligibility and make this data available upon request of the lender, guarantor, or ED.

For more information on the Web Refunds Tool or OneLINK, please contact:

### Automated Loan Services

1.800.443.0646

then by selecting Option 4 and then Option 1,

[OneLINKServices@aessuccess.org](mailto:OneLINKServices@aessuccess.org)

## AES/PHEAA PREPARES FOR LENDER OF LAST RESORT

While we believe that our participating lender list is strong; in the face of a troubled economy and unstable capital markets, PHEAA is in the process of updating our Lender of Last Resort (LLR) policies and procedures to be fully prepared in the event that this program is necessary. As the designated guaranty agency in Pennsylvania, West Virginia and Delaware, PHEAA will be prepared to guarantee subsidized and unsubsidized Federal Stafford Loans as well as Parent PLUS and Graduate PLUS loans under our LLR Program.

The 1986 HEA Amendments, 428(j), included the initial provisions requiring guaranty agencies to establish a LLR Program. PHEAA has had LLR policies and procedures in place since 1991. In 1994, all Guarantors were required to submit LLR Policies and Procedures to the U.S. Department of Education (ED) for approval.

ED provided new LLR planning guidance to all FFELP guarantors on March 26, 2008 in *Dear Colleague Letter* (DCL) FP-08-03/GEN-08-03. To ensure consistency under this program, ED organized an industry workgroup to discuss LLR policies and implementation. Mr. James Preston, President and CEO of PHEAA, has been appointed to the workgroup representing Guaranty Agency CEOs. The information shared through this workgroup will be used by ED to issue guidance to lenders, guaranty agencies, and schools on the LLR process.

If any of your students experience a problem obtaining a FFELP loan, please contact your Education Services Group Regional Manager or call us at 800.443.0646, Option 4. As always, PHEAA is committed to meeting the borrowing needs of students and their parents. We will provide additional information and guidance as it is provided to us by ED.

## FFELP FINAL RULES TRAINING WORKSHOP AUDIOCAST

The FFELP Final Rules Training Workshop presentation- with accompanying audio- is now available at [aesSuccess.org](http://aesSuccess.org). The presentation, which details changes affecting FFELP as a result of the implementation of Final Rules and the College Cost Reduction and Access Act (CCRAA) is available online in the 'Document Library' under the 'AES Training Workshop Presentations' section of the school portal.

## STAFFORD MPN EXPIRATION DATE EXTENDED

The Office of Management and Budget Action (OMB) has announced that the expiration date of the current Stafford Master Promissory Note (MPN) has been extended. The original expiration date of 02/29/2008 has now been extended to 05/31/2008. MPNs currently in use with an expiration date of 02/29/2008 will remain valid for use until the new forms are approved by OMB and implemented.

## IMPLEMENTATION OF THE PROMISSORY NOTE ADDENDA AND PLAIN LANGUAGE DISCLOSURE FOR FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM LOANS

The U.S. Department of Education (ED) published *Dear Colleague Letter* (DCL) FP-08-02 on January 8, 2008 to provide details on the implementation of the:

- Addendum to the Federal Stafford Loan Master Promissory Note (Stafford MPN Addendum)
- Federal Stafford Loan Plain Language Disclosure (Stafford PLD)
- Addendum to the Federal PLUS Loan Application and Master Promissory Note and Endorser Addendum (PLUS MPN Addendum)
- Federal PLUS Loan Plain Language Disclosure (PLUS PLD)
- Addendum to the Federal Consolidation Loan Application and Promissory Note (Consolidation Addendum)

The revised addenda for Stafford and PLUS loans, along with the PLDs, explain changes to loan terms and conditions resulting from the Higher Education Reconciliation Act of 2005 (HERA) and the College Cost Reduction and Access Act (CCRAA). In addition, the new addendum created for the Federal Consolidation Loan Application and Promissory Note gives details about the changes made to the terms and conditions of the Federal Consolidation loan by the CCRAA.

The new addenda and PLDs must be used with the current promissory notes to inform borrowers of the changes made to the terms and conditions of their loans by HERA and/or the CCRAA. Schools, lenders and guarantors were required to immediately discontinue the use of the current Stafford, PLUS, and Consolidation addenda and PLDs and begin using the revised addenda and PLDs as soon as possible. The revised addenda and PLDs are available at [aesSuccess.org](http://aesSuccess.org), by selecting 'Financial Aid Products and Support for Schools' or 'Solutions for Lenders,' clicking on 'Financial Aid Publications,' and then selecting 'FFEL Updates.'

## CONDITIONAL DISABILITY DISCHARGE Q&A

On March 25, 2008, the National Council of Higher Education Programs (NCHERP), in cooperation with the U.S. Department of Education (ED), published a question and answer document for the regulatory changes regarding Total and Permanent Disability Discharges. These changes are effective on July 1, 2008.

The question and answer document is available on-line at [aesSuccess.org](http://aesSuccess.org), under 'Financial Aid Products for Schools' or 'Solutions for Lenders,' then by selecting 'Financial Aid Publications' and double-clicking on 'FFELP Updates.'

## NOT-FOR-PROFIT HOLDER STATUS FOR SPECIAL ALLOWANCE BILLING

On December 28, 2007, the U.S. Department of Education (ED) published *Dear Colleague Letter* (DCL) FP-07-12. The DCL provides information and guidance on the procedures a loan holder may use to request designation as an eligible not-for-profit holder for the purpose of receiving special allowance payment (SAP) at the applicable rate. The DCL may be viewed in its entirety at [ifap.ed.gov](http://ifap.ed.gov) under the 'Letters & Bulletins' section. The information in DCL FP-07-12 is to be followed until final regulations are developed.

For entities that meet the new statutory definition of "eligible not-for-profit holder," the reduction in SAP is 15 basis points less than the reduction for other holders. Although the College Cost Reduction and Access Act (CCRAA) added a definition of "eligible not-for-profit holder" to section 435(p) of the Higher Education Act of 1965, as amended, (HEA), that definition was modified by the Third Higher Education Extension Act of 2007. The final statutory definition is provided as an attachment in the DCL. Please note that an entity that is an eligible lender under HEA §435(d), other than a school lender, may qualify in its own right as an eligible not-for-profit holder. An entity that is not an eligible lender under HEA §435(d) may qualify indirectly through an eligible lender trustee (ELT) agreement.

ED will make an initial determination of whether an entity qualifies as an eligible not-for-profit holder, either in its own right or through an eligible lender trustee (ELT) agreement, based upon two certifications that must be signed and submitted to ED. The first certification is from the entity's chief executive officer (CEO) and the second is from external legal counsel, along with supporting documentation for both certifications. The external counsel that submits the required certification must be an independent attorney and not in-house counsel. However, a public entity that claims eligibility under HEA §435(p) (1) (A) or, through an ELT, under HEA §435(p) (1) (D), may submit the certification from the Attorney General of its State. The certifications from the CEO and the external legal counsel together must demonstrate that the entity meets the definition in HEA §435(p) of an eligible not-for-profit holder either in its own right, or through an ELT. Please refer to the DCL for the certification and supporting documentation requirements for both the CEO and external legal counsel.

Since the new SAP rates apply to loans first disbursed on or after October 1, 2007, ED expected to receive the first SAP billings to which the new rates apply in January 2008 for the quarter ending December 31, 2007. Because some entities may not have been able to secure the required external counsel certification in time, ED advised that it would pay SAP at the not-for-profit holder rate based solely on the CEO certification, allowing entities until February 29, 2008 to provide the required external counsel certification and supporting documentation. If the requirements were not received by February 29, 2008, any SAP payments made at the higher rate based on the CEO certification will be adjusted to the lower for-profit holder SAP rate. In addition, payments for SAP at the higher rate will not be made for subsequent quarters unless both the CEO and the external counsel certifications and supporting documentation are received by ED. Entities that use a servicing agent to submit SAP billings must advise the servicer of the procedures and requirements provided in the DCL.

## CHANGE OF ADDRESS: LENDER AND SERVICER COMPLIANCE AUDITS

On February 19, 2008, the U.S. Department of Education (ED) notified lenders and servicers participating in the Federal Family Education Loan Program (FFELP) of a change in address for the submission of compliance audits prepared in accordance with the U.S. Department of Education, Office of the Inspector General Audit Guide dated December 1996, Compliance Audits (Attestation Engagements) for Lenders and Lender Servicers participating in the FFELP, and all related correspondence.

Audits which are performed in accordance with the Office of Management and Budget Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions should continue to be sent to the Federal Audit Clearinghouse, with copies mailed to a new address below.

### The new addresses are:

Express Mail -  
US Department of Education  
FSA/Program Compliance  
830 First St, NE  
Attn: FPEO  
Room 73-A-5  
Washington, DC 20002-5402

US Postal Service -  
US Department of Education  
FSA/Program Compliance  
830 First St, NE  
Attn: FPEO  
Room 71-I-1  
Washington, DC 20002-5402

## CONSOLIDATION LOANS

Effective for Consolidation loans disbursed on or after June 1, 2008, AES/PHEAA will guarantee the Consolidation loan only if at least one underlying loan to be consolidated is guaranteed by AES/PHEAA.

## CONTACT

### BUSINESS DEVELOPMENT & OPERATION/LOAN GUARANTY

Mon - Fri, 7:30 am to 9:00 pm ET

### STUDENT/PARENT GRANT & LOAN INQUIRIES

800.692.7392

[granthelp@aesSuccess.org](mailto:granthelp@aesSuccess.org)  
[studentloans@aesSuccess.org](mailto:studentloans@aesSuccess.org)

### SCHOOL/LENDER INQUIRIES

800.443.0646

[loanhelp@aesSuccess.org](mailto:loanhelp@aesSuccess.org)



American Education Services

**Be Next.**

AES helps students and families from every walk of life afford higher education, because we believe in the potential of everyone who wants to learn.

AES is a comprehensive student aid service, which means that we're there for students all the way. Starting from the time they apply for a loan, we deliver the funds, we stay with them through the academic years and guide them through successful repayment.

Because in making an education affordable, we do more than help students go to college. We guarantee the next generation of leaders, thinkers and doers.

1200 North Seventh Street, Harrisburg, Pa 17102-1444

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