

This document is the corrected version of the HEROES Act waiver notice that will publish in the [Federal Register on December 11, 2020](#). The corrected version below includes the Secretary's extension of student loan benefits through January 31, 2021.

4000-01-U

DEPARTMENT OF EDUCATION

34 CFR parts 600, 602, 668, 673, 674, 682, and 685

Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, William D. Ford Federal Direct Loan Program, and Federal-Work Study Programs)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Updated waivers and modifications of statutory and regulatory provisions.

SUMMARY: The Secretary is issuing updated waivers and modifications of statutory and regulatory provisions governing the Federal student financial aid programs under the authority of the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act or Act). The HEROES Act requires the Secretary to publish, in a document in the *Federal Register*, the waivers or modifications of statutory or regulatory provisions applicable to the student financial assistance programs under title IV of the Higher Education Act of 1965, as amended (HEA), to assist individuals who are performing qualifying military service, and individuals who are affected by a disaster, war, or

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other military operation or national emergency, as described in the SUPPLEMENTARY INFORMATION section of this document. On March 13, 2020, President Trump declared a national emergency based on the COVID-19 outbreak.

(Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, available at <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>).

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The waivers and modifications in this document expire as noted within each of the provisions below, unless extended by the Secretary in a document published in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Barbara Hoblitzell, by telephone: (202) 453-7583 or by email: Barbara.Hoblitzell@ed.gov, or Gregory Martin, by telephone: (202) 453-7535 or by email: Gregory.Martin@ed.gov.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

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The Secretary is issuing these waivers and modifications under the authority of the HEROES Act, as codified at 20 U.S.C. 1098bb(a)(2), which authorizes the Secretary to waive or modify any statutory or regulatory provision applicable to the Federal student financial assistance programs under title IV of the HEA, 20 U.S.C. 1070 et seq., as the Secretary deems necessary in connection with a war or other military operation or national emergency to affected individuals who are recipients of Federal student financial assistance under title IV of the HEA, institutions of higher education (IHEs), eligible lenders, guaranty agencies, and other entities participating in the Federal student assistance programs under title IV of the HEA that are located in areas that are declared disaster areas by any Federal, State, or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster. These entities may be granted temporary relief from requirements that are rendered infeasible or unreasonable by a national emergency, including due diligence requirements and reporting deadlines.

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In 20 U.S.C. 1098bb(b) (1), the HEROES Act further provides that section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of the Administrative Procedure Act (5 U.S.C. 553) do not apply to the contents of this document.

The terms "institution of higher education" and "institution of higher education for purposes of title IV programs" (IHE) used in this document are defined in sections 101 and 102 of the HEA.

In 20 U.S.C. 1098ee, the HEROES Act provides definitions critical to determining whether a person is an "affected individual" under the Act and, if so, which waivers and modifications apply to the affected individual. However, because these definitions do not include the specific circumstances under which these waivers and modifications are provided under the HEROES Act, we provide these definitions below.

For purposes of this document, "affected individual" means a student enrolled in a postsecondary institution. An "affected borrower" is one whose Federal student loans provided under title IV are in repayment. These definitions are in keeping with 20 U.S.C. 1098bb(a) (2) that establishes that statutory and regulatory provisions can be

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waived or modified "as necessary to ensure that recipients of student financial assistance under title IV of the [HEA] who are affected individuals are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals". The statute also provides that administrative requirements placed on affected individuals who are recipients of student financial assistance are minimized, to the extent possible without impairing the integrity of the student financial assistance programs, to ease the burden on such students and avoid inadvertent, technical violations, or defaults.

In accordance with the HEROES Act, the Secretary is providing the following waivers and modifications of statutory and regulatory provisions applicable to the student assistance general provisions and student financial assistance programs under title IV of the HEA that the Secretary believes are necessary to ensure that, during and in response to the COVID-19 pandemic--

- Accrediting agencies and associations are permitted to conduct virtual site visits of institutions or programs currently under review, scheduled for initial or

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renewal of accreditation, or in a show-cause or probationary status;

- IHEs may ensure continuity of instruction and learning by employing distance education to protect the health of their students, faculty, and staff;

- IHEs that are undergoing a change of ownership are provided additional time to gather the records, data, financial information, and approvals necessary to support their change of ownership application, and their temporary program participation agreements are extended while the application is pending;

- Foreign graduate medical schools that participate in the Federal Direct Loan Program are not required to obtain and report test results from the Medical College Admission Test (MCAT) from applicants during admission years in which the COVID-19 national emergency is in effect;

- Entities not submitting single audits in accordance with the audit requirements of 2 CFR 200, subpart F, are provided an additional six months to submit their annual compliance and financial statement audits;

- IHEs that resume offering educational programs after temporarily closing or suspending their educational

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programs due to COVID-19 are not considered to have ended their participation in the title IV, HEA programs;

- IHEs that offer existing short-term programs that qualify for Federal Direct Loans, or began offering a short-term program prior to the COVID emergency, are given some flexibility for programs affected by COVID-19;

- IHEs are provided additional flexibility to approve leaves of absence for students whose coursework is suspended due to the COVID-19 pandemic;

- IHEs are provided additional time to comply with deadlines for campus security, fire safety, and equity in athletics disclosures;

- IHEs are permitted to waive the requirement for a parental signature in the event that it cannot be obtained, or accept a document signed and photographed and sent by email or text message attachment, on any verification documentation required to validate a student's title IV eligibility;

- IHEs that participate in the Federal student financial aid programs under the heightened cash monitoring one (HCM1) status are provided flexibility to pay student credit balances after drawing down title IV funds;

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- IHEs are provided alternative methods for disbursing title IV, HEA credit balance funds to students;
- IHEs that were experiencing challenges accessing data and preparing their cohort default rate (CDR) appeals during the national emergency were permitted to submit appeals to the draft fiscal year (FY) 2017 CDRs on or before June 30, 2020;
- IHEs are provided additional time to complete and submit their Fiscal Operations Report and Application to Participate (FISAP);
- IHEs that participate in the Federal Work-Study (FWS) programs are not subject to the FWS community service requirements during the national emergency;
- Perkins Loan and HEAL borrowers whose loans are held by the Department of Education (Department) are afforded the same benefits extended to Direct Loan borrowers in the Coronavirus Aid, Relief, and Economic Security (CARES) Act¹;
- Borrowers with loans under the Federal Family Education Loan (FFEL), Federal Perkins Loan, HEAL, and Direct Loan programs that are held by the Department, did not accrue interest on those loans from March 13, 2020 to

¹ <https://www.congress.gov/bill/116th-congress/house-bill/748/text>

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March 27, 2020. Borrowers were also permitted to suspend payment on their loans without any penalties during this period. The automatic suspension of payment and the application of a zero percent interest rate on loans held by the Department was extended to October 1, 2020, under the CARES Act. Those benefits were extended through December 31, 2020, by the President through the Presidential Memorandum issued on August 8, 2020. On December 4, 2020, the Secretary further extended those benefits through January 31, 2021;²

- Borrowers who, prior to July 1, 2020, submitted an application for borrower defense to repayment (BD) relief that included a FFEL or Perkins loan and who would need to consolidate those loans into a Direct Consolidation Loan (DCL) to receive BD relief will have their eligibility for relief be adjudicated under the standards for Direct Loans disbursed between July 1, 2017, and July 1, 2020.

- Borrowers participating in income-driven repayment plans are not required to recertify their income or family size until after the administrative forbearance

² <https://www.whitehouse.gov/presidential-actions/memorandum-continued-student-loan-payment-relief-covid-19-pandemic/>

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period extended by the August 8, 2020, Presidential Memorandum expires, and will be notified of a new certification deadline thereafter;

- Borrowers participating in income-contingent repayment plans who do not make payments during the COVID-19 emergency will generally not have any interest capitalized upon the conclusion of the COVID-19-related administrative forbearance period; and

- IHEs are provided academic calendar flexibility to address scheduling complications that have arisen as a result of the COVID-19 national emergency.

Prior waivers granted by the Secretary under this Act remain in effect for affected individuals, as defined in those waivers.

STATUTORY WAIVER GRANTED UNDER THE HEROES ACT IN RESPONSE TO THE COVID-19 PANDEMIC

RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION (HEA § 496, 20 U.S.C. 1099b)

HEA § 496(c)(1) (20 U.S.C. 1099b(c)(1)) provides that a recognized accrediting agency or association must perform, at regularly established intervals, on-site inspections and reviews of IHEs (which may include unannounced site visits) with particular focus on

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educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities, including those regarding distance education.

HEA § 496(c)(1) (20 U.S.C. 1099b(c)(5)) provides that an accrediting agency or association must agree to conduct, as soon as practicable, but within a period of not more than six months of the establishment of a new branch campus or a change of ownership of an IHE, an on-site visit of that branch campus or of the institution after a change of ownership.

The Secretary is waiving these requirements, for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded, to provide accrediting agencies and associations the flexibility to develop, adopt, modify, and implement temporary virtual site visit policies.

Virtual site visits should rely on an engaged, interactive format (e.g., telephonic meetings, video conference calls), rather than solely relying upon document reviews or exchanges of emails.

However, if a site visit within six months after a change of ownership is conducted virtually, a follow up in-

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person visit must be conducted within 90 days following the date on which the COVID-19 national emergency declaration is rescinded.

REGULATORY WAIVERS GRANTED UNDER THE HEROES ACT IN RESPONSE TO THE COVID-19 PANDEMIC DISTANCE EDUCATION (34 CFR 600.9, 602.16, 602.18, 602.19, and 602.27)

Section 600.9(c) requires IHEs to obtain State authorization to provide postsecondary educational programs through distance education. The Secretary is waiving this requirement for payment periods that overlap March 5, 2020, or begin after March 5, 2020, through the end of the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded.

This waiver applies only to the Department's requirements; IHEs will need to determine whether the distance education being provided meets the applicable State requirements.

The Secretary is providing this waiver so that IHEs may provide programs using distance education to accommodate students without requiring such institutions to obtain Department approval to provide the program through distance education. If an IHE chooses to continue offering

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a program or use distance education in a manner requiring the Department's approval after the waiver period ends, it must obtain approval under the Department's normal process.

Section 602.16 provides that an accrediting agency or association that has within its scope of recognition the evaluation of the quality of institutions or programs offering distance education, correspondence courses, or direct assessment education, must have standards that effectively address the quality of an institution's distance education, correspondence courses, or direct assessment education. The Secretary is waiving, for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded, this requirement so that accreditors may waive their distance education review requirements for institutions working to accommodate students whose enrollment is otherwise interrupted as a result of COVID-19. This waiver is limited to distance learning opportunities developed specifically for the purpose of serving students who were already in attendance, and whose attendance was interrupted by COVID-19.

Section 602.16(a)(2)(ii) limits to five years the duration of preaccreditation status that can be granted by

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an accrediting agency before a final determination can be made. The Secretary is waiving, for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded, this requirement to enable accrediting agencies sufficient opportunity to complete their assessment of a preaccredited institution for a final accreditation determination.

Section 602.19(a) requires accrediting agencies to reevaluate, at regularly established intervals, the institutions or programs it has accredited or preaccredited. The Secretary is waiving this requirement, for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded, to provide accrediting agencies the flexibility to develop, adopt, modify, and implement temporary virtual site visit policies. With the approval of the accrediting agency's board, or other decision-making body, during a telephonic or video conference meeting, accrediting agencies may adopt or modify temporary virtual site visit policies without a public comment period. Because these policies would be temporary and arise from the unique set of circumstances

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and challenges presented by the COVID-19 pandemic, this approval would not require a vote of the full membership of the accrediting agency. Should an accrediting agency desire to make a temporary virtual site visit policy or policy modification permanent after the COVID-19 national emergency declaration is rescinded, it must adhere to applicable statutory and regulatory requirements.

The Secretary is also waiving the requirements under § 602.21(c), for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded, to enable accrediting agencies to expedite the development of temporary standards to approve distance learning programs or courses, including agencies that did not previously have distance learning in their scope and for institutions that did not previously offer distance learning opportunities. However, in accrediting clock-hour programs for which licensure boards approved the use of distance learning to meet the "clock-hour of instruction" requirements, agencies must continue to meet the requirements under § 602.21(c).

On September 2, 2020, the Secretary amended the Department's regulations to permanently permit the use of synchronous and asynchronous distance learning in the

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delivery of clock-hour programs by distance learning if the relevant licensure body will accept distance learning hours to meet licensure requirements. Institutions are permitted to implement this new regulation immediately; otherwise, the new regulation goes into effect on July 1, 2021.

The Secretary is also waiving the requirement in § 602.27(a)(4) that an accrediting agency must expand its scope of recognition by notifying the Secretary prior to accrediting programs and institutions that provide education through distance learning. During the COVID-19 national emergency, an accrediting agency need not expand its scope of recognition to include distance learning in order to approve its member programs or institutions to offer distance learning.

NOTICE AND APPLICATION PROCEDURES FOR ESTABLISHING, REESTABLISHING, MAINTAINING, OR EXPANDING INSTITUTIONAL ELIGIBILITY AND CERTIFICATION (34 CFR 600.20)

Section 600.20(h)(3)(iii) provides that the Secretary will extend an institution's provisional Program Participation Agreement (PPA) on a month-to-month basis after the expiration date if, prior to that expiration date, the institution provides the Secretary with approval

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of the change of ownership from the institution's accrediting agency.

In keeping with the waivers provided in § 600.31, the Secretary is waiving, through the end of the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded, the requirement to provide approval of the change of ownership from the institution's accrediting agency within the time period set forth in 600.20(h)(3)(iii).

INSTITUTIONAL ELIGIBILITY - CHANGE OF OWNERSHIP (34 CFR 600.31)

The Secretary is waiving § 600.31(a)(2) and providing an additional six months for IHEs to provide the approvals from the institution's accrediting agency and State, and the same-day balance sheet or statement of financial position prepared under required financial standards pursuant to § 600.20(h)(3), that is ordinarily due by the end of the month following the change of ownership. The Secretary will accept unaudited financial statements for the IHE's and new owner's most recently completed fiscal year within the time frame established under § 600.20(g)(1), provided that the submission includes the engagement letters for the audited financial statements

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under § 600.20(g)(2) to be completed for submission to the Department the earlier of six months after the change in ownership or 30 days after the date of the auditor's report with the financial statements. This waiver is in effect for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded.

MEDICAL COLLEGE ADMISSIONS TEST (MCAT) (34 CFR 600.55)

Section 600.55(c) requires a foreign graduate medical school having a post-baccalaureate or equivalent medical program that participates in the Federal Direct Loan program to require students accepted for admission who are U.S. citizens, nationals, or permanent residents to have taken the MCAT and to have reported their scores to the foreign graduate medical school.

The Secretary is waiving, for the duration of admissions years in which the COVID-19 national emergency declaration is in effect, the requirement that to participate in the Federal Direct Loan program, a foreign medical school must require students to take the MCAT.

APPLICATION OF STANDARDS IN REACHING AN ACCREDITING DECISION (34 CFR 602.17)

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As a result of travel restrictions, State-mandated campus closures, and administrative decisions to move instruction to distance learning, accrediting agencies may need to perform required site visits virtually. Therefore, beginning on March 13, 2020, for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded, the Secretary is waiving the provisions of § 602.17(c) that require accrediting agencies to conduct at least one on-site review of the institution or program during which it obtains sufficient information to determine if the institution or program complies with the agency's standards. Accrediting agencies may conduct required site visits for monitoring performance virtually at regularly scheduled intervals or renewal of accreditation.

The Secretary continues to require that in the case such a site visit is associated with making an award of accreditation or preaccreditation, the agency must perform a limited in-person site visit as soon as practicable. This limited in-person site visit need not replicate the virtual visit, or elements thereof, and need not include the full team that participated in the virtual site visit,

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but could be conducted through a limited visit performed by agency staff or a single site visitor.

Virtual site visits should rely on an engaged, interactive format (e.g., telephonic meetings, video conference calls), rather than solely relying upon document reviews or exchanges of emails.

SUBSTANTIVE CHANGES AND OTHER REPORTING REQUIREMENTS

(34 CFR 602.22)

Section 602.22(d) requires accrediting agencies to have an effective mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations they have approved.

Section 602.22(f)(1) requires an accrediting agency to conduct a site visit, within six months, to each additional location an institution establishes (when the total number of additional locations, where at least 50 percent of an educational program is offered, is three or fewer and the locations are not considered to be branch campuses).

Section 602.22(f)(2) requires an accrediting agency to have a mechanism for conducting, at reasonable intervals, visits to a representative sample of additional locations an institution establishes (when the total number of additional locations, where at least 50 percent of an

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educational program is offered, is more than three and the locations are not considered to be branch campuses).

The Secretary is waiving these requirements for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded and permitting accrediting agencies to conduct these visits virtually. Virtual site visits should rely on an engaged, interactive format (e.g., telephonic meetings, video conference calls), rather than solely relying upon document reviews or exchanges of emails.

ADDITIONAL PROCEDURES CERTAIN INSTITUTIONAL AGENCIES
MUST HAVE (34 CFR 602.24)

Section 602.24(b) provides that an accrediting agency must undertake a site visit to a new branch campus, or following a change of ownership or control, as soon as practicable, but no later than six months, after the establishment of that campus or the change of ownership or control.

The Secretary is waiving these requirements, for the duration of the national emergency declaration and 180 days following the date on which the COVID-19 national emergency declaration is rescinded, to permit accrediting agencies to

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conduct these visits virtually. Virtual site visits should rely on an engaged, interactive format (e.g., telephonic meetings, video conference calls), rather than solely relying upon document reviews or exchanges of emails.

However, if a site visit within six months after a change of ownership is conducted virtually, a follow up in-person visit must be conducted within 90 days following the date on which the COVID-19 national emergency declaration is rescinded.

PROGRAM ELIGIBILITY (34 CFR 668.8)

Short-term Programs

Sections 668.8(d)(3) and (e) provide that proprietary IHEs and postsecondary vocational institutions that offer short-term programs must demonstrate in their annual compliance audits that students enrolled in the programs had completion and job placement rates of at least 70 percent before those programs qualify, or continue to qualify, as eligible programs for Federal Direct Loans (the "70/70 qualifying requirements").

The Secretary waives the 70/70 qualifying requirements for any award year in which the COVID-19 national emergency declaration was in place for at least one day during the award year. Institutions must continue to report

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completion and placement rates for short-term programs for such award years in compliance audits, but the programs will remain eligible even if they do not meet the 70/70 requirements. Short-term programs will once again be required to meet the 70/70 qualifying requirements for any future award year in which the COVID-19 national emergency declaration is not in effect.

New Distance Education Programs

Section 668.8(m) provides that an otherwise eligible program that is offered in whole or in part through telecommunications is eligible for title IV, HEA program purposes if the program is offered by an institution, other than a foreign institution, that has been evaluated and is accredited for its effective delivery of distance education programs by an accrediting agency or association that is recognized by the Secretary under subpart 2 of part H of the HEA, and has accreditation of distance education within the scope of its recognition.

In recognition that many postsecondary institutions needed to implement distance learning solutions to continue educating students in response to campus interruptions or the unexpected return of students from travel abroad experiences, the Secretary is waiving, through the end of

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the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded, the requirement that these IHEs must have obtained accreditation to offer distance education programs.

APPROVED LEAVES OF ABSENCE (34 CFR 668.22)

Under § 668.22(d), an IHE is not permitted to place students on a leave of absence during the suspension of coursework, including clinicals or internships/externships. However, if the coursework suspension results from a COVID-19 related circumstance, IHEs may grant an approved leave of absence to affected students. Approved leaves of absence granted due to COVID-19-related concerns or limitations are considered to fall under the exception provided in § 668.22(d)(3)(iii)(B) permitting, in the case of unforeseen circumstances, an IHE to grant such leave prior to the student's request. A written request for leave of absence for that period must subsequently be obtained from the student. These flexibilities apply to all leaves of absence granted through the end of the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded.

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Section 668.22(d)(1)(vi) provides that the maximum number of days in an approved leave of absence, when added to the number of days in all other approved leaves of absence, may not exceed 180 in any 12-month period. The Secretary modifies this requirement and extends the maximum number of days from 180 (in any 12-month period) to allow a leave of absence to be extended to December 31, 2020.

TREATMENT OF DIRECT LOAN FUNDS IF A STUDENT DOES NOT BEGIN ATTENDANCE (34 CFR 668.21(a)(2)(ii))

The Secretary is waiving the requirement in § 668.21(a)(2)(ii) that an institution notify the Direct Loan Servicer when a borrower who has received a credit balance payment composed of Federal Direct Loan funds will not or has not begun attendance, so that the servicer will issue a final demand letter. Under this waiver, in such circumstances, the institution should not notify the servicer. The amount of the Direct Loan credit balance will be the borrower's responsibility to repay under the terms of the promissory note. This waiver expires at the end of the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded.

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ANNUAL COMPLIANCE AND FINANCIAL STATEMENT AUDIT

SUBMISSION DEADLINES (34 CFR 668.23)

For IHEs and other entities subject to the Single Audit Act and the implementing regulations at 2 C.F.R. Subpart F that submit an audit under the Single Audit Act, the Department will consider the audit submission of the IHE or other entity timely if it is submitted to the Department through eZ-Audit or as directed by the Department at the same time it is timely submitted to the Federal Audit Clearing House under Office of Management and Budget guidance M 20-26 for COVID-19 audit submissions and any future extensions provided by the Office of Management and Budget.

IHEs and other entities that do not submit audits under the Single Audit Act are required under § 668.23 to submit their annual compliance audit and financial statements no later than six months after the last day of their fiscal year. For any such audits that are due to be submitted to the Department no later than March 1, 2020, through December 31, 2020, or other periods specified by the Secretary, the Secretary is extending the submission deadline up to an additional six months and other entities to provide more time for the IHE auditors to

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complete those audits. For IHEs and other entities choosing to submit their audits after the normal due date, the Department will consider the audits to be submitted timely if they are submitted to eZ-audit or as directed by the Department no later than 30 calendar days after the date of the audit report. If date of the audit report is prior to the date of this notice, IHEs and other entities have 30 calendar days from the date of this notice to submit their required audits.

END OF AN INSTITUTION'S PARTICIPATION IN THE TITLE IV, HEA PROGRAMS (34 CFR 668.26 (a) (1) and (2))

Section 668.26 provides that an IHE's participation in a title IV, HEA program ends on the date that the IHE closes or stops providing educational programs for a reason other than a normal vacation period or a natural disaster that directly affects the IHE or the IHE's students, or on the date it loses its institutional eligibility under part 600. The Secretary is waiving this requirement in recognition that some IHEs are unable to convert their programs to an alternative instructional modality during the COVID-19 pandemic. IHEs that have interrupted their on-campus instruction without converting to an alternative instructional modality, either on-ground or online, must

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resume instruction by the start of the institution's scheduled payment period, as published in the institution's academic calendar, one payment period after the payment period in which the COVID-19 national emergency is lifted to continue their participation in the title IV, HEA programs.

The Department retains the discretion to determine that an institution has closed based on its assessment of the institution's capacity to reopen at the end of the COVID-19 national emergency.

CAMPUS SECURITY, FIRE SAFETY, AND EQUITY IN ATHLETICS DISCLOSURES (34 CFR 668.41)

The Secretary extends the October 1 deadline in § 668.41(e)(1) for IHEs to distribute their Annual Security Reports and Annual Fire Safety Reports (required under § 668.46(b) and § 668.49(b), respectively) to required recipients to December 31, 2020. Likewise, the October 15 deadline established in § 668.41(g)(1) for IHEs to distribute their annual Equity in Athletics Disclosure Act (EADA) disclosures (required under § 668.47(c)) to required recipients is extended to December 31, 2020.

ACCEPTABLE DOCUMENTATION (34 CFR 668.57(b), (c), and (d))

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Sections 668.57(b) and (c) require a statement signed by both the applicant and one of the applicant's parents if the applicant is a dependent student, or only the applicant if the applicant is an independent student, to verify the number of family members in the household and the number of family members enrolled in IHEs. Pursuant to § 668.57(d), an applicant may also be required to verify other information specified in the annual *Federal Register* document that announces the Free Application for Federal Student Aid (FAFSA) information as well as the acceptable documentation for verifying that FAFSA information. IHEs are permitted to waive the requirement for a parental signature in the event that it cannot be obtained, or accept a document signed and photographed and sent by email or text message attachment, on any verification documentation required to validate a student's title IV eligibility;. This waiver expires at the end of the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded.

CASH MANAGEMENT REGULATIONS (34 CFR 668.161 and 162)

Payment Methods

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Under § 668.161(a)(2)(iv), an IHE may disburse title IV, HEA program funds by electronic funds transfer (EFT) if the EFT is an automated clearing house transaction, meaning that the EFT must be a direct deposit transaction. The Secretary waives the requirement that the EFT be a direct deposit transaction to allow IHEs and third-party servicers to use any type of EFT under the Treasury Department regulations in 31 CFR 208.2, including person-to-person payment methods such as Zelle and PayPal, or to enable an IHE to use a student's debit card number to transfer a title IV credit balance to the student's checking account using an original credit transaction. This waiver expires at the end of the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded.

An IHE or third-party servicer must ensure that any payment method used complies with the disbursement requirements in the Cash Management regulations, and that the institution notifies its auditor of the alternative method used as part of its annual compliance audit for any fiscal year that alternative is used. We note that regardless of whether any audit deficiencies are identified, the IHE or servicer must disclose in the

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compliance audit the alternative method used and how it was used to make title IV disbursements.

Credit Balances

For IHEs that are on HCM1 under § 668.162(d)(1), the Secretary is temporarily modifying the cash management requirements to permit those institutions to submit a request for funds without first paying the credit balances due to the students for whom those funds were requested. For requests submitted between March 2020 and the end of the payment period that begins after the date on which the Federally-declared national emergency related to COVID-19 is rescinded, IHEs must pay the credit balances no later than three calendar days after receiving the funds for those students.

COHORT DEFAULT RATE (CDR) APPEALS (34 CFR 668.204)

Section 668.204(b) provides that an IHE may challenge the accuracy of the data included on the loan record detail report by sending a challenge to the relevant data manager, or data managers, within 45 days after receiving the data.

On February 24, 2020, the Department posted an Electronic Announcement that draft CDRs for FY 2017 had been distributed to institutions and that included

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information about the process for appealing those draft rates.

In recognition that IHEs have encountered many difficulties and interruptions in day-to-day operations during the COVID-19 pandemic, the Secretary extended to June 30, 2020, the deadline for IHEs to appeal the draft CDRs that were distributed on or about February 24, 2020.

DEADLINE FOR SUBMISSION OF FISCAL OPERATIONS REPORT AND APPLICATION TO PARTICIPATE (34 CFR 673.7)

The Secretary extended until November 1, 2020, the October 1, 2020, deadline established in the *Federal Register* on January 3, 2020 (85 FR 303) for submission of the 2020-2021 Fiscal Operations Report and Application to Participate (FISAP).

FEDERAL WORK-STUDY (34 CFR 673.7)

The Secretary is waiving the Federal Work-Study (FWS) community service requirements in § 675.18(g) for all FWS-participating schools for at least the 2019-20 and 2020-21 award years. Schools do not need to apply for the waiver for either award year. The Department will administratively grant waivers to all schools. This waiver expires at the end of the award year that begins after the

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date on which the Federally-declared national emergency related to COVID-19 is rescinded.

PERKINS LOANS (34 CFR 674.2(b))

Under sections 428F(b) and 464(h)(2) of the HEA and under the definition of "satisfactory repayment arrangement", a defaulted Perkins Loan borrower may make six consecutive, on-time, voluntary, full, monthly payments to reestablish eligibility for title IV Federal student financial assistance. To assist Perkins Loan borrowers who are affected by the COVID-19 pandemic, the Secretary is waiving, through December 31, 2020, the statutory and regulatory provisions that require the borrower to make consecutive payments to reestablish eligibility. Loan holders are encouraged not to treat any payment missed during the time that a borrower is an affected individual in this category as an interruption in the six consecutive, on-time, voluntary, full, monthly payments required for reestablishing title IV eligibility. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of payments even if the borrower did not make additional payments during this

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period. At the conclusion of this waiver period, the required sequence of qualifying payments may resume at the point they were discontinued because of the borrower's status as an affected individual. The Secretary will apply the waivers described in this paragraph to loans held by the Department.

LOAN REHABILITATION (34 CFR 674.39)

Federal Perkins Loan borrowers must make nine consecutive, on-time monthly payments to rehabilitate a defaulted Federal Perkins Loan in accordance with § 464(h)(1)(A) of the HEA and § 674.39. To assist title IV borrowers who are affected by the COVID-19 pandemic, the Secretary is waiving, through December 31, 2020, the statutory and regulatory loan rehabilitation requirements that eligible payments must be made over no more than 10 consecutive months, as follows. Loan holders other than the Department are encouraged to treat any payment missed during the time that a borrower is an affected individual in this category as a payment that counts toward a rehabilitation agreement. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment or payments during this period, the loan holder must treat the payment as an

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eligible payment in the required series of payments. When the borrower is no longer an affected individual in this category, the required sequence of qualifying payments may resume at the point they were discontinued because of the borrower's status as an affected individual to successfully rehabilitate a Perkins Loan. The Department will apply the waivers described in this paragraph to loans held by the Department.

REPAYMENT OF A LOAN (34 CFR 682.209)

Section 682.209 provides that interest accrues on an FFEL loan during the interval between scheduled payments. On March 13, 2020, the President announced³ that the interest on all FFEL loans held by the Department and on all Direct Loans would be waived amid the coronavirus outbreak. On March 20, 2020, the Secretary announced⁴ that interest rates for such loans would be set to zero percent (0%) for a period of at least 60 days, during which time borrowers would have the option to suspend their monthly loan payments. On March 27th, 2020, the CARES Act was

³ [/www.whitehouse.gov/presidential-actions/memorandum-continued-student-loan-payment-relief-covid-19-pandemic/](https://www.whitehouse.gov/presidential-actions/memorandum-continued-student-loan-payment-relief-covid-19-pandemic/)

⁴ www.ed.gov/news/press-releases/delivering-president-trumps-promise-secretary-devos-suspends-federal-student-loan-payments-waives-interest-during-national-emergency

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signed into law and provided that interest would not be charged on Perkins, HEAL, FFEL, or Direct Loans held by the Department through September 30, 2020. Following the President's Memorandum of August 8, 2020, and the Secretary's subsequent announcement on December 4, 2021, the Secretary is further extending until January 31, 2021, in accordance with the prior announcement, the waivers of the regulatory provisions in §§ 682.202 and 682.209 that require that interest be charged on FFEL loans held by the Department from March 13, 2020, through March 27, 2020, and from October 1, 2020 through January 31, 2021. The affected loans include FFEL Program Loans that the Department acquired pursuant to the Ensuring Continued Access to Student Loans Act of 2008 (ECASLA), through the assignment of defaulted loans under § 682.409, and rehabilitated loans for which a guaranty agency could not secure a purchaser and assigned to the Department under § 682.405(a)(2)(ii). This does not apply to defaulted FFEL Program Loans for which a guaranty agency has paid a claim to the FFEL Program lender and on which the guaranty agency is pursuing the borrower for collection. However, the guaranty agencies may voluntarily provide interest or payment waivers, for the duration of the COVID-19 national

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emergency, to borrowers of loans on which collection activity continues.

OBLIGATION TO REPAY (34 CFR 685.207)

Section 685.207 provides that a borrower is required to pay any interest not subsidized by the Secretary unless the borrower is relieved of the obligation to repay. On March 13, 2020, the President announced that the interest on all student loans held by the Department would be waived amid the coronavirus outbreak. On March 20, 2020, the Secretary announced that interest rates for such loans would be set to zero percent for a period of at least 60 days, during which time borrowers would have the option to suspend their monthly loan payments. On March 27th, 2020, the CARES Act was signed into law and extended this same benefit through September 30, 2020. The period of this benefit was extended to December 31, 2020 by the President's Memorandum of August 8, 2020. On December 4, 2020, the Secretary further extended the period of this benefit through January 31, 2021. Accordingly, Direct Loans are automatically placed in an administrative forbearance status that is currently scheduled to be in effect from March 13, 2020, through January 31, 2021.

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BORROWER DEFENSE TO REPAYMENT (34 CFR 685.206 & 685.222)

When the Department expanded the utilization of the Borrower Defense to Repayment (BD) provision to provide potential loan forgiveness to borrowers who had enrolled in certain programs, during certain periods of time, it offered to review BD applications submitted by students who had FFEL or Perkins loans, and other loans that were not Direct Loans (non-Direct Loans), and notify the borrower of their eligibility for full or partial loan relief in the event that such students elected to consolidate those loans into a Direct Consolidation Loan. If the Department determined that the borrower had successfully established a defense to repayment, the borrower could apply for a Direct Consolidation Loan to receive the discharge. On July 1, 2020, new regulations regarding BD went into effect. In the months prior to July 1, 2020, BD applicants were not specifically notified that they would need to take action to consolidate the non-Direct loans included in their borrower defense applications into a Direct Consolidation Loan prior to July 1, 2020, to ensure that the Direct Consolidation Loan would be adjudicated under the 2016 BD regulations, which

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includes the standards under which the Department would make the determination of eligibility for BD relief on FFEL or Perkins loans, or other non-Direct Loans, in the event that the borrower chose to consolidate his or her eligible loans into a Direct Consolidation Loan. Applications for relief on Direct Consolidation Loans that include FFEL or Perkins loans originally included in BD applications received by the Department prior to July 1, 2020, will therefore be adjudicated under the standards for Direct Loans, including Direct Consolidation loans, disbursed between July 1, 2017, and July 1, 2020.

RECERTIFICATION OF INCOME-DRIVEN REPAYMENT PLANS (34 CFR 685.209 & 685.221)

Sections 685.209 and 685.221 provide that a borrower participating in an income-driven repayment plan is required to provide documentation, acceptable to the Secretary, that enables the annual calculation of the borrower's payment amount for each year that the borrower remains on the plan. The Secretary is waiving §§ 685.209(a)(5)(i) and 685.221(e)(1) for one calendar year from the date on which a borrower would have been required to provide recertification documentation in 2020. Borrowers will be notified by their loan servicer of their

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new recertification date, in advance of the deadline on which such documentation is required.

CAPITALIZATION OF INTEREST UNDER THE INCOME-CONTINGENT REPAYMENT PLAN (34 CFR 685.209)

Section 685.209(a)(2)(iv)(A) provides that interest is capitalized on a borrower's loans that are being repaid under the income-contingent repayment plan when a borrower is determined to no longer have a partial financial hardship or at the time a borrower chooses to leave the Pay As You Earn repayment plan. As noted above, all Direct Loans in repayment or default have been placed in an administrative forbearance status and interest has been suspended. If the borrower's loan payments were current before the administrative forbearance period began, interest accrued prior to March 13, 2020, will not capitalize at the end of the coronavirus-related administrative forbearance period.

However, if the borrower's loans were in the type of deferment or forbearance in which interest would normally capitalize before the coronavirus-related administrative forbearance period began, interest accrued prior to March 13, 2020, will capitalize when the borrower's original

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deferment or forbearance ends, or on February 1, 2021, whichever is later.

For borrowers whose loans were in a grace period before the coronavirus-related administrative forbearance period began, any outstanding or unpaid interest on a borrower's account will capitalize as it usually does when the loan(s) enter repayment.

This waiver expires on January 31, 2021.

ACADEMIC CALENDAR FLEXIBILITY (34 CFR 690.63)

Section 690.63(a)(3) requires, as a condition of calculating Pell grant eligibility under Formula 1,⁵ that students not be allowed "to be enrolled simultaneously in overlapping terms. . .". The Secretary is waiving this requirement for academic years that include the latter of December 31, 2020, or the last date of the COVID-19 national emergency. All standard terms will be permitted to overlap with an adjacent term without the program being considered non-term. Additionally, a standard semester or trimester may consist of as few as 13 weeks of instructional time and a standard quarter as few as nine

⁵ <https://ifap.ed.gov/sites/default/files/attachments/2019-09/1920FSAHbkVol13Master.pdf>

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weeks of instructional time without the program being considered a non-standard term program.

The Secretary is waiving the provisions of § 690.63(a)(1)(ii)(B)(3) and permitting IHEs to treat as standard term any academic calendar comprised of semesters, trimesters, or quarters that overlap. For all academic years that include the later of December 31, 2020, or the end date for the COVID-19 Federally declared emergency, the existence of overlapping standard terms will not result in a program being considered non-term.

Section 3513 of the CARES Act

Section 3513 of the CARES Act directs the Secretary to: (1) suspend all payments due, (2) cease interest accrual, and (3) suspend involuntary collections for loans made under part D and part B (that are held by the Department) of title IV of the HEA through September 30, 2020. The section also directs the Secretary to deem each month for which a loan payment was suspended as if the borrower of the loan had made a payment for the purpose of any loan forgiveness program or loan rehabilitation program authorized under part D or B for which the borrower would have otherwise qualified. Lastly, this section directs the Secretary to ensure that, for the purpose of reporting

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information about the loan to a consumer reporting agency, any payment that has been suspended is treated as if it were a regularly scheduled payment made by a borrower.

On August 8, 2020, the President issued a memorandum directing the Secretary to continue to waive interest and payments on such loans until December 31, 2020. On December 4, 2020, the Secretary further extended these benefits through January 31, 2021. Therefore, in accordance with the prior announcement, the Secretary is using her authority under the HEROES Act to modify the terms of the benefits provided under section 3513 of the CARES Act such that they will continue to be provided to borrowers until January 31, 2021.

Accessible Format: On request to Mr. Jean-Didier Gaina, by telephone: (202) 502-7526 or by email: Jean-Didier.Gaina@ed.gov, individuals with disabilities can obtain this document in an accessible format (such as braille, large print, audiotape, or compact disc), to the extent reasonably practicable.

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(Catalog of Federal Domestic Assistance Numbers:
84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Family Education Loan Program; 84.032 Federal PLUS Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; and 84.268 William D. Ford Federal Direct Loan Program.)

Program Authority: 20 U.S.C. 1071, 1082, 1087a, 1087aa, Part F-1.

Robert King,
Assistant Secretary
for Postsecondary Education.