



## Budget Update

- Consolidated Appropriations Act of 2010 – P.L. 111-117 enacted on December 16, 2009 funded Department of Education
- State of the Union – January 27, 2010
- FY 2011 Budget Proposal – February 1, 2010

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## 2011 Obama Administration Budget Proposal

- Reliable Pell Grants – make Pell Grant funding mandatory (not subject to annual appropriations)
- 100% Direct Loan – Elimination of the FFEL Program
- Modernize and expand the Perkins Loan Program
- State-Federal Partnership to improve college access and completion

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## Regulatory Update



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## 2009 Negotiated Rulemaking

- Implemented Higher Education Opportunity Act of 2008
- Five teams established
- Team I – General Loan/GA Issues
- Team II – Loans – School-based Loan Issues covered Perkins Loan issues

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## NPRMs and Final Regulations

- TEAM I NPRM - July 23, 2009
- TEAM I Final regulations - October 29, 2009 (effective 7/1/2010)
- TEAM II NPRM - July 28, 2009
- TEAM II Final regulations - October 28, 2009 (effective 7/1/2010)
- [www.ed.gov/about/offices/list/ope/index.html?SRC=OC](http://www.ed.gov/about/offices/list/ope/index.html?SRC=OC)

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## Final Rules School-based Loan Issues

- Cohort default rate calculation, default prevention plans and institutional eligibility
- Exit and Entrance counseling
- FFEL & Private Education Loan Preferred Lender Arrangement Disclosures

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**Final Rules**  
**School-based Loan Issues**

- Program Participation Agreement
  - Code of Conduct
  - Preferred Lender Lists
  - Private Education Loan Certification
- Direct Loan borrower disclosures
- Private Education Loan Self-Certification form

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**Final Rules**  
**School-based Loan Issues**

- Expansion of Perkins Loan Program Cancellation Benefits
  - Expansion of teacher, Head Start, and law enforcement cancellations
  - Addition of new public service cancellation categories
  - Military service cancellation

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**Final Rules**  
**School-based Loan Issues**

- Perkins Issues Direct-to-Final:
  - Loan Limits
  - Forbearance
  - Rehabilitation
  - Transfer of FWS allocation to Perkins
  - Defense of Infancy

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**TEAM 1 – Final Rules  
Perkins Loan Issues**

- Disclosures to Perkins Loan borrowers who consolidate
- Total and permanent disability loan discharge

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**2009 Negotiated Rulemaking  
Part Two**

- May 26, 2009 Federal Register Notice
- Two Negotiating Committees
  - Program Integrity
    - Negotiations began November 2, 2009
    - Negotiations conclude January 29, 2010
  - Foreign Schools
    - Negotiations began November 16, 2009
    - Negotiations conclude February 26, 2010

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**Program Integrity Negotiated  
Rulemaking Agenda**

- Satisfactory academic progress
- Monitoring grade point average
- Definition of credit hour
- Verification of information on FAFSA
- Gainful employment in a recognized occupation
- State authorization and institutional eligibility

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### Program Integrity Negotiated Rulemaking Agenda

- Definition of a high school diploma
- Ability to benefit
- Agreements between institutions of higher education
- Retaking coursework
- Term-based module programs
- Return of title IV aid

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### Foreign Schools Negotiated Rulemaking Agenda

- Financial statements & compliance audits
- Definition of a foreign school
- Non-profit status for foreign schools
- Financial responsibility for publics
- Consolidation of title IV requirements on a country-wide basis
- Non-degree programs

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### Foreign Schools Negotiated Rulemaking Agenda

- Issues specific to foreign medical schools
- Eligibility requirements for foreign veterinary and nursing schools
- Foreign medical and veterinary schools certified separately from larger school

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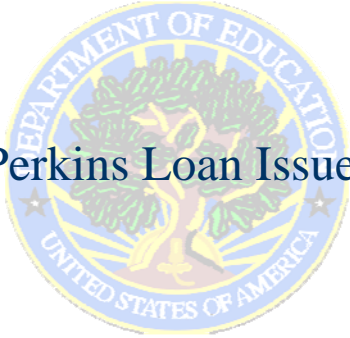
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Perkins Loan Issues

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Student Aid and Fiscal Responsibility Act of 2009 (H.R. 3221)

- Full committee markup on July 21, 2009
- Passed the House on Sept. 17, 2009
- Uses Budget reconciliation to generate savings by eliminating FFELP
- Senate working on companion bill
- Timetable uncertain

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Federal Direct Perkins Loan Program

- Part D amended to create new Federal Direct Perkins Loan Program effective July 1, 2010
- Terms and conditions same as Federal Direct Unsubsidized loans except:
  - Interest rate of 5%
  - Current annual and aggregate Perkins loan limits apply

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### Federal Direct Perkins Loan Program

- Authorizes loan authority not to exceed \$6 billion annually
- Broad availability to more schools
- School-level “loan authority” vs. allocation of funds
- Incentive-based distribution among schools
- Hold harmless for current participating schools

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### Federal Direct Perkins Loan Program

- Allocation Formula Incentives:
  - ½ of funds based on adjusted self-help need of institution
  - ¼ of funds based on low tuition incentive
  - ¼ of funds based on success in graduating low-income students
- Credit for non-Federal need based grants awarded

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### Federal Direct Perkins Loan Program

- Agreements with the Secretary:
  - Institutions must operate the program consistent with agreements under section 454 of Part D of the HEA (DL)
  - Institution must pay “matching funds” to an escrow account for the purpose of providing loan benefits to borrowers
  - Institution subject to FFEL/DL cohort default rate provisions

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### Federal Direct Perkins Loan Program

- Institutions make a capital distribution from revolving fund to ED quarterly beginning July 1, 2010
- Institutions may assign uncollected loans to ED and ED will return ICC
- Institutions may continue servicing uncollected loans and
  - Return the FCC to ED
  - Receive ACA of .50 percent of outstanding principal & interest on loans serviced as of Sept. 30<sup>th</sup> each FY
- Special provision ensuring return of "short-term loans" to institutions

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### Federal Direct Perkins Loan Program

- Secretary has the authority to mandate assignment of outstanding Perkins Loans made before July 1, 2010, if institution has failed to maintain an acceptable collection record, as determined by the Secretary in accordance with criteria established by regulation
- Secretary must return institutional share plus late charges and cancellation costs on loans required to be assigned

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### Federal Direct Perkins Loan Program

- Operation Overview
  - Perkins Federal Direct Loan Program available 2010-2011 (2011-2012) award year
  - Common Origination and Disbursement (COD) System will receive and process Perkins originations and award records

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### Federal Direct Perkins Loan Program

- Operational Overview (cont.)
  - Direct Loan Master Promissory Note will be modified to include Direct Perkins Loans
  - Direct Perkins Loan entrance and exit counseling will be included in Direct Loan counseling
  - Direct Perkins Loans will be serviced with our title IV additional servicers

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### Federal Direct Perkins Loans Anticipated Regulatory Activity

- Implementation will require negotiated rulemaking
- ED will publish Federal Register Notice
  - Announcing ED's intent to establish a negotiated rulemaking committee(s)
  - Announcing public hearings
  - Soliciting non-Federal negotiators
  - Setting a negotiating schedule

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### Federal Direct Perkins Loans Anticipated Regulatory Activity

- Possible topics for negotiation
  - Calculation of cohort default rates
  - Mandatory assignment based on institution's failure to maintain acceptable collection record
  - Return of "short-term" loans
  - Changes to the assignment process
  - Changes to 34 CFR 673, 674 and 685

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### Use of Addendum to Perkins Master Prom Note (MPN)

- Dear Colleague Letter CB-09-05 includes addendum to Perkins Loan Program MPN
- Must attach addendum to MPNs with June 30, 2009 expiration date
- Must provide addendum to old borrowers to inform them of new terms and conditions

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### Use of Addendum to Perkins Master Prom Note (MPN)

- Method of addendum delivery:
  - Distribute during exit interview
  - Include in billing notices for borrowers entering or in repayment
  - Mail addendum
  - Email addendum

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### Use of Addendum to Perkins Master Prom Note (MPN)

- Use of electronics to deliver addendum must be done in accordance with the Electronic Signatures in Global and National Commerce Act (E-Sign)
- E-Sign establishes legal equivalency between written & electronic documents
- School must obtain borrower's consent and provide disclosures

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### Use of Addendum to Perkins Master Prom Note (MPN)

- E-Sign disclosures:
  - Option of borrower to conduct transactions on paper
  - Right to withdraw consent and process
  - Consequences of withdrawing consent
  - Scope of consent
  - How paper documents can be obtained
  - Hardware & software requirements

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### Use of Addendum to Perkins Master Prom Note (MPN)

- E-Sign Requirements
  - Borrower's consent must be obtained electronically using same technology used to conduct future transactions
- E-Sign provisions intended to ensure borrower can access information necessary to conduct transaction

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### Loan Forgiveness for Civil Legal Assistance Attorneys

- Authorized by section 428L of the HEA
- \$5 million appropriated in Consolidated Appropriations Act of 2010 for fiscal year 2010
- Secretary assumes obligation to repay eligible students loans by direct payments to loan holder on behalf of borrower

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### Loan Forgiveness for Civil Legal Assistance Attorneys

- Eligible loans
  - Sub/unsub Stafford loans made under FFEL Program or William D. Ford Federal Direct Loan Program
  - Federal Perkins Loan
  - FFEL and Direct Loan PLUS loans for undergraduate and professional students
  - Portion of FFEL/DL Consolidation loans used to repay otherwise eligible loan

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### Loan Forgiveness for Civil Legal Assistance Attorneys

- Eligible Borrower is a full-time civil legal assistance attorney employed by:
  - Nonprofit organization that provides legal assistance with respect to civil matters to low-income individuals with no fee or
  - A protection and advocacy system or client assistance program that provides legal assistance on civil matters and receives funding under specific Federal programs

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### Loan Forgiveness for Civil Legal Assistance Attorneys

- Loan repayment benefits made on a first-come, first-served basis
- Borrower must enter into a written agreement with the Secretary to serve as a civil attorney for 3 years
- If borrower does not serve for 3 years, loan repayment benefit must be repaid to the Secretary

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## Loan Forgiveness for Civil Legal Assistance Attorneys

- Loan forgiveness will be administered by the Department
- Department will develop application and other forms needed to implement
- Dear Colleague letter in development

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