

Issue 6

Proposed Regulatory Language

Team II - School-based Loan Issues

Origin: HEOA section 488(b)
Issue: Exit Counseling
Statutory cites: HEA Section 485(b)(1)(A)
Regulatory cites: §§674.42(b); 682.604(g); and
685.304(b)
DCL GEN-08-12 cite: Pages 96 - 97
Status: Tentative agreement reached

Regulatory language:

Perkins

§ 674.42 Contact with the borrower.

(b) *Exit interview.* (1) An institution must ensure that exit counseling is conducted with each borrower either in person, by audiovisual presentation, or by interactive electronic means. The institution must ensure that exit counseling is conducted shortly before the borrower ceases

at least half-time study at the institution. As an alternative, in the case of a student enrolled in a correspondence program or a study-abroad program that the institution approves for credit, the borrower may be provided with written counseling material by mail within 30 days after the borrower completes the program. If a borrower withdraws from the institution without the institution's prior knowledge or fails to complete an exit counseling session as required, the institution must ensure that exit counseling is provided through either interactive electronic means or by mailing counseling materials to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from the institution or failed to complete exit counseling as required.

(2) The exit counseling must --

(i) Inform the student as to the average anticipated monthly repayment amount based on the student's indebtedness or on the average indebtedness of students who have obtained Perkins loans for attendance at the institution or in the borrower's program of study;

(ii) Explain the options the borrower has to prepay each loan ~~or~~ and pay each loan on a shorter schedule; and

(iii) Review for the borrower available repayment the ~~option s (e.g. loan consolidation and refinancing,~~ the borrower has to consolidate a Federal Perkins Loan, including the consequences of consolidating a Federal Perkins Loan. Information on the consequences of loan consolidation must include, at a minimum--

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The options of the borrower to prepay the loan or to change repayment plans; and

(D) That borrower benefit programs may vary among different lenders;

~~(iii)~~**v**) Suggest to the borrower **Include** debt-management strategies that would **are designed to** facilitate repayment;

(v) Explain the use of a Master Promissory Note;

~~(iv)~~**i**) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming;

~~(vii)~~**i**) Describe the likely consequences of default, including adverse credit reports, **delinquent debt collection procedures under Federal law,** and litigation;

~~(viii)~~**ii**) Emphasize that the borrower is obligated to repay the full amount of the loan even if the borrower has not completed the program, **has not completed the program within the regular time for program completion,** is unable to obtain employment upon completion, or is otherwise dissatisfied with or ~~does~~ not receive **ve** the educational or other services that the borrower purchased from the institution;

~~(ixvii)~~ Review for the borrower the conditions under which the borrower may defer repayment or obtain partial cancellation of a loan; Provide--

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or cancellation of principal and interest, defer repayment of principal or interest, or be granted an extension of the repayment period or a forbearance on a title IV loan; and

(B) A copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA;

~~(xviii)~~ Require the borrower to provide current information concerning name, address, social security number, references, and driver's license number, the borrower's expected permanent address, the address of the borrower's next of kin, as well as the name and address of the borrower's expected employer;

~~(ixi)~~ Review for the borrower information on the availability of the Student Loan Ombudsman's office; and

(xii) Inform the borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information; and

(xiii) A general description of the types of tax benefits that may be available to borrowers. ; and

(3) If exit counseling is conducted through interactive electronic means, the institution must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the exit counseling.

(4) The institution must maintain documentation substantiating the institution's compliance with this section for each borrower.

FFEL

§ 682.604 Processing the borrower's loan proceeds and counseling borrowers.

(g) *Exit counseling.* (1) A school must ensure that exit counseling is conducted with each Stafford loan

borrower **and graduate or professional student PLUS Loan**
borrower either in person, by audiovisual presentation, or
by interactive electronic means. In each case, the school
must ensure that this counseling is conducted shortly
before the student borrower ceases at least half-time study
at the school, and that an individual with expertise in the
title IV programs is reasonably available shortly after the
counseling to answer the student borrower's questions. As
an alternative, in the case of a student borrower enrolled
in a correspondence program or a study-abroad program that
the home institution approves for credit, written
counseling materials may be provided by mail within 30 days
after the student borrower completes the program. If a
student borrower withdraws from school without the school's
prior knowledge or fails to complete an exit counseling
session as required, the school must ensure that exit
counseling is provided through either interactive
electronic means or by mailing written counseling materials
to the student borrower at the student borrower's last
known address within 30 days after learning that the
student borrower has withdrawn from school or failed to
complete the exit counseling as required.

(2) The exit counseling must--

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Stafford loans, **PLUS Loans,** or student borrowers who have obtained **both** Stafford and PLUS loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;

(ii) Review for the student borrower available repayment **plan** options, including standard, graduated, extended, income sensitive and income-based repayment plans, **including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments under each plan;**

(iii) **Explain to the borrower the options of the borrower to prepay each loan, to pay each loan on a shorter schedule, and to change repayment plans; and**

(iv) Provide information on the effects of ~~and loan~~
consolidation including, at a minimum--

(A) The effects of consolidation on total interest to
be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's
underlying loan benefits, including grace periods, loan
forgiveness, cancellation, and deferment opportunities;

(C) The options of the borrower to prepay the loan or
and to change repayment plans; and

(D) That borrower benefit programs may vary among
different lenders;

~~(ivii) Suggest to the student borrower Include debt-~~
management strategies that would are that would designed to
facilitate repayment;

~~(ivi) Include the matters described in paragraph~~
~~(f) (62) (i) , (f) (6) (ii), and through (f) (62) (iv) of this~~
section;

(vii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(viii) Provide--

(A) aA general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of principal and interest, defer repayment of principal or interest, or be granted forbearance on a title IV loan, Review for the student borrower the conditions under which the student borrower may defer or forbear repayment or obtain a full or partial forgiveness or discharge of a loan including including forgiveness benefits or discharge benefits available to a FFEL borrower who consolidates his or her loan into the Direct Loan program; and

(B) include A a copy, either in print or by electronic means, of the information the Secretary makes available pursuant to HEA section 485(d) of the HEA.

(ixvi) Require the student borrower to provide current information concerning name, address, social security number, references, and driver's license number and State

of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known). The school must ensure that this information is provided to the guaranty agency or agencies listed in the student borrower's records within 60 days after the student borrower provides the information;

(~~ixvii~~) Review for the student borrower information on the availability of the Student Loan Ombudsman's office; and

(~~viiiixi~~) Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information; and

(~~xiii~~) - A general description of the types of tax benefits that may be available to borrowers.

(3) If exit counseling is conducted by electronic interactive means, the school must take reasonable steps to ensure that each student borrower receives the counseling

materials, and participates in and completes the counseling.

(4) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

Direct Loan

§ 685.304 Counseling borrowers.

(b) *Exit counseling.* (1) A school must ensure that exit counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan borrower **and graduate or professional student Direct PLUS Loan borrower** shortly before the student borrower ceases at least half-time study at the school.

(2) The exit counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence

program or a study-abroad program approved for credit at the home institution, the student borrower may be provided with written counseling materials within 30 days after the student borrower completes the program.

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, exit counseling must be provided either through interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(4) The exit counseling must --

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Direct Subsidized Loans and Direct Unsubsidized Loans, **student borrowers who have obtained only Direct PLUS Loans,** or student borrowers who have obtained Direct Subsidized, Direct Unsubsidized, and

Direct PLUS Loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;

(ii) Review for the student borrower available repayment plan options including the standard repayment, extended repayment, graduated repayment, income contingent repayment plans, and income-based repayment plans, ~~and loan consolidation;~~ including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments under each plan;

(iii) Explain to the borrower the options of the borrower to prepay each loan, to pay each loan on a shorter schedule, and to change repayment plans;

(iv) Provide information on the effects of loan consolidation including, at a minimum--

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The options of the borrower to prepay the loan and ~~or~~ to change repayment plans; and

(D) That borrower benefit programs may vary among different lenders;

~~(ivii)~~ Suggest to the student borrower Include debt-management strategies that ~~would~~ are designed to facilitate repayment;

~~(ivi)~~ Explain to the student borrower how to contact the party servicing the student borrower's Direct Loans;

~~(vii)~~ Meet the requirements described in paragraphs (a) ~~(34)~~ (i), (a) (4) (ii), ~~(iii)~~, and (a) (4) (v) of this section;

(viii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

~~(vix)~~ Provide--

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of principal and interest, defer repayment of principal or interest, or be granted forbearance on a title IV loan; and

(B) include A a copy, either in print or by electronic means, of the information the Secretary makes available pursuant to HEA section 485(d) of the HEA; ~~Review for the student borrower the conditions under which the student borrower may defer or forbear repayment or obtain a full or partial forgiveness or discharge of a loan;~~

~~(vii)x~~ Review for the student borrower information on the availability of the Department's Student Loan Ombudsman's office;

~~(viii)xi~~ Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS); ~~and~~ how NSLDS can be used to obtain title IV loan status information; and

(xii) A general description of the types of tax benefits that may be available to borrowers; and

(~~ixiii~~) Require the student borrower to provide current information concerning name, address, social security number, references, and driver's license number and State of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known).

(5) The school must ensure that the information required in paragraph (b) (4) (~~ixiii~~) of this section is provided to the Secretary within 60 days after the student borrower provides the information.

(6) If exit counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the exit counseling.

(7) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

Issue 6

Amendatory Language

Team II - School-based Loan Issues

x. Section 674.42 is amended by revising paragraph (b) to read as follows:

§674.42 Contact with the borrower.

* * * * *

(b) Exit interview. (1) An institution must ensure that exit counseling is conducted with each borrower either in person, by audiovisual presentation, or by interactive electronic means. The institution must ensure that exit counseling is conducted shortly before the borrower ceases at least half-time study at the institution. As an alternative, in the case of a student enrolled in a correspondence program or a study-abroad program that the institution approves for credit, the borrower may be provided with written counseling material by mail within 30 days after the borrower completes the program. If a borrower withdraws from the institution without the

institution's prior knowledge or fails to complete an exit counseling session as required, the institution must ensure that exit counseling is provided through either interactive electronic means or by mailing counseling materials to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from the institution or failed to complete exit counseling as required.

(2) The exit counseling must--

(i) Inform the student as to the average anticipated monthly repayment amount based on the student's indebtedness or on the average indebtedness of students who have obtained Perkins loans for attendance at the institution or in the borrower's program of study;

(ii) Explain the options the borrower has to prepay each loan and pay each loan on a shorter schedule;

(iii) Review for the borrower the option to consolidate a Federal Perkins Loan, including the consequences of consolidating a Perkins Loan. Information on the consequences of loan consolidation must include, at a minimum--

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The options of the borrower to prepay the loan or to change repayment plans; and

(D) That borrower benefit programs may vary among different lenders;

(iv) Include debt-management strategies that are designed to facilitate repayment;

(v) Explain the use of a Master Promissory Note;

(vi) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming;

(vii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(viii) Emphasize that the borrower is obligated to repay the full amount of the loan even if the borrower has not completed the program, has not completed the program within the regular time for program completion, is unable

to obtain employment upon completion, or is otherwise dissatisfied with or did not receive educational or other services that the borrower purchased from the institution;

(ix) Provide--

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or cancellation of principal and interest, defer repayment of principal or interest, or be granted an extension of the repayment period or a forbearance on a title IV loan; and

(B) A copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA;

(x) Require the borrower to provide current information concerning name, address, social security number, references, and driver's license number, the borrower's expected permanent address, the address of the borrower's next of kin, as well as the name and address of the borrower's expected employer;

(xi) Review for the borrower information on the availability of the Student Loan Ombudsman's office;

(xii) Inform the borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information; and

(xiii) A general description of the types of tax benefits that may be available to borrowers.

(3) If exit counseling is conducted through interactive electronic means, the institution must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the exit counseling.

(4) The institution must maintain documentation substantiating the institution's compliance with this section for each borrower.

* * * * *

x. Section 682.604 is amended by revising paragraph (f) and (g) to read as follows:

§682.604 Processing the borrower's loan proceeds and counseling borrowers.

* * * * *

[Note to negotiators: We will include the regulatory text for section 682.604(f) (from Issue Paper 9) here.]

(g) Exit counseling. (1) A school must ensure that exit counseling is conducted with each Stafford loan borrower and graduate or professional student PLUS Loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that this counseling is conducted shortly before the student borrower ceases at least half-time study at the school, and that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, written counseling materials may be provided by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must ensure that exit counseling is provided through either interactive electronic means or by mailing written counseling materials

to the student borrower at the student borrower's last known address within 30 days after learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(2) The exit counseling must--

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Stafford loans, PLUS Loans, or student borrowers who have obtained both Stafford and PLUS loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;

(ii) Review for the student borrower available repayment plan options, including standard, graduated, extended, income sensitive and income-based repayment plans, including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments under each plan;

(iii) Explain to the borrower the options to prepay each loan, to pay each loan on a shorter schedule, and to change repayment plans;

(iv) Provide information on the effects of loan consolidation including, at a minimum--

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The options of the borrower to prepay the loan and to change repayment plans; and

(D) That borrower benefit programs may vary among different lenders;

(v) Include debt-management strategies that are designed to facilitate repayment;

(vi) Include the matters described in paragraph (f) (6) (i), (f) (6) (ii), and (f) (6) (iv) of this section;

(vii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(viii) Provide--

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of principal and interest, defer repayment of principal or interest, or be granted forbearance on a title IV loan, including forgiveness benefits or discharge benefits available to a FFEL borrower who consolidates his or her loan into the Direct Loan program; and

(B) A copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA;

(ix) Require the student borrower to provide current information concerning name, address, social security number, references, and driver's license number and State of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known). The school must ensure that this information is provided to the guaranty agency or agencies listed in the student borrower's records within 60 days after the student borrower provides the information;

(x) Review for the student borrower information on the availability of the Student Loan Ombudsman's office;

(xi) Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information; and

(xii) A general description of the types of tax benefits that may be available to borrowers.

(3) If exit counseling is conducted by electronic interactive means, the school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the counseling.

(4) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

* * * * *

x. Section 685.304 is amended by revising paragraphs (a) and (b) to read as follows:

§685.304 Counseling borrowers.

* * * * *

[Note to negotiators: We will include the regulatory text for section 685.304(a) (from Issue Paper 9) here.]

(b) Exit counseling. (1) A school must ensure that exit counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan borrower and graduate or professional student Direct PLUS Loan borrower shortly before the student borrower ceases at least half-time study at the school.

(2) The exit counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, the student borrower may be provided with written counseling materials within 30 days after the student borrower completes the program.

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, exit counseling must be

provided either through interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(4) The exit counseling must--

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Direct Subsidized Loans and Direct Unsubsidized Loans, student borrowers who have obtained only Direct PLUS Loans, or student borrowers who have obtained Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;

(ii) Review for the student borrower available repayment plan options including the standard repayment, extended repayment, graduated repayment, income contingent repayment plans, and income-based repayment plans, including a description of the different features of each

plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments under each plan;

(iii) Explain to the borrower the options to prepay each loan, to pay each loan on a shorter schedule, and to change repayment plans;

(iv) Provide information on the effects of loan consolidation including, at a minimum--

(A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(C) The options of the borrower to prepay the loan and to change repayment plans; and

(D) That borrower benefit programs may vary among different lenders;

(v) Include debt-management strategies that are designed to facilitate repayment;

(vi) Explain to the student borrower how to contact the party servicing the student borrower's Direct Loans;

(vii) Meet the requirements described in paragraphs (a) (4) (i), (a) (4) (ii), and (a) (4) (v) of this section;

(viii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(ix) Provide--

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of principal and interest, defer repayment of principal or interest, or be granted forbearance on a title IV loan; and

(B) A copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA;

(x) Review for the student borrower information on the availability of the Department's Student Loan Ombudsman's office;

(xi) Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information;

(xii) A general description of the types of tax benefits that may be available to borrowers; and

(xiii) Require the student borrower to provide current information concerning name, address, social security number, references, and driver's license number and State of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known).

(5) The school must ensure that the information required in paragraph (b) (4) (xiii) of this section is provided to the Secretary within 60 days after the student borrower provides the information.

(6) If exit counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the exit counseling.

(7) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

