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*Loan Forgiveness for Public Service Employees Under the
William D. Ford Direct Loan Program*

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January 28, 2008

Abstract. The College Cost Reduction and Access Act of 2007 (CCRAA; P.L. 110-84) establishes a new loan forgiveness provision for borrowers of loans made under the William D. Ford Direct Loan (DL) program who are employed in public service jobs for 10 years during the repayment of their loans. Borrowers who make 120 monthly payments on or after October 2, 2007, according to specified repayment plan terms, while concurrently employed full-time in certain public service jobs, will have any loan balance of principal and interest remaining due after their 120th payment canceled or forgiven by the Secretary of Education. Since borrowers must make 120 monthly payments on or after October 2, 2007, while concurrently employed in public service jobs, borrowers will become eligible for loan forgiveness no earlier than 2017. This report provides a brief description of the DL program loan forgiveness provision for public service employees and identifies issues that may be addressed as it is implemented.

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Loan Forgiveness for Public Service Employees Under the William D. Ford Direct Loan Program

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Summary

The College Cost Reduction and Access Act of 2007 (CCRAA; P.L. 110-84) establishes a new loan forgiveness provision for borrowers of loans made under the William D. Ford Direct Loan (DL) program who are employed in public service jobs for 10 years during the repayment of their loans. Borrowers who make 120 monthly payments on or after October 2, 2007, according to specified repayment plan terms, while concurrently employed full-time in certain public service jobs, will have any loan balance of principal and interest remaining due after their 120th payment canceled or forgiven by the Secretary of Education. Since borrowers must make 120 monthly payments on or after October 2, 2007, while concurrently employed in public service jobs, borrowers will become eligible for loan forgiveness no earlier than 2017.

This report provides a brief description of the DL program loan forgiveness provision for public service employees and identifies issues that may be addressed as it is implemented. It will be updated as warranted.

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DL Program Loan Forgiveness for Public Service Employees

The College Cost Reduction and Access Act of 2007 amended the Higher Education Act of 1965 (HEA) to establish a new loan forgiveness provision under the William D. Ford Direct Loan (DL) program for borrowers who are employed full-time in public service jobs for ten years during the repayment of their loans.¹ Borrowers of DL program loans who make 120 monthly payments on or after October 2, 2007, according to specified repayment plan terms, while concurrently employed full-time in certain public service jobs, will have any loan balance of principal and interest remaining due after their 120th payment canceled or forgiven by the Secretary of Education. The DL program loan forgiveness provision is available to new and existing borrowers alike.

Eligible DL Program Loans

The DL program loan forgiveness provision for public service employees is available to borrowers of new and existing DL program loans. The following types of DL program loans are specified as eligible for loan forgiveness: Federal Direct (subsidized) Stafford Loans, Federal Direct Unsubsidized Stafford Loans, Federal Direct PLUS Loans (both parent PLUS Loans and Graduate PLUS Loans), and Federal Direct Consolidation Loans. Borrowers of loans made under the Federal Family Education Loan (FFEL) program are not eligible to have their FFEL program loans forgiven under the program. However, FFEL borrowers may consolidate their loans into Federal Direct Consolidation Loans to take advantage of the loan forgiveness provision. Also, while in most instances borrowers of Consolidation Loans are ineligible to reconsolidate their loans under either the FFEL or DL programs, effective July 1, 2008, borrowers of FFEL Consolidation Loans are eligible to reconsolidate their loans into Federal Direct Consolidation Loans for purposes of using the DL program loan forgiveness provision for public service employees.

Repayment Plans

The terms of the loan forgiveness provision specify that borrowers must make 120 payments on eligible DL program loans pursuant to one or more specified repayment plans to become eligible for loan forgiveness. Borrowers may repay their DL program loans pursuant to any combination of the following repayment plans for which they are otherwise eligible: standard repayment plan, graduated repayment plan, extended repayment plan, income-contingent repayment (ICR) plan,²

¹ HEA, § 455(m); [20 U.S.C. § 1087e(m)], as amended by P.L. 110-84, § 401.

² Under the ICR plan, borrowers' monthly payments are adjusted annually according to their outstanding loan balance, adjusted gross income (AGI), and family size according to criteria established by the Secretary in regulations. Consistent with these criteria, borrowers' monthly payment amounts are the lesser of (a) the amount calculated according to a 12-year repayment period, multiplied by an income percentage factor that corresponds to their AGI or (b) 20% of the amount by which their AGI exceeds the poverty line. Monthly payments may range from \$0 for borrowers with incomes at or below the poverty line to amounts more than sufficient to repay the loan in ten years for borrowers with high incomes. Borrowers of PLUS Loans are not eligible to repay according to the ICR plan; however, PLUS Loan borrowers may consolidate their loans and repay a DL Consolidation Loan according to the ICR plan. (continued...)

and income-based repayment (IBR) plan.³ However, with the exceptions of the ICR and the IBR plans, borrowers must make payments of not less than the monthly amount calculated according to a standard 10-year repayment period to be eligible for loan forgiveness. It would appear that in practical terms, to qualify for loan forgiveness under this provision, borrowers may be precluded from repaying according to the extended and graduated repayment plans.

On the basis of these requirements, it appears that for borrowers to make 120 payments on their loans and still have an outstanding balance available to be forgiven after the completion of those payments, borrowers will need to make at least some of their payments according to either the ICR or IBR plans. Additionally, it appears that if borrowers repay according to either the ICR or IBR plans, their incomes relative to their debt burden must be sufficiently low for at least some period, such that their monthly payments calculated according to the respective plan are less than the monthly payment amount calculated according to a standard repayment plan with a 10-year repayment period. Otherwise, after making 120 monthly payments, borrowers will have fully repaid their loans.

Public Service Jobs

Borrowers are required to be employed full-time in a specified public service job at the time of loan forgiveness and for the period during which they make each of the 120 monthly loan payments required for loan forgiveness. For purposes of the loan forgiveness provision, a public service job is defined as a full-time job in

- emergency management,
- government,
- military service,
- public safety,
- law enforcement,
- public health,
- public education (including early childhood education),

(...continued)

Effective July 1, 2009, borrowers of graduate PLUS Loans become eligible to repay according to the ICR plan. For additional information on the ICR plan, see CRS Report RL33673, *Federal Family Education Loan Program and William D. Ford Direct Loan Program Student Loans: Terms and Conditions for Borrowers*, by Adam Stoll.

³ Effective July 1, 2009, the IBR plan will be available to borrowers of FFEL and DL program loans (with the exceptions of parent PLUS Loans and Consolidation Loans containing such loans) for any period during which they demonstrate a 'partial financial hardship.' Borrowers will be determined to have a partial financial hardship if their total annual payments on eligible FFEL and DL program loans, calculated according to a standard 10-year repayment period, are greater than 15% of the amount by which their AGI exceeds 150% of the poverty line. While repaying according to the IBR plan, borrowers' monthly loan payments may range from \$0, for borrowers with incomes at or below the poverty line, to a maximum of 15% of any amount by which their AGI exceeds 150% of the poverty line. If borrowers repaying according to the IBR plan no longer demonstrate a partial financial hardship or no longer wish to repay according to the IBR plan, then their maximum required monthly payments may not exceed the 'initial' monthly payment amount calculated according to a standard 10-year repayment period as of their election to begin repaying according to the IBR plan; and accordingly, their total repayment period may exceed ten years. In the case of a married borrower who files a separate federal income tax return, the IBR plan will be based solely on the individual borrower's student loan debt and AGI.

- social work in a public child or family service agency,
- public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a nonprofit organization),
- public child care,
- public service for individuals with disabilities,
- public service for the elderly,
- public library sciences,
- school-based library sciences and other school-based services, or
- at an organization that is described in Section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under Section 501(a) of such Code; or
- teaching as a full-time faculty member at a Tribal College or University as defined in Section 316(b) and other faculty teaching in high-needs areas, as determined by the Secretary.⁴

Implementation Issues

The DL program loan forgiveness provision for public service employees is available to borrowers of DL program loans who make 120 payments according to specified repayment plans while concurrently employed full-time in specified public service jobs, on or after October 2, 2007. Issues regarding the implementation of the loan forgiveness program are expected to be addressed by the Department of Education (ED) in the form of ‘Dear Colleague’ letters and regulations. On January 8, 2008, ED published a summary of major changes to the HEA, Title IV loan programs made by the CCRAA, including a brief description of the loan forgiveness for public service employees provision.⁵ Also, ED has begun meeting to develop proposed regulations through negotiated rulemaking to implement changes to HEA, Title IV programs enacted under the CCRAA, including the DL program loan forgiveness provision.⁶ If ED publishes final regulations by November 1, 2008, these would have an effective date of July 1, 2009.

It appears that all payments made by DL program borrowers on or after October 2, 2007, while also meeting the terms and conditions of the loan forgiveness provision will apply toward the 120 payments required for loan forgiveness. However, a number of issues about the new loan

⁴ HEA, § 455(m)(3)(B), [20 U.S.C. § 1087e(m)(3)(B)]. Section 452 of H.R. 4137, as reported by the House Committee on Education and Labor, would make a number of amendments to the definition of public service jobs. Specifically, time served as a Member of Congress would be excluded from government service, certain nursing and health care practitioner occupations would be referenced as examples of public health occupations, the term ‘early childhood education’ would replace the term ‘public child care,’ and certain faculty specialties would be referenced as examples of a full-time faculty member at a Tribal College or University.

⁵ U.S. Department of Education, Office of Postsecondary Education, “The College Cost Reduction and Access Act of 2007 (CCRAA), P.L. 110-84,” GEN-08-01, January 8, 2008, at <http://www.ifap.ed.gov/dpcletters/010808GENFP0801.html>, visited January 28, 2008.

⁶ For information on negotiated rulemaking, see U.S. Department of Education, Office of Postsecondary Education, “2007-08 Negotiated Rulemaking for Higher Education,” at <http://www.ed.gov/policy/highered/reg/hearulemaking/2008/index2008.html>, visited January 28, 2008.

forgiveness provision might be clarified by ED and be addressed in future guidance or regulations. Such issues include the procedures borrowers will follow in applying for loan forgiveness, how borrowers will substantiate their full-time employment in public service jobs during repayment, how any breaks in full-time employment in public service jobs will be addressed, and how borrowers may ensure that they have selected a repayment plan under which all of their monthly payments will satisfy the minimum monthly payment amount necessary to be counted toward the 120 monthly payments required for loan forgiveness.

Consolidation Loans

Guidance might also be provided to clarify a number of issues concerning Consolidation Loans. For example, it is unclear whether payments made by borrowers on their DL program loans will continue to count toward the 120 monthly payments required for loan forgiveness if these borrowers subsequently consolidate their loans into new DL Consolidation Loans, or whether Consolidation Loan borrowers must restart counting toward the required 120 monthly payments. The terms of the loan forgiveness provision indicate that borrowers must make 120 monthly payments on their loans according to either the ICR plan, the IBR plan, or another repayment plan that is based on a 10-year repayment period. Since a Consolidation Loan is a new loan, borrowers of Consolidation Loans may only be able to count the payments made on their Consolidation Loan toward the 120 monthly payments required for loan forgiveness.

In addition, for borrowers of Consolidation Loans, the maximum repayment period under the standard repayment plan may range from 10 years to 30 years, depending on a borrower's total student loan indebtedness.⁷ It appears that Consolidation Loan borrowers may need to ensure that they repay at least the monthly payment amount calculated according to a 10-year repayment period to maintain eligibility for loan forgiveness, regardless of whether they would otherwise be eligible to repay according to a maximum standard repayment period of 12, 15, 20, 25, or 30 years, depending on their total student loan indebtedness.

Finally, prior to July 1, 2006, married borrowers were eligible to obtain joint Consolidation Loans. Future guidance might address the eligibility of joint Consolidation Loan borrowers to have their loans forgiven under the DL loan forgiveness provision for public service employees. Guidance might address whether one or both borrowers must meet the employment and repayment requirements for loan forgiveness; and if these requirements are met by only one of the joint borrowers, whether that borrower's proportionate share of the joint loan balance will be forgiven. Guidance might also address how the future eligibility of FFEL Consolidation Loan borrowers to reconsolidate their loans into Federal Direct Consolidation Loans for purposes of using the DL program loan forgiveness provision, effective July 1, 2008, will apply to joint borrowers.

⁷ For details on repayment plans available to borrowers of DL program loans, see U.S. Department of Education, Direct Loan Bulletin, "New Direct Loan Repayment Plans and Changes in the Treatment of Consolidated PLUS Loans and Federal Perkins Loans," DLB-07-16, July 31, 2007, at <http://www.ifap.ed.gov/dlbulletins/DLB0716.html>, visited January 28, 2008.

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