



Prepared by the EdFund Government Relations Unit

Overview of the Technical Corrections to the Higher Education Act – Public Law 111-039

Status: The Technical Corrections to the Higher Education Act was approved by the House of Representatives and the Senate on June 23, 2009. The President signed the bill into law on July 1, 2009.

Implementation: Unless otherwise indicated, the provisions included in the bill are self-implementing, clear in purpose and will be effective upon the date of enactment of the Higher Education Opportunity Act (PL 110-315) or August 14, 2008. Some provisions may require guidance from the US Department of Education (USED) for implementation. It is recommended that readers monitor USED guidance in the form of Dear Colleague Letters and electronic bulletins for provisions impacting operational issues.

Last updated July 6, 2009

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Subject	Technical Corrections	Effective Date/ Trigger Event	Comments/Discussion
Title I – General Provisions			
Part E – Lender and Institution Requirements Relating to Education Loans			
Self-Certification Form for Private Education Loans			
Data Elements to be Provided by School HEA 155(a)(4)	Upon request of the applicant the institution shall make available in written or electronic form the following data elements <ul style="list-style-type: none"> ○ The applicant's cost of attendance ○ The applicant's EFA, including amounts of financial assistance used to replace the expected family contribution ○ The difference between the COA and EFA , including amounts of financial assistance used to replace the expected family contribution 		
Title IV – Student Assistance			
Part A – Grants to Students in Attendance at Institutions of Higher Education			
Pell Grants			
Authorized Funds HEA 401(b)(8)(A)	Authorized amount increased to: <ul style="list-style-type: none"> ○ \$258,000,000 for fiscal year 2013 ○ \$4,452,000,000 for fiscal year 2015 		Changed from \$105,000,000 for fiscal year 2013 \$4,400,000,000 for fiscal year 2015
Zero EFC HEA 401(f)(4)	This section is removed from the Pell Grant section Zero EFC given to dependents who's parent or guardian was a member of the Armed Forces of the United States who died as a result of performing military service in Iraq or Afghanistan after September 11, 2001		This provision was moved to the Family Contribution section (HEA 473(b)) allowing the zero EFC to be used for all title IV aid calculations.
Scholarships for Veteran's Dependents – Iraq and Afghanistan Service Grants			
Definition HEA 420R(a)	Definition of eligible veteran's dependent means a dependent or an independent student <ul style="list-style-type: none"> ○ Whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11,2001 ○ Who at the time of the parent or guardian's 	Beginning 7.1.2010	New scholarship program.

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	death was <ul style="list-style-type: none"> ▪ Less than 24 years of age or ▪ Enrolled at an institution of higher education on a part-time or full-time basis 		
Prevention of Double Benefits HEA 420R(c)	No eligible veteran's dependent may receive a grant under both this section and under the Pell Grant	Beginning 7.1.2010	
Terms and Conditions HEA 420R(d)	Grants shall be awarded in the same manner and with the same terms and conditions as a Pell Grant including the length of the period of eligibility except that <ul style="list-style-type: none"> ○ The award rules and determination of need applicable to the Pell Grant shall not apply ○ It will be awarded only through academic year 2013-14 ○ Grants made for any award year shall equal the maximum Pell Grant available for that award year except the grant shall <ul style="list-style-type: none"> ▪ Not exceed the COA of the dependent for that award year and ▪ Be adjusted to reflect the attendance by the dependent on a less than full-time basis in the same manner as a Pell Grant 	Beginning 7.1.2010	
Estimated Financial Assistance HEA 420R(e)	For purposes of determining need this grant shall not be considered estimated financial assistance	Beginning 7.1.2010	
Part B – Federal Family Education Loan Program			
Restrictions on Inducements, Mailings and Advertising			
Prohibited Inducements HEA Sec 428(b)(3)(A)	A guaranty agency shall not offer, directly or indirectly, premiums, payments, stock or other securities, prizes, travel, entertainment expenses, tuition payment or other inducements to any <ul style="list-style-type: none"> ○ Institution of higher education ○ Employee of an institution of higher education 		Adds individual or entity to the list of people or entities that may not receive these benefits in order to secure applicants for loans.

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Entrance Counseling HEA Sec 428(b)(3)(C) and (D)	<ul style="list-style-type: none"> o Individual or entity A guaranty agency may <ul style="list-style-type: none"> o Perform Entrance Counseling for borrowers o Pay an individual to perform Entrance Counseling on behalf of the institution 		This provision makes clear what the HEOA did not by stating that guaranty agencies may perform Entrance Counseling.
Rehabilitation of Student Loans			
Sale or Assignment of Loan HEA Sec 428F(a)(1)(A)	<p>Upon securing the appropriate payments the guaranty agency shall</p> <ul style="list-style-type: none"> o Sell the loan to an eligible lender if practicable or o Assign the loan to the Secretary on or before 9.30.2011 if <ul style="list-style-type: none"> ▪ The Secretary has determined that market conditions unduly limit a guaranty agency's ability to sell the loans and ▪ The guaranty agency has been unable to sell the loans to a lender 	Applies to any loan on which monthly payments were paid before/on/after the date of enactment	This provision establishes a 'Put' like program for guaranty agencies if they are unable to secure a lender(s) to purchase rehabilitated loans.
Monthly Payments HEA Sec 428F(a)(1)(B)	The guaranty agency nor the Secretary shall demand from a borrower a monthly payment in amounts no more than is reasonable and affordable based on the borrower's total financial circumstances	Applies to any loan on which monthly payments were paid before/on/after the date of enactment	
Consumer Reporting Agencies HEA Sec 428F(a)(1)(C)	Upon the sale or assignment of the loan the Secretary, guaranty agency or other holder shall request any consumer reporting agency to remove the record of the default from the borrower's credit history	Applies to any loan on which monthly payments were paid before/on/after the date of enactment	
Duties Upon Sale HEA Sec 428F(a)(1)(D)	The guaranty agency shall <ul style="list-style-type: none"> o Repay the Secretary 81.5 percent of the principal balance outstanding at the time of the sale multiplied by the re-insurance percentage in 	Applies to any loan on which monthly payments were	

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	<p>effect when payment under the guaranty agreement was made to the loan</p> <ul style="list-style-type: none"> ○ Charge the borrower an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of the loan sale <ul style="list-style-type: none"> ▪ Retain this amount from the proceeds of the loan sale ▪ To defray collection costs <p>The Secretary shall</p> <ul style="list-style-type: none"> ○ Reimburse the guaranty agency for the amount the agency may expend to discharge the guaranty agency's insurance obligation ○ Pay to the holder a special allowance 	<p>paid before/on/after the date of enactment</p>	
<p>Duties Upon Assignment HEA Sec 428F(a)(1)(E)</p>	<p>The guaranty agency shall</p> <ul style="list-style-type: none"> ○ Add to the principal and interest outstanding at the time of assignment an amount not to exceed 18.5 percent <p>The Secretary shall</p> <ul style="list-style-type: none"> ○ Pay the guaranty agency an amount equal to the amount added to the principal and interest outstanding at the time of the assignment 	<p>Applies to any loan on which monthly payments were paid before/on/after the date of enactment</p>	
<p>Lender Limitation HEA Sec 428F(a)(1)(F)</p>	<p>Loan shall not be sold to a lender found to have substantially failed to exercise the due diligence required of lenders under this part</p>	<p>Applies to any loan on which monthly payments were paid before/on/after the date of enactment</p>	
Disbursement Requirements			
<p>Method of Multiple Disbursement HEA Sec 428G(c)(3)</p>	<p>With the permission of the borrower, loans may be disbursed by the lender on a weekly or monthly basis, provided the proceeds of the loan are disbursed in substantially equal installments over the period of enrollment for which the loan is made</p>		<p>Section was rewritten for clarity.</p>
Loan Forgiveness for Teachers			

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Qualified Loans Amount HEA Sec 428J(c)(1) and Sec 460(c)(1)	No borrower may receive a reduction of loan obligations under both the FFEL and DL programs		This provision applies to both FFEL and DL loans.
Definitions for Student Loan Insurance Program			
Eligible Lender HEA Sec 435(d)(5)(A), (E) and (F)	Disqualification as an eligible lender for the use of certain incentives has changed by adding <ul style="list-style-type: none"> o Any individual or entity to the list that a lender may not offer points, premiums, payments, prizes, stock, securities, travel, entertainment expenses, tuition payment, technology equipment, additional financial aid funds or other inducements o The ability of a lender to perform Entrance Counseling for borrowers o The ability of a lender to pay an individual to perform Entrance Counseling on behalf of the institution 		Adds individual or entity to the list of people or entities that may not receive these benefits in order to secure applicants for loans. This provision makes clear what the HEOA did not by stating that lenders may perform Entrance Counseling.
Temporary Authority to Purchase Rehabilitated Loans			
Authority HEA Sec 459A(a)(3)(A)	The Secretary in consultation with the Secretary of the Treasury is authorized to purchase or enter into forward commitments to purchase, from eligible lenders, loans purchased through the rehabilitation process	Loans purchased on/after 10.1.2003 and before 7.1.2010	Allows for an additional category of loans a lender may include in the 'Put' program.
Federal Register Notice HEA Sec 459A(a)(3)(B)	The Secretary, Secretary of the Treasury and the Director of the OMB shall jointly publish a notice prior to any purchase that <ul style="list-style-type: none"> o Establishes the terms and conditions of the purchases o Includes the methodology and factors considered in evaluating the price at which to purchase loans o Ensure that loan purchases do not result in any net cost to the Federal Government 		
Proceeds	The Secretary shall require that the funds paid to any lender under this program will be used to ensure		

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HEA Sec 459A(b)	continued <ul style="list-style-type: none"> ○ Participation in the FFEL program ○ Origination of FFEL loans ○ Purchase of rehabilitated loans 		
Part F – Need Analysis			
Family Contribution			
Special Rule HEA 473(b)	Any dependent or independent student who is eligible to receive a Pell Grant for the academic year <ul style="list-style-type: none"> ○ Whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and ○ Who, at the time of the parent or guardian's death, was <ul style="list-style-type: none"> ▪ Less than 24 years of age; or ▪ Enrolled at an institution of higher education on a part-time or full-time basis <p>The family contribution of each student described will be zero for the academic year</p> <p>The Secretary of Veterans Affairs and the Secretary of Defense will provide the Secretary of Education with information necessary to determine which students meet the requirements</p>	Beginning 7.1.2009	This provision was removed from the Pell Grant section (HEA 401(f)(4)) allowing the zero EFC to be used for all title IV aid calculations.
Definitions – Veterans' Education Benefits HEA 480(c)(2)	The term "veterans' education benefits" means veterans' benefits the student will receive during the award year, including but not limited to benefits under the following provisions of law <ul style="list-style-type: none"> ○ Chapter 103 of title 10, United States Code (Senior Reserve Officers' Training Corps) ○ Chapter 106A of title 10, United States Code (Educational Assistance for Persons Enlisting for Active Duty) ○ Chapter 1606 of title 10, United States Code 		

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	<p>(Selected Reserve Educational Assistance Program)</p> <ul style="list-style-type: none"> ○ Chapter 1607 of title 10, United States Code (Educational Assistance Program for Reserve Component Members Supporting Contingency Operations and Certain Other Operations) ○ Chapter 30 of title 38, United States Code (All-Volunteer Force Educational Assistance Program, also known as the 'Montgomery GI Bill—active duty') ○ Chapter 31 of title 38, United States Code (Training and Rehabilitation for Veterans with Service-Connected Disabilities) ○ Chapter 32 of title 38, United States Code (Post-Vietnam Era Veterans' Educational Assistance Program) ○ Chapter 33 of title 38, United States Code (Post-9/11 Educational Assistance) ○ Chapter 35 of title 38, United States Code (Survivors' and Dependents' Educational Assistance Program) ○ Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note) (Educational Assistance Pilot Program) ○ Section 156(b) of the 'Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes' (42 U.S.C. 402 note) (Restored Entitlement Program for Survivors, also known as 'Quayle benefits') ○ The provisions of chapter 3 of title 37, United States Code, related to subsistence allowances for members of the Reserve Officers Training Corps 		
Part G – General Provisions Relating to Student Assistance Programs			
Forms and Regulations			

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Common Financial Aid Form Development and Processing HEA Sec 483(a)(1)(A) through (a)(3)(c)	The EZ FAFSA and simplified applications to determine need and eligibility of a student for financial assistance shall be developed, used and processed by the Secretary for academic year 2010-11 and subsequent academic years there after		This provision sets a timeframe in which the change indicated must take place.
Zero Family Contribution HEA Sec 483(a)(4)(A)(iv)	Applicants with a zero EFC shall not be required to provide any financial data in a reapplication form except data to determine eligibility This provision must be carried out by the Secretary for academic year 2010-11 and subsequent academic years there after		This provision sets a timeframe in which the change indicated must take place.
Consequences if State does not Accept Simplified Forms HEA Sec 483(a)(5)(E)	If a State does not permit an applicant to file an EZ FAFSA for purposes of determining State need-based aid the Secretary may eliminate the State-specific questions on the form This provision must be carried out by the Secretary for academic year 2010-11 and subsequent academic years there after		This provision sets a timeframe in which the change indicated must take place.
Institutional and Financial Assistance Information for Students			
Disclosure of Campus Security Policy and Campus Crime Statistics HEA Sec 485(f)	Foreign institutions of higher education are exempt from filing <ul style="list-style-type: none"> o Campus crime reports to the campus community o Keeping and maintaining a daily log of all crimes reported to the campus police or security department o A campus crime report with the Secretary o A statement of policy regarding aimed at the prevention of sex offenses 		This provision added foreign institutions as an exemption to these rules.
Regulatory Relief and Improvement			
Regulatory Improvement and Streamlining Experiments	Experimental sites approved by the Secretary prior to July 1, 2007 that have not been successful in carrying out the purposes of this section shall be discontinued not later than June 30, 2010		This is a time extension for programs to become qualified or be discontinued from June 30, 2009 to June 30, 2010.

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HEA Sec 487A(b)	Determination of success is based on <ul style="list-style-type: none"> ○ The ability of the site to reduce administrative burdens to the institution without creating costs to the taxpayer ○ If the site has improved the delivery of services to the students 		

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