



Prepared by the EDFUND Government Relations Unit

Overview of the Higher Education Reconciliation Act (HERA) – Public Law 109-171

Status: The Higher Education Reconciliation Act (S. 1932), which is Title VIII of the Deficit Reduction Act, was approved by conference committee and subsequently approved by the Senate on December 21, 2005, the House on February 2, 2006 and signed by the President on February 8, 2006.

Implementation: Negotiated rule-making sessions for outlaying years will take place for HERA implementation during the winter of 2007. The Department has issued guidance in the form of multiple Dear Colleague Letters, Interim Final Regulations and Final Regulations.

Last updated January 30, 2007

This document provides a summary of the Higher Education Reconciliation Act and is intended for informational purposes only. Readers should refer to the detail of the Higher Education Reconciliation Act of 2005 and US Department of Education guidance in determining all relevant issues.

Subject	Higher Education Reconciliation Act	Effective Date	Comments/Discussion
		Trigger Event	
Distance Education			
Telecommunications Courses	<p>Telecommunications courses in which students are enrolled at an institution of higher education where the courses are leading to a recognized certificate, associate or bachelor's degree are no longer considered "correspondence" courses and are now eligible for Title IV aid.</p> <p>Additionally, the requirement that a certificate program, offered through telecommunications courses, be at least one year in length is eliminated.</p>	7/1/2006	<p>Among other changes, this provision essentially eliminated the "50% rule" and the requirement that a certificate program (if offered in whole or in part through telecommunications courses) must be at least one year in length.</p> <p>This rule does not apply to schools that fall under a particular section of the Carl D. Perkins Vocational and Technical Education Act of 1998.</p> <p>Under previous law, if the total amount of telecommunications and correspondence courses at the school equals or exceeds 50% of the total amount of all courses at the school then students enrolled in telecommunication courses at such schools are not eligible for aid.</p> <p>Examples of telecommunications courses include those offered over the Internet or through a combination of television broadcast and telephone interaction with other students and instructors.</p> <p>This topic is discussed in DCL GEN-06-05.</p>
Two New Mandatory Grant Programs			
Academic Competitiveness Grant	<p>The new law creates the Academic Competitiveness Grant (ACG) program and the National "Science and Mathematics Access to Retain Talent" (SMART) Grant program. Both programs provide additional merit-based grants to qualified Pell Grant recipients.</p> <p>Minimum qualifications for both programs include:</p> <ul style="list-style-type: none"> ▪ United States citizenship 	7/1/2006	<p>The ACG and SMART Grant programs are considered "mandatory" programs and must be awarded to a qualified applicant. When awarding these grants, the total of all aid/resources cannot exceed the cost of attendance and no portion of the award can replace the EFC.</p>

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National SMART Grant	<ul style="list-style-type: none"> ▪ Full time enrollment ▪ Pell Grant recipient <p>Academic Competitiveness Grant awards:</p> <ul style="list-style-type: none"> ▪ Up to \$750 to 1st year students enrolled in a two-year or four-year degree program who have completed a “rigorous academic curriculum” in high school, graduated from high school on or after January 1, 2006 and have not been previously enrolled in a program of undergraduate education ▪ Up to \$1,300 to 2nd year students enrolled in a two-year or four-year degree program who have completed a “rigorous academic curriculum” in high school, graduated from high school on or after January 1, 2005 and achieved a minimum 3.0 GPA in their first year of postsecondary study <p>National SMART Grants award:</p> <ul style="list-style-type: none"> ▪ Up to \$4,000 to 3rd and 4th year students enrolled in a four-year degree program and are majoring in math, science, technology, engineering or a critical foreign language and have at least a 3.0 GPA 		<p>Guidance continues to be issued in the form of Dear Colleague Letters, electronic announcements, Interim Final Regulations, on-line training and the Department’s Fall Training programs. Negotiated rule making for the ACG and SMART Grant programs is expected to occur in Winter ’07 for outlying years. Future rulemaking activity will establish the criteria for recognition of a “rigorous academic program” for the 2008-2009 academic year and beyond.</p> <p>DCL GEN-06-04 This DCL provides general programmatic descriptions of the two new grant programs.</p> <p>The Department may ratably reduce award amounts for any one academic year if sufficient funds are not available for all eligible students nationally in an award year.</p> <p>DCL GEN-06-06 and GEN-06-15 This letter provides the list of academic majors eligible for the National SMART Grants for the 2006-2007 award year.</p> <p>DCL GEN-06-08 The Secretary recognizes the following options as rigorous secondary school programs for at least the next two academic years (2006-2007 and 2007-2008). All existing Advanced or Honors diploma programs, State Scholars Initiative program, programs with courses similar to those required under the State Scholars Initiative</p>

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			<p>program and Advanced Placement or International Baccalaureate courses and test scores. These four methods make it possible for students in public school, private school, home-school or those enrolled in Department of Defense Overseas Schools the opportunity to participate in the ACG program.</p> <p><i>Additional guidance has been provided in the Federal Register. Interim Final Regulations were printed on July 3, 2006 and Final Regulations were printed on November 1, 2006.</i></p>
Loan Limits			
Annual Stafford Loan Limits	<p>Increases annual Stafford loan limits</p> <ul style="list-style-type: none"> • 1st year students from \$2,625 to \$3,500 • 2nd year students from \$3,500 to \$4,500 <p>Increases annual unsubsidized Stafford loan limits</p> <ul style="list-style-type: none"> • graduate/professional students from \$10,000 to \$12,000 • students w/undergrad degrees who are enrolled in courses that will prepare them to enter a graduate programs from \$5,000 to \$7,000 • students enrolled in coursework necessary for a professional credential or certification for employment as a teacher from \$5,000 to \$7,000 	<p>7/1/2007</p> <p><i>Loans disbursed on or after 7/1/2007*</i></p>	<p>DCL GEN-06-02 or FP-06-01</p> <p>Existing aggregate loan limits remain unchanged. The limits are:</p> <p>\$23,000 – Undergraduate study</p> <p>\$65,500 – Graduate study (including amounts borrowed for undergraduate study)</p> <p>\$46,000 – Undergraduate study of which no more than \$23,000 can be subsidized</p> <p>\$138,500 – Graduate study (including amounts borrowed for undergraduate study) of which no more than \$65,500 may be subsidized.</p> <p><i>*Final Rule published in the Federal Register dated November 1, 2006, Vol 71, No 211, p 64397 and 64398</i></p> <p><i>A change was made in the Final Rules to cause the trigger date to change from certified to disbursed.</i></p>

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PLUS Loans	<p>Expands PLUS loan eligibility to include graduate and professional students.</p> <p>Requires graduate and professional students or parents who have been convicted of fraud involving student loan funds to repay such funds first in order to receive a PLUS loan.</p>	<p>7/1/2006</p> <p>Loans certified (FFEL) or originated (DL) on or after 7/1/2006</p>	<p>This new provision will allow graduate and professional students to borrow from the PLUS program. PLUS eligibility requirements (e.g., credit worthiness) still apply. All application requirements and repayment terms are the same as would apply to loans made to parents, including the ability to use a co-signer on the application.</p> <p>In essence, the changes made in the HERA are not changing the programmatic requirements of PLUS loans, but are merely adding a new group of eligible participants (graduate and professional students) who can now borrow directly under the current PLUS program terms and conditions.</p> <p>Graduate and professional students may request a PLUS Loan deferment while in school.</p> <p>DCL GEN-06-02 or FP-06-01 Graduate or professional student borrowers are required to complete the FAFSA and they must also have applied for their annual loan maximum eligibility under the Stafford Loan Program before applying for a PLUS Loan.</p> <p>DCL FP-06-05 Provides the addendums to the Stafford Loan MPN, PLUS Loan Application and MPN and Endorser and Consolidation Loan Application and Promissory Note along with the Plain Language Disclosures for the Stafford Loan and the PLUS Loan. Implementation of the addenda and Plain Language Disclosures are</p>

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			<p>discussed.</p> <p>Schools that have not participated in the PLUS program in the past must apply for approval to participate by the Department. A school must have the Department's approval letter before certifying Federal PLUS Loans. Lenders and guaranty agencies must verify that a school is eligible to participate in the program before making PLUS Loans to the school's students.</p> <p>A school that participates in the PLUS Program must make loans available to both parents and graduate or professional student borrowers, as applicable.</p> <p><i>Final Rule published in the Federal Register dated November 1, 2006, Vol 71, No 211, p64383</i></p> <p><i>A graduate or professional student's maximum annual Stafford Loan eligibility must be determined before the student applies for a PLUS Loan.</i></p>
Interest Rates			
PLUS Interest Rates	<p>PLUS loan interest rate for FFEL is set at a fixed rate of 8.5%.</p> <p>PLUS loan interest rate for DL is set at a fixed rate of 7.9%.</p>	First disbursement made on or after 7/1/2006	The 8.5% rate only applies to FFEL PLUS loans (The Direct PLUS loan interest rate is 7.9%). The Congressional intent was to apply the higher rate to both DL and FFEL, but the conforming language was accidentally left out of the legislation. Congressional staff are examining ways to bring parity to the two programs. When or if a change in the law will occur to make interest rates in both programs the same will occur is uncertain at this time.

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			As a result of this change, many borrowers will end up with a combination of loans, some with variable rates (disbursed prior to 7/1/06) and others with fixed rates (disbursed on/after 7/1/06).
<i>Stafford Loan Interest Rates</i>	<i>Under current law (PL 107-139 signed into law on 02.08.02), Stafford Loan interest rates are now fixed at 6.8%.</i>	First disbursement made on or after 7/1/2006.	<p><i>While this provision is not part of the HERA, it does have the same effective date as many of the new changes; therefore, it has been included in this summary to reinforce and clarify that Stafford Loan interest rates changed from a variable rate structure to a fixed interest rate on July 1, 2006. This change will only affect <u>new loans</u> that have a first disbursement on or after July 1, 2006.</i></p> <p><i>As a result of this change, many borrowers will end up with a combination of loans, some with variable rates (disbursed prior to 7/1/06) and others with fixed rates (disbursed on/after 7/1/06).</i></p>
Escrow Agent – Transfer of Funds	<p>Reduces the number of days a lender may disburse funds in advance to an escrow agent for disbursement to a school from 21 days to 10 days.</p> <p>Lenders may not bill interest sooner than 3 days before the first disbursement.</p>	<p>7/1/2006</p> <p>Loan proceeds paid by a lender to an escrow agent on or after 7/1/2006</p>	<p>This provision does not change when a school may receive funds (30 days prior to disbursement for paper checks and 10 days prior to disbursement for EFT).</p> <p>DCL GEN-06-02 or FP-06-01 The Department interprets the word “disbursement” to mean disbursement to the institution or direct disbursement to the borrower.</p>
Deferments			
Military Deferment	Allows DL, FFEL, and Perkins to provide up to 3 years of deferment for eligible borrowers on active duty during war, national emergency or military operation. Includes National Guard duty under same circumstances.	Loans with a first disbursement made on or after 7/1/2001	<p>GA-2006-02 NSLDS code will equal MO for this deferment.</p> <p>DCL GEN-06-02 or FP-06-01 Available to Perkins Loan borrowers also.</p>

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	Adds new subsection that provides definitions for the following: <ul style="list-style-type: none"> • Active Duty • Military Operation • National Emergency • Serving on Active Duty • Qualifying National Guard Duty 		Documentation for this deferment may include a copy on military orders, a written statement from the commanding officer or personnel officer verifying that the borrower is serving on active duty under these circumstances. Payments made by a borrower during a period that is now considered to have been covered by a military deferment can not be refunded to the borrower.
Repayment Plans			
Repayment Plans	Aligns repayment plans (other than Income Contingent in Direct Loans and Income Sensitive in FFEL) in the Direct Loan program with those in FFELP.	7/1/2006 DL borrowers who enter repayment on or after 7/1/2006	The HERA aligns Direct Loan standard, graduated and extended repayment plans to match those in FFELP. Direct Loans will still offer the Income-contingent option and FFELP will offer an Income-sensitive option.
Origination Fee Reductions			
FFEL Origination Fees	Reduces Stafford (subsidized and unsub) origination fees over time. Loans with a first disbursement made on/after: <ul style="list-style-type: none"> • 7/1/2006 will have a fee of 2%; • 7/1/2007 will have a fee of 1.5%; • 7/1/2008 will have a fee of 1%; • 7/1/2009 will have a fee of 0.5%; and • 7/1/2010 will have a fee of 0%. 	Beginning with loans for which the first disbursement is made on or after 7/1/2006	Does not apply to PLUS and/or Consolidation loans. Factoring in the mandatory Federal Default Fee, FFEL and Direct Loans will eventually end up with a 1% up front fee to borrowers.
DL Origination Fees	Reduces Stafford (subsidized and unsubsidized) origination fees over time. Loans with a first disbursement made on or after: <ul style="list-style-type: none"> • 7/1/2006 will have an fee of 3%; • 7/1/2007 will have a fee of 2.5%; • 7/1/2008 will have a fee of 2%; • 7/1/2009 will have a fee of 1.5%; and • 7/1/2010 will have a fee of 1%. 	Beginning with loans for which the first disbursement is made on or after 7/1/2006	DCL GEN-06-02 or FP-06-01 The Department will continue the existing “up front” interest rebate repayment incentive program. Does not apply to PLUS and Consolidation loans.

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			Factoring in the mandatory Federal Default Fee, FFEL and Direct Loans will eventually end up with a 1% up front fee to students.
Repayment Incentives	Authorizes the Secretary to reduce origination fees paid by DL borrowers in order to encourage on-time repayment.	7/1/2006	This provision allows Direct Loan borrowers to reap similar benefits to those offered by many FFELP lenders. Any reductions to DL origination fees must be cost-neutral to the federal government.
Consolidation Loan Provisions			
Single Holder Rule	Single Holder Rule repealed: consolidation loan borrowers are now allowed to consolidate with any eligible lender.	6/15/06 Loan applications received on or after 6/15/06	PL 109-234 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery of 2006 was signed into law on 06.15.06.
Cross-Consolidation Between Programs	<p>Terminates borrower eligibility for a new Consolidation loan if borrower already obtained a FFELP or Direct Consolidation loan (eliminates reconsolidation into other program).</p> <p>Adds an exception to existing limitations on subsequent Consolidation loans to permit borrowers who currently have a Consolidation loan to obtain a subsequent Consolidation under the following circumstance:</p> <ul style="list-style-type: none"> Borrower seeks to obtain an income-contingent repayment plan, AND The initial Consolidation loan has been submitted to the guarantor for default aversion assistance. <p>Both of the above conditions must be in place for the borrower to obtain a subsequent Consolidation loan under this exception.</p> <p>Strengthens language which allows borrowers to obtain a Direct Consolidation loan "if lender denies" instead of "if borrower is unable to obtain" a FFELP Consolidation loan with income-sensitive repayment terms. New sentence states that, upon a lender's denial, the Secretary must offer</p>	7/1/2006 Loan applications received on or after 7/1/2006	<p>In general, this provision prevents borrowers from consolidating (or re-consolidating) between programs in order to take advantage of lower interest rates and/or borrower benefit programs.</p> <p>This change was repealed in PL 109-234 the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery of 2006 that was signed into law on 06.15.06.</p>

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	a Direct Consolidation loan to resolve the borrower's default.		DCL GEN-06-12 or FP-06-11 A borrower is eligible to apply for a Direct Consolidation loan if the borrower is unable to obtain a FFEL Consolidation loan or is unable to obtain one with income-sensitive repayment terms acceptable to the borrower.
Spousal Consolidation	Eliminates "spousal consolidation" loans.	7/1/2006 Consolidation loan applications received on or after 7/1/2006	
Repeal of In-School Consolidation	Eliminates the borrower's option to enter repayment early.	7/1/2006 Borrower requests received by FFEL lenders on or after 7/1/2006	A borrower was able to enter repayment early in order to take advantage of the in-school interest rate when consolidating loans. This provision eliminates this option. The repayment period will begin the day after the end of the 6-month grace period. The law also changes the eligibility requirements for a Consolidation loan to correspond with this change.
Delivery of Loan Funds to Students			
Disbursement Rules	Reinstates provisions for low-cohort default rate schools (less than 10% for the 3 most recent fiscal years) that allows: <ul style="list-style-type: none"> the disbursement of loan funds in a single installment for a period of enrollment that is not longer than 1 semester, 1 trimester, 1 quarter, or a period of 4 months such schools to waive the 30-day delayed delivery of funds to first-year, first time borrowers. Loans to students attending foreign schools are no longer exempt from the disbursement requirements (i.e., multiple	2/8/2006 Disbursements made on or after 2/8/2006	These provisions were previously in law and were allowed to expire on September 30, 2002.

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	disbursement and delayed delivery).		
Disbursement	<p>For students studying at an eligible foreign institution, loans may be disbursed directly to the borrower only if the institution requests this method. The lender or guaranty agency may honor the institution's request only after verifying the borrower's enrollment at the institution.</p> <p>Foreign institutions are no longer exempt from the multiple disbursement requirements or the delayed delivery requirement for first-year, first-time borrowers. Unless the school is a low-cohort default school.</p> <p>Disbursements made to a student in a study abroad program that is approved by the student's home institution may be delivered directly to the student at the student's request. Loan funds will be disbursed by check or other means only after the student's enrollment is verified by the lender or guarantor.</p> <p>The student may authorize a power of attorney to endorse the check or authorize a funds transfer.</p>	<p>7/1/2006</p> <p>Loans first disbursed on or after 7/1/2006</p> <p>Loans with loan periods beginning on or after 7/1/2006</p> <p>Loans first disbursed on or after 7/1/2006</p>	<p>This now puts into law current guidance from the Department. (DCL G-03-348)</p> <p><i>Final Rule published in the Federal Register dated November 1, 2006, Vol 71, No 211, p64385</i></p> <p><i>Disbursement may be made directly to a student only after the lender or guaranty agency has verified the student's enrollment with the home institution.</i></p>
School as Lender			
School as Lender	<p>To be an eligible lender under this part, the lender must have met the requirements that were in effect prior to the date of enactment of the HERA, and must have made loans under this part on or before April 1, 2006.</p> <p>Clarifies that a school can only make subsidized and unsubsidized Stafford loans to graduate or professional students enrolled at the school (i.e., no PLUS loans or loans to undergraduates except in very limited circumstances).</p> <p>Requires school to offer loans that have interest rates and/or origination fees lower than what is permitted in Title</p>	7/1/2006	<p>DCL GEN-06-02 or FP-06-01</p> <p>As of July 1, 2006, a school lender may no longer make PLUS loans to parents or to graduate or professional students, or make Consolidation Loans.</p> <p>Only those schools that entered the School as Lender program and made loans as a lender prior to April 1, 2006 are allowed to continue participation in the School as Lender program. Deletes provisions that allow schools to lend to up to 50% of their undergraduates if</p>

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	<p>IV. Also requires the cohort default rate of the school to be no more than 10%.</p> <p>Stipulates that the school must award any financing, servicing, or administration contract on a competitive basis.</p> <p>Requires the school to do an annual compliance review of the portfolio and to provide the audit report to ED.</p> <p>Clarifies that all earnings – including the proceeds from special allowance payments, interest payments and any proceeds from the sale or other disposition of loans – except for reasonable reimbursement of direct administrative expenses, must be used for need-based grant programs. Also clarifies that the earnings are to be used to supplement – not supplant – non-federal funds that would be used for need-based grants.</p>		<p>another lender turns the student down for a loan. Also adds several new participation requirements and essentially limits participation to schools that were already participating in the program prior to enactment of the HERA.</p> <p>Lowens the cohort default rate requirement from 15% to 10%.</p>
Discharge Provisions			
False Certification	Adds identity theft as a reason for obtaining a false certification discharge.	7/1/2006	<p>DCL GEN-06-02 or FP-06-01 Until discharge regulations can be developed, lenders may provide administrative forbearance, and guaranty agencies may suspend default collections, if evidence is presented that is reasonably persuasive, supporting the borrower's claim.</p> <p><i>Final Rule published in the Federal Register dated November 1, 2006, Vol 71, No 211, p64388</i></p> <p><i>The HERA specifically provides for a loan discharge only when a "crime" of identity theft has occurred. For this reason, the interim final regulations provide relief only to</i></p>

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			<i>the victim of a proven crime of identity theft.</i>
Teacher Loan Forgiveness			
DL and FFEL Teacher Loan Forgiveness	<p>Eliminates the effective date limitation set in the Taxpayer-Teacher Protection Act of 2004 for the increased forgiveness amounts for math, science, and special education teachers.</p> <p>Expands borrower eligibility to non-profit private school teachers who are exempt from state certification requirements by:</p> <ul style="list-style-type: none"> • passing a competency test of subject knowledge and skills <ul style="list-style-type: none"> ▪ the competency test must be recognized by 5 or more States for determining highly qualified teacher requirements under NCLB, ▪ the score achieved must be equal to or greater than the average passing score of teachers in those five states. 	<p>Effective as if enacted on 10/30/2005</p> <p>Applications received on or after 7/1/2006</p>	<p>The Taxpayer-Teacher Protection Act of 2004 was passed with “sunset” provisions that only authorized the program through October, 30, 2005. The HERA removed the sunset date and codifies the program in the HEA, making it a permanent program.</p>
Lender Insurance			
Reduction of Insurance	Reduces insurance on defaulted loans from 98% to 97%.	First disbursement is made on/after 7/1/2006	This applies to the amount guaranty agencies pay to lenders when a loan goes into default and the lender submits a claim to the guaranty agency. Both lenders and guaranty agencies have seen steady decreases in the level of insurance (and reinsurance for guaranty agencies) provided by the federal government over the years. Policy makers believe that increasing risk-sharing in this manner will not only have a positive impact on the federal budget, but will also encourage lenders to better control defaults.
Exempt Claims	<p>Clarifies that “exempt claims” qualify for insurance at 100%.</p> <p>Defines “exempt claims” as claims for loans on which it is determined that the borrower (or the student on whose</p>	Loans with a first disbursement made on/after	This provision simply clarifies and codifies a provision that is currently standard practice, holding lenders and guarantors harmless when a borrower provided false information

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	behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits.	7/1/2006	when applying for a loan.
Exceptional Performer – Insurance	Decreases the insurance paid by the guarantor to the eligible lender or servicer designated as exceptional performer from 100% to 99%.	7/1/2006	Prior to passage of the HERA, lenders and servicers who have the "Exceptional Performer" designation from the Department of Education were insured at 100%. The new law would increase lender risk sharing by lowering this insurance rate to 99%.
Insurance Fees			
Federal Default Fees – Stafford and PLUS Loans	For loans guaranteed on/after July 1, 2006, requires a federal default fee equal to 1% of principal be either deducted proportionately from each disbursement prior to disbursing loan proceeds to the borrower or may be paid using non-federal sources. The fee must be deposited into the Federal Student Loan Reserve Fund and the proceeds must not be used for incentive payments to lenders.	Loans guaranteed on or after 7/1/2006	Under the new law, a guarantor must deposit the full amount of the fee into the Federal Reserve Fund by either collecting it from the borrower or it may be paid from other non-federal sources.
Federal Default Fee – VFAs	Corresponding change made to the insurance premium language for VFAs as was made for Stafford and PLUS loans in other areas of the Act. Provision stipulates that the Secretary may not waive deposit of the required federal default fee into the Reserve Fund.	Loans guaranteed on/after 7/1/2006	This provision codifies that all guarantors must deposit the Federal Default Fee and that the requirement to do so may not be waived by the Secretary as part of a Voluntary Flexible Agreement.
Forbearance			
Forbearance	Deletes the requirement that a borrower's request for any mandatory forbearance be "in writing". The new legislation adds a provision requiring that the loan holder (or servicer) send a notice to the borrower confirming the terms that were agreed to and requires that the terms be recorded in the borrower's file.	7/1/2006 Agreements entered into or renegotiated on or after 7/1/2006	
Rehabilitation			
Default Reduction	Changes the number of payments required from 12 consecutive monthly payments to 9 payments made within	7/1/2006	DCL GEN-06-02 or FP-06-01 Guaranty agencies will have the option of

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Program/ Rehabilitation	20 days of the due date during 10 consecutive months.	Loan rehabilitation agreements beginning on or after 7/1/2006	considering the borrower (with Loan rehabilitation agreements that began prior to 7/1/2006) to have met the new rehabilitation standard if at least one of the payments is made within 20 days of the due date on or after 7/1/2006. The guaranty agency must treat all borrowers in this situation the same.
Default Reduction Program/Rehab	A rehabilitated loan may carry a charge by a guaranty agency to the borrower of not more than 18.5% of the outstanding principal and interest.	7/1/2006	
Lender Issues			
Recapture of Excess Interest	Adds a new clause that requires lenders to remit excess interest back to the Department (at least annually) when the special allowance calculation for a given quarter is at a rate that is less than the applicable interest rate.	Loans first disbursed on or after 4/1/2006	DCL GEN-06-02 or FP-06-01 The Department intends to collect the excess interest from lenders quarterly. Interest rate will be fixed; special allowance rates will be variable.
Special Allowance (applicable to loans made or purchased with tax-exempt funds)	Provides for the elimination of "recycling" for loan made or purchased on or after the date of enactment of HERA of 2005 and for those loans held by the lender that are not receiving the minimum yield for eligible tax-exempt funding as of the date of enactment. Provides for an exception until 12/31/2010 to the above-described provision in the case of a holder that is, on the date of enactment and during the quarter for which special allowance is paid: <ul style="list-style-type: none"> • a unit of state or local government or a nonprofit private entity; • not owned or controlled by, or under the common ownership or control with, a for-profit entity; and • held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than \$100,000,000 on loans for which special allowances were paid under this subparagraph (i.e., 9.5%) in the most recent quarterly payment prior to 	2/8/2006	

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	September 30, 2005.		
Special Allowance (applicable to tax-exempt funds used to make or purchase loans)	Makes permanent the temporary provision of the Taxpayer-Teacher Protection Act of 2004 which eliminated the 9.5% minimum yield on loans made or purchased with pre-October 1, 1993 tax-exempt funding when such tax-exempt funding is refunded on or after September 30, 2004, including when such loans are no longer held in minimum yield eligible tax-exempt fundings on or after September 30, 2004.	Effective as if the amendments made to subsections (b) and (c) of section 2 of the Second Higher Education Extension Act of 2005 had not been enacted.	
Guarantor Issues			
Consolidation of Defaulted Loans	<p>Limits the amount of collection costs charged the borrower by the guaranty agency on or after 10/1/2006 to 18.5% of the outstanding principal and interest on a defaulted loan paid off through consolidation. In addition, requires guaranty agencies to remit to the Secretary 8.5% of the 18.5% collection charge on defaulted loans that are consolidated until October 1, 2009. On or after October 1, 2009, guaranty agencies are required to remit the entire collection charge to the Secretary on defaulted loans that are paid off with "excess consolidation proceeds."</p> <p>Excess consolidation proceeds are defined in subparagraph (C) as the proceeds of consolidation of defaulted loans that exceed 45% of the agency's total collections on defaulted loans in a federal fiscal year, effective for any federal fiscal year on or after October 1, 2009.</p>	<p>Collection costs charged on or after 10/1/2006 for payment to the Secretary</p> <p>7/1/2006 establish procedures</p>	<p>DCL GEN-06-02 or FP-06-01 Effective July 1, 2006 procedures must be established to preclude consolidation payments from being an excessive proportion of a guaranty agency's recoveries on defaulted FFEL loans.</p> <p>This provision is intended to discourage guaranty agencies from using consolidation as a method for curing or rehabilitating defaulted loans.</p>
Default Claims	Reduces the number of days a guarantor has to file a claim for reinsurance on default claims from 45 days to 30 days.	<p>7/1/2006</p> <p>Reinsurance requests filed on or after 7/1/2006</p>	

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Subject	Higher Education Reconciliation Act	Effective Date	Comments/Discussion
		Trigger Event	
Voluntary Flexible Agreement	Deletes the option for the Secretary to waive inducement prohibitions as part of a VFA agreement.	7/1/2006	
Account Maintenance Fee	This section is rewritten and contains the following provisions: <ul style="list-style-type: none"> Preserves mandatory appropriations for administering the loan programs and for paying guarantors the account maintenance fee for FY2006, but caps the amounts at \$820 million. Beginning in FY2007, provides that administrative funds other than the AMF are subject to the annual appropriations process. AMF payments from FY2007-2011 continue to be mandatory. Eliminates the cap on AMF funds and sets the AMF payment at an amount that is the basis of 0.10% of the original principal amount of outstanding loans. 	7/1/2006	The Department of Education will now be subject to the annual Congressional appropriations process to secure funds for the administration of the loan programs.
College Access Initiative	New section requires each guaranty agency to provide information to the Secretary and the public regarding: <ul style="list-style-type: none"> postsecondary educational opportunities, programs, publications, Web sites, and other available services. 	Not later than 270 days after date of enactment 11/5/2006	DCL GEN-06-02 or FP-06-01 A guaranty agency is not required to duplicate any efforts under way on the date of enactment of the HERA that meet the requirements specified. The Secretary and guaranty agencies shall publicize the availability of the College Access Initiative information. Most or all guaranty agencies already perform all or most of the functions now required in this section of the law.
School Issues			
Definition of Academic Year	Clarifies that the definition of academic year for a course of study that measures its program length in: <ul style="list-style-type: none"> credit hours must contain a minimum of 30 weeks of instructional time, clock hours must contain a minimum of 26 weeks of 	7/1/2006	This provision reduced the number of weeks in an academic year for a clock hour program from 30 weeks to 26 weeks. This topic is discussed in DCL GEN-06-05.

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	<p>instructional time.</p> <p>Domestic telecommunications programs are Title IV eligible as long as the program is determined to effectively deliver distance education programs by a Department recognized accrediting agency and the agency is qualified to evaluate distance education programs.</p> <p>Allows a program that utilizes direct assessment of student learning to be an eligible program if the direct assessment is consistent with the accreditation of the institution or program. The Secretary will determine a program's eligibility if such a program is being evaluated for the first time.</p>		<p><i>Interim Final Rule published in the Federal Register dated August 10, 2006, Vol 71, No 153</i></p> <p><i>The definition of an academic year has also been modified so that it is no longer defined as a period beginning on the first day and ending on the last day of classes.</i></p>
Student Eligibility	<p>New provision that students who have been convicted of fraud involving student loan funds must have completely repaid the funds in order to be eligible to receive any Title IV grant, loan, or work assistance.</p> <p>Changes the timing of the conviction for drug-related offenses to apply only when they occurred during a period of enrollment for which the student was receiving Title IV aid.</p> <p>Authorizes the Secretary to verify financial information, as reported on the FAFSA, with IRS data. The bill revises the comparison data to AGI, taxpayer ID information, and filing status.</p> <p>Active duty members of the armed forces are considered independent students.</p>	7/1/2006	<p>Electronic Announcement, dated 06.30.06, provides updated Drug Worksheets for academic year 2006-2007.</p> <p>Previous law did not consider when the offense occurred. Ineligibility periods and provisions for regaining eligibility are unchanged.</p> <p>This references the Tax Code provision on income contingent loan repayment sharing of IRS information with the Department.</p> <p>This provision does not apply when the borrower is considered to be on active duty</p>

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			for training purposes.
Institutional Refunds	<p>Permits multiple leaves of absence for not more than 180 days in a 12-month period without the student being considered withdrawn.</p> <p>Amends language requiring the institution to contact the borrower in cases where the borrower is eligible for a late disbursement or post-withdrawal disbursement to confirm whether the loan funds are still needed.</p> <p>Requires an institution to return Title IV program funds not earned by the student no later than 45 days from the determination of withdrawal.</p> <p>Clarifies that for grant overpayments, a student is only required to return the amount that exceeds 50% of the total grant assistance received by the student. The student is not required to return an amount that is \$50 or less.</p> <p>Language is amended to state that for a program measured in clock hours, the percentage of the payment period or period of enrollment completed is equal to the total number of clock hours divided by the number of clock hours scheduled to be completed by the student in that period as of the day the student withdrew.</p>	7/1/2006	<p>Supports the Department's current guidance.</p> <p>DCL GEN-06-05 Clarifies that an institution is required to contact a student prior to making a post-withdrawal disbursement of loan funds. The institution must document the result of the contact and the final determination.</p> <p>Adds 15 days to current regulations (668.22).</p> <p>Changes current Department guidance. Currently, a student is not required to return an amount that is \$25 or less.</p> <p>DCL GEN-06-05 A student earns 100% of the aid if the student's withdrawal date occurs after the point when he or she was scheduled to complete 60% of the scheduled hours in the payment or enrollment period.</p>
Family Contribution	<p>Dependent student:</p> <ul style="list-style-type: none"> Income protection allowance increased to \$3,000 Contribution from assets is decreased to 20% <p>Independent Students without Dependents Other Than a Spouse</p> <ul style="list-style-type: none"> Income protection allowance for single student and married student whose spouse is also enrolled is increased to \$6,050 Income protection allowance for married student 	7/1/2006	<p>The 2006-2007 income protection allowance is \$2,550 and asset contribution is 35%.</p> <p>The 2006-2007 income protection allowance is \$5,790 and asset contribution is 35%.</p>

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	<p>whose spouse is not enrolled is increased to \$9,700</p> <ul style="list-style-type: none"> Contribution from assets is decreased to 20% <p>Independent Students with Dependents Other Than a Spouse</p> <ul style="list-style-type: none"> Contribution from assets is decreased to 7% <p>The net value of small businesses with not more than 100 full-time equivalent employees is excluded from the definition of "assets".</p>		<p>The 2006-2007 asset contribution is 12%.</p> <p>DCL GEN-06-05 The new base year for the annual inflationary update is 2006.</p>
Income Protection Table Updates	The Secretary is to revise the Income Protection Table increasing the amounts by a percentage equal to the greater of the estimated increase in the CPI or 5%.	Academic Year 2007-2008	
Cost of Attendance	<p>Less than half-time students' room and board cost may be added to the COA for no more than 3 terms.</p> <p>The school has the option to add the cost of obtaining the first professional credentials to the COA.</p>	7/1/2006	Room and board had not been allowed in the past when building the COA for less than half-time students.
Estimated Financial Assistance	Assistance may be excluded from both COA and EFA if that assistance is provided by a State and is designated to offset a specific component of the COA. If it is excluded from one it must be excluded from both.	7/1/2006	<p>DCL GEN-06-05 Provides clarity to the statutory definition of "Other Financial Assistance".</p> <p><i>Interim Final Rule published in the Federal Register dated August 10, 2006, Vol 71, No 153</i></p> <p><i>Non-need-based employment was added as an exclusion to the definition of estimated financial assistance for purposes of determining loan eligibility.</i></p>
Qualified Education Benefits	The term is revised to encompass Coverdell Education Savings Accounts, prepaid tuition plans offered by a State, and qualified tuition programs (known as 529 prepaid tuition plans and 529 savings plans).	7/1/2006	<p>DCL GEN-06-05 529 prepaid tuition plans and 529 savings plans are both treated as an asset of the owner (as long as the owner is not a dependent student).</p>

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Simplified Needs Test and Automatic Zero EFC	<p>A student applying for financial aid on the 2006-2007 FAFSA who had any of the qualifying members of the family receiving benefits during 2005 from a means-tested Federal program would be eligible to qualify for the SNT or auto zero EFC depending upon other qualifying factors.</p> <p>Increases the AGI to qualify for an automatic zero EFC to equal to or less than \$20,000.</p>	7/1/2006	<p>DCL GEN-06-05</p> <p>A "means-tested Federal benefit program" is defined. Base year AGI remains at less than \$50,000 for the SNT.</p> <p>The automatic zero EFC AGI was set at \$16,000.</p>

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