



# Loan Forgiveness and Discharge

CASFAA 2009

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## Agenda

- ◆ **Forgiveness Programs**
  - Teacher Loan Forgiveness
  - Public Service Employee
  - Income-Based Repayment (IBR)
  - New Programs from HEOA
- ◆ **Discharge Programs**
  - Total and Permanent Disability (TPD)
    - Regular and Veteran borrowers
  - Death
  - False Certification due to Identity Theft
  - 9/11 Survivor's




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## Forgiveness or Discharge?

- ◆ **Forgiveness**
  - Forgiveness programs require certain performance of the borrower in order to establish eligibility
  - Generally require a set period of time to be completed
- ◆ **Discharge**
  - Discharge programs do not require performance-based actions of the borrower
  - Generally require a one time incident to take place for qualification




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## Teacher Loan Forgiveness

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## Teacher Loan Forgiveness

- ◆ **Reauthorization 1998**
- ◆ **Available for FFELP and Direct Loan borrowers**
  - Stafford loans and Consolidation loans that repaid Stafford loans
- ◆ **Encourages individuals to enter and continue in teaching profession**
- ◆ **Available to elementary and secondary teachers in Title I low-income schools**
- ◆ **Also available for teachers in Title I eligible educational service agencies – New from HEOA**




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## TLF – Forgiveness Amounts

- ◆ **Forgiveness amounts**
  - Up to \$5,000
  - Up to \$17,500
- ◆ **Amount depends on:**
  - When borrower begins qualifying teaching service
  - Borrower's qualifications
  - Subject being taught




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## TLF – Eligibility Criteria

- ◆ **No outstanding balance on FFELP or Direct Loan on October 1, 1998 or no outstanding balance on date borrower obtains loan after October 1, 1998**
- ◆ **Full-time teacher for five consecutive, complete academic years at qualifying school (or combination of schools)**
  - ◆ For teaching in elementary or secondary school, at least one must be after 1997-98 academic year
  - ◆ For teaching in educational service agency, at least one must be after 2007-2008 academic year



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## TLF – Eligibility Criteria

- ◆ **Loan(s) for which forgiveness being sought must be made before the end of the fifth year of qualifying teaching service**
- ◆ **Teaching service must be performed at:**
  - ◆ Title I eligible elementary or secondary schools
  - ◆ Title I eligible educational service agencies
- ◆ **Defaulted borrowers may regain eligibility**
  - ◆ Satisfactory repayment arrangements must be made



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## TLF – Service Began Prior to October 1, 2004

- ◆ **Maximum of \$5,000**
- ◆ **Full-time elementary school teacher who demonstrates knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum**
- ◆ **Full-time secondary school teacher teaching in a subject area that is relevant to his or her academic major**



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## TLF – Program Expanded

- ◆ **Taxpayer-Teacher Protection Act of 2004 (TTPA) increased loan forgiveness to up to \$17,500 until September 30, 2005**
- ◆ **Highly qualified teachers**
- ◆ **Higher Education Budget Reconciliation Act (HERA):**
  - ◆ Made TTPA changes permanent
  - ◆ Extended loan forgiveness to certain private school teachers effective July 1, 2006



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## TLF – Program Expanded

- ◆ **Maximum of \$17,500**
- ◆ **Full-time, highly qualified teacher**
- ◆ **Mathematics or science teacher in qualifying secondary school**
- ◆ **Highly qualified special education teacher**



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## TLF – Program Expanded

- ◆ **Maximum of \$5,000**
- ◆ **Teaching as a highly qualified, full-time teacher in an eligible elementary or secondary school or educational service agency**
- ◆ **Maximum of \$17,500**
- ◆ **Teaching as a highly qualified full-time mathematics or science teacher in an eligible secondary school or educational service agency as a highly qualified special education teacher**



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## TLF – Definitions

### ◆ Qualifying facility:

- Elementary or secondary school in school district that qualifies for Title I funding
- Educational service agency defined as:
  - Regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies, as defined in section 9101 of the Elementary and Secondary Education Act of 1965, as amended



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## TLF – Definitions

### ◆ Qualifying facility:

- More than 30% of enrollment qualify for Title I services
- Listed in Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits
- Elementary or secondary school operated by the Bureau of Indian Affairs (BIA) or operated on an Indian reservation by an Indian tribal group under contract with the BIA



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## TLF – Definitions

### ◆ Academic year:

- One complete school year at the same school
- Two complete and consecutive half-years at different schools
- Two complete and consecutive half-years from different school years, at either the same or different schools



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## TLF – Definitions

### ◆ Highly qualified teacher:

- ◆ Defined in No Child Left Behind (section 9101)
- ◆ Fully certified or has passed a state licensing exam; licensed by the State in which he or she teaches



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## TLF – Definitions

### ◆ Highly qualified teacher, cont'd:

- ◆ New teacher who holds a B.A. and passes a rigorous State test demonstrating knowledge and teaching skills; secondary teachers also must complete major, graduate degree, or coursework equivalent to a major in teacher areas
- ◆ Teacher who demonstrates competence in subject areas in which he or she teaches based on uniform State standards



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## TLF Changes from HEOA

### ◆ Allows teaching service at educational service agencies that are Title I eligible

### ◆ Clarifies borrowers may not receive TLF and other loan forgiveness for the same service (double benefits) if borrower receives benefit under:

- ◆ National and Community Service Act of 1990
- ◆ Public Service Loan Forgiveness program
- ◆ Service in Areas of National Need



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## TLF – Application Process

- ◆ **Teacher Loan Forgiveness Application**
- ◆ **Borrower submits completed application to lender**
- ◆ **Lender forwards to guarantor**
- ◆ **Guarantor reviews**
  - Application completeness
  - Verifies loan eligibility
  - Checks school eligibility



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## Reasons for Rejection

- ◆ **Borrower has loans prior to October 1, 1998**
- ◆ **Borrower has not fulfilled teaching requirement**
  - Five consecutive, complete academic years
  - Non-eligible schools
- ◆ **Application not completed correctly**



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**C-LE-BR-A-E  
P-I-B-L-I-C  
S-E-R-V-I-C-E**

**Public Service Employees**



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## Public Service Employees

- ◆ Part of CCRAA (Public Law 110-84)
- ◆ Intended to encourage individuals to enter and continue in full-time employment in public service
- ◆ Allows borrowers who are employed by a public service employer to have balance of loan forgiven after making 120 payments
- ◆ No forgiveness granted until October 2017



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## Public Service Employees

- ◆ Higher Education Act – §455(m)
- ◆ Regulations negotiated in 2008
- ◆ NPRM issued June 23, 2008
- ◆ Final Rule issued October 23, 2008
- ◆ New section in regulations – §685.219
- ◆ Effective date – July 1, 2009



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## PSLF – Who is Eligible?

- ◆ Limited to Direct Loan borrowers
- ◆ Federal Direct Stafford loans
  - ◆ Subsidized and Unsubsidized
- ◆ Federal Direct PLUS
  - ◆ Parents and graduate borrowers
- ◆ Federal Direct Consolidation loans



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## PSLF – Who is Eligible?

- ◆ **FFELP borrowers have to consolidate or re-consolidate into Direct Consolidation Loan to take advantage of program**

- ◆ FFELP Stafford (sub and unsub)
- ◆ FFELP PLUS (parents and graduate borrowers)
- ◆ FFELP Consolidation (except joint consolidation loans)

- ◆ **Federal Perkins and certain health profession and nursing loans**

- ◆ Have to consolidate with at least one FFELP or DL loan



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## PSLF – Eligibility Criteria

- ◆ **Cannot be in default**

- ◆ **Must be employed, in any position, by a public service organization**

- ◆ Service in Americorps or Peace Corps qualifies

- ◆ **Must make 120 separate, full monthly payments that are made:**

- ◆ Within 15 days of due date
- ◆ After October 1, 2007
  - Payments made prior to October 1, 2007 do not count
- ◆ Payments do not have to be consecutive



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## PSLF – Eligibility Criteria

- ◆ **FFELP borrowers who consolidate into Direct Loan to qualify**

- ◆ Only payments made on DL consolidation loan count toward qualifying payments

- ◆ **Must be employed by public service organization at time PSLF is requested and during time qualifying payments were made**

- ◆ **Employment must be considered “full time”**



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## PSLF – Definitions

### ◆ Full time = working in qualifying employment in one or more jobs for the greater of:

- ◆ Annual average of 30 hours per week
  - Including contract employees or those working at least 8 months
- ◆ Number of hours employer considers full time, unless qualifying employment is with two or more employers



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## PSLF – Definitions

### ◆ Time that is not considered in determining average hours worked on annual or contractual basis:

- ◆ Vacation or leave time provided by employer
- ◆ Leave taken for a condition that qualifies under Family Medical Leave Act (FMLA)



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## PSLF – Definitions

### ◆ Public service organization –

- ◆ A Federal, State, local or Tribal government organization, agency or entity
- ◆ A public child or family service agency
- ◆ A non-profit organization under section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the IRC
- ◆ A tribal college or university



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## PSLF – Definitions

### ◆ Public service organization is a private organization that provides public services

- ◆ Emergency management
- ◆ Military service
- ◆ Public safety
- ◆ Law enforcement
- ◆ Public interest law services (legal advocacy provided on behalf of low-income communities at a nonprofit organization rather than strictly "in" low-income communities at a nonprofit organization)



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## PSLF – Definitions

### ◆ Public service organization is a private organization that provides public services

- ◆ Public child care
- ◆ Public service for individuals with disabilities and the elderly
- ◆ Public health (including nurses, nurse practitioners, nurses in clinical setting, and full-time professional engaged in health care practitioner and health care support occupations)
- ◆ Public education
- ◆ Public library services
- ◆ School library or other school-based services



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## PSLF – Definitions

### ◆ Public service organization is not a:

- ◆ Business organized for profit
- ◆ Labor union
- ◆ Partisan political organization
- ◆ Religious organization



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## PSLF – Repayment Plans

- ◆ **Income-based repayment (IBR) plan**
  - ◆ Not available for parent PLUS
- ◆ **Income-contingent repayment (ICR) plan**
- ◆ **Standard 10-year repayment plan**
- ◆ **Any other plan if monthly payment is not less than amount paid under standard 10-year repayment plan**
  - ◆ Caution: Consolidation 'standard' plan may be longer than 10 years and payments may not qualify



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## Counseling Borrowers

- ◆ **Know what kind of loans you have**
  - ◆ Check NSLDS
- ◆ **If FFELP loans, pursue DL consolidation**
- ◆ **Choose repayment plan to optimize benefit**
- ◆ **Make payments on time**
- ◆ **Keep employment documentation**
- ◆ **PSLF benefit is non-taxable**



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## PSLF – Processing Notes

- ◆ **Application being discussed**
  - ◆ Certification section for employer to complete
  - ◆ No ETA
- ◆ **Borrowers may want to complete application annually once available**
- ◆ **Other documentation that may establish eligibility**
  - ◆ Tax forms
  - ◆ W-2 forms



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## Income Based Repayment

- ◆ Provides for a reduced payment plan for borrowers experiencing a “partial financial hardship” and potential forgiveness of any remaining balance
- ◆ Procedures for granting IBR forgiveness not yet established
- ◆ Borrower must have:
  - Received a partial financial hardship IBR repayment plan at least once; and
  - Borrower must have satisfied 300 eligible payments (includes Economic Hardship Deferment months); and
  - 25 years must have elapsed
- ◆ Any loan amount forgiven may be taxable



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## CA State and Institutional Forgiveness and Repayment Assistance Programs



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## LRAP Programs

- ◆ Loan Repayment Assistance Programs
  - Institutional programs, state level “loan assumption” programs
  - To encourage graduates to work in public interest fields
    - Government agencies, PNP, Public Service & Health Care
    - Typically lower incomes; harder to make loan payments
  - Characteristics of LRAP/Assumption Programs
    - Grant vs Forgivable Loan (taxability issue)
    - Pay % of loan payments based on sliding scale
      - Income, years of service, amount of debt
    - Some include UG debt
    - Some taking advantage of Fed PSLF program to maximize funding



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## CA Loan Assumption Programs

◆ [www.csac.ca.gov](http://www.csac.ca.gov)

- Financial Aid Programs

◆ **APLE**

- Designed to encourage students, district interns, and credentialed teachers to teach in subject areas where critical teacher shortage exists or in designated schools meeting specific criteria.



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## CA Loan Assumption Programs (con't)

◆ **SNAPLE NF (State Nursing APLE, Nursing Faculty)**

- Designed to encourage persons to complete graduate degree and serve as nursing faculty at accredited CA college and universities.
- Will pay up to \$25,000 over equivalent of 3 yrs on outstanding student loans
- Must already have baccalaureate degree in nursing or related field and must not be currently teaching in nursing.
- Deadline for June 2010 awards is
  - May 28, 2010



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## CA Loan Assumption Programs (con't)

◆ **SNAPLE NSF (Nurses in State Facilities)**

- Designed to encourage registered nurses & RN students to seek employment in state-operated 24 hour facilities with RN vacancy rate of >10%
- Will pay up to \$20,000 on outstanding student loans for FT employment
- School nominated candidates; 100 applicants selected
- Must become an RN in eligible position in state operated facility, full-time for four yrs



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## LRAPS/Loan Assumption As Recruitment Tools

### ◆ Perspective students shopping for best school at best price

- Sticker Shock-High cost. How to pay for it?
- Gift aid, loans
  - loan repayment assistance for public service positions
- Comprehensive financing model
  - LRAPs offer level of assurance that debt can be managed even if income is low



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## LRAPS/Loan Assumption As Recruitment Tools

### ◆ Benefits to school, student, society

- School – helps address PI mission
  - Stretches SS if combined with PSLF or IBR payment plans
- Student – makes high cost education, low income PI position feasible
- Society – allows graduates to fill employment positions in areas of need – teaching, health services, public services – law enforcement



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## New Forgiveness Programs from HEOA



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## New Forgiveness Programs

- ◆ **Child Care Forgiveness program replaced**
- ◆ **Forgiveness available for borrowers who are employed in areas of national need**
- ◆ **Borrowers cannot be in default**
- ◆ **Effective on date of enactment, but regulations have to be promulgated**
- ◆ **Department has not initiated regulation negotiations**
- ◆ ***No funds have been appropriated***



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## Areas of National Need

### ◆ Areas listed in statute:

- ◆ Early childhood educators
- ◆ Nurses
- ◆ Foreign language specialists
- ◆ Librarians
- ◆ Teachers in low-income areas educating students with limited English proficiency
- ◆ Child welfare workers
- ◆ Speech pathologists and audiologists
- ◆ School superintendents, principals, counselors, other administrators in low-income schools



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## Areas of National Need

### ◆ Areas listed in statute, cont'd:

- ◆ Public sector employees
- ◆ Nutrition professionals
- ◆ Medical specialists
- ◆ Mental health professionals
- ◆ Dentists
- ◆ Applied sciences, technology, engineering or mathematics
- ◆ Physical therapists
- ◆ Occupational therapists



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## Areas of National Need

- ◆ **Forgiveness amount up to \$2,000 a year, not to exceed five years or \$10,000**
- ◆ **Funds must be appropriated by Congress**
- ◆ **Authorized from 2009 to 2014**
- ◆ **First-come, first-served basis**
- ◆ **No refunds of payments made**



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## Civil Legal Assistance Attorneys

- ◆ **Loan repayment program**
- ◆ **Encourages qualified individuals to enter and continue employment as civil legal assistance attorneys**
- ◆ **Available for Title IV loans, except parent PLUS**
- ◆ **Must be licensed to practice law**



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## Civil Legal Assistance Attorneys

- ◆ **Must be employed full-time—**
  - Nonprofit organization that provided legal assistance to low-income individuals without a fee; or
  - Protection or advocacy system or client assistance program that provides legal assistance and receives funding under federal program



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## Civil Legal Assistance Attorneys

- ◆ Requires commitment with Department
- ◆ Remain employed for not less than 3 years
- ◆ If ceases employment voluntarily (or involuntarily due to misconduct) borrower must repay benefits
- ◆ Forgiveness amount = \$6,000/year, not to exceed \$40,000



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## Civil Legal Assistance Attorneys

- ◆ Funds must be appropriated by Congress
- ◆ Authorized between 2009 to 2014
- ◆ First-come, first-served basis
- ◆ Priority given to those who have—
  - ◆ Practiced law for 5 years or less and have served as civil assistance attorney 90% of the time
  - ◆ Received program benefits during preceding year
  - ◆ Completed less than 3 years of the first required agreement



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## Civil Legal Assistance Attorneys

- ◆ No refunds of payments made
- ◆ May not receive benefit through this program and Public Service Loan forgiveness for same service



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Veterans



## Disability Discharge



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### Total and Permanent Disability Discharge – Definition

- ◆ **Current definition – condition of an individual who is unable to work and earn money due to an injury or illness that is expected to continue indefinitely or result in death**
- ◆ **Effective until July 1, 2010**



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### Total and Permanent Disability Discharge – Definition

- ◆ **Change coming in July 2010**
- ◆ **New definition – condition of an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that—**
  - Can be expected to result in death;
  - Has lasted for a continuous period of not less than 60 months; or
  - Can be expected to last for a continuous period of not less than 60 months.



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## Total and Permanent Disability Discharge

- ◆ Eligible borrowers can receive discharge if determined to meet definition by physician and meet other requirements established by Department of Education



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## TPD – Discharge Process

- ◆ Borrower submits completed Total and Permanent Disability application to lender within 90 days of date doctor certifies application
- ◆ Lender makes preliminary determination of eligibility
- ◆ If lender determines borrower meets criteria, application submitted to guarantor



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## TPD – Discharge Process

- ◆ If guarantor determines borrower meets criteria, loan is assigned to the Department's Conditional Disability Discharge Unit (CDDU)
- ◆ If any entity determines borrower does not meet criteria for TPD, loan is returned to prior status



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## TPD – Conditional Period

- ◆ Borrower determined eligible by CDDU
- ◆ Three-year conditional discharge period begins
- ◆ Effective July 1, 2008, conditional period can only be prospective
- ◆ Effective July 1, 2010, conditional period eliminated



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## TPD – Conditional Period

- ◆ No payments required during conditional period
- ◆ Borrower cannot earn more than poverty line in their state for family of two
- ◆ Borrower cannot receive a Title IV loan
  - ◆ Borrower has 120 days to return/cancel loan funds obtained in error



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## Common Reasons for Rejected TPD Requests

- ◆ Medical review failure
  - ◆ Requests for additional medical information from physician
- ◆ New TPD application addresses medical information issue
- ◆ Failure to respond to income verification requests from Department



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## TPD – Returning to School

- ◆ **Borrower returns to school after Final or Conditional Discharge**
- ◆ **Eligible for new loan?**
- ◆ **After final discharge from Department, borrower must:**
  - Obtain a statement from Dr. that borrower may engage in "substantial gainful activity" (work or earn money) AND
  - Sign a statement acknowledging that any new loan received may not be discharged due to same or any disability existing at the time the new loan is made, unless the disabling condition substantially deteriorates to the extent that the definition of total and permanent disability is met



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## TPD – Returning to School

- ◆ **For loans in conditional discharge with Department, borrower must:**
  - Obtain a statement from Dr. that borrower may engage in "substantial gainful activity" (work or earn money); and
  - Sign a statement acknowledging that any loan that has been conditionally discharged may not be discharged due to the same or any disability existing at the time the borrower applied for a total and permanent disability discharge or when the new loan is made, unless the disabling condition substantially deteriorates to the extent that the definition of total and permanent disability is met
  - Sign a statement acknowledging that repayment and/or collection activity will resume on any loans in a conditional discharge period



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## Total and Permanent Disability – July 2010 Changes

- ◆ **No more 3-year conditional period**
- ◆ **If eligible, final discharge granted**
- ◆ **Borrower notified by Department of reinstatement conditions**
- ◆ **Department allowed to reinstate and resume collection on loans that have been discharged if borrower—**
  - Receives a Title IV loan or TEACH grant
  - Earns income in excess of poverty line



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## **Total and Permanent Disability – July 2010 Changes**

- ◆ **If loan reinstated, borrower not responsible for past interest**
- ◆ **Department will notify borrower of reasons for reinstatement**
- ◆ **Department will provide contact information for questions about reinstatement or if borrower believes the decision is made on incorrect information**



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## **Total and Permanent Disability – Veterans**

- ◆ **The condition of an individual who has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability**
- ◆ **HEOA change – effective on date of enactment**



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## **Total and Permanent Disability – Veterans**

- ◆ **Borrowers who have been certified as totally and permanently disabled by Veterans Affairs automatically eligible for discharge**
- ◆ **Must be certified as unemployable due to service-connected condition**
- ◆ **Must sign and date a TPD application**
- ◆ **Must provide documentation from VA**
- ◆ **No documentation from physician required**



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## Death Discharge



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## Death Discharges

- ◆ Discharge of remaining balance available when borrower or student (for parent PLUS loans) dies
- ◆ Regulation change back in 2007 allows lenders to grant death discharge based on accurate and complete photocopy of the death certificate



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## False Certification Due to Identity Theft



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## Identity Theft

- ◆ Part of Higher Education Reconciliation Act (HERA) of 2006
- ◆ Discharge based on crime of identity theft
- ◆ Borrower must certify he or she did not sign the promissory note, or that any other means of identification used to obtain the loan were used without individual's authorization
- ◆ Borrower must certify he did not knowingly receive or benefit from the proceeds of the loan made without the individual's authorization



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## Identity Theft

- ◆ Borrower must provide lender copy of a local, state, or federal criminal court verdict or judgment that conclusively determines individual named as borrower or endorser was the victim of a crime of identity theft and identifies the perpetrator of the crime
- ◆ Regulations effective July 1, 2008, clarify that a perpetrator must be named in the verdict



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## Identity Theft

- ◆ Regulations effective July 1, 2008:
  - ◆ Lender must grant administrative forbearance for 120 days while lender investigating case
  - ◆ Cease credit bureau reporting for 120 days while lender investigating claim
- ◆ Common form drafted; still being reviewed by the Department and not final



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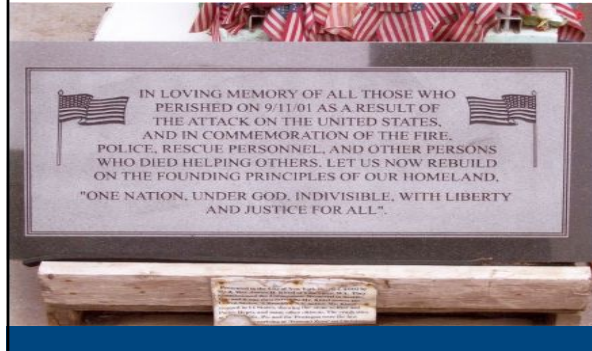
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## 9/11 Survivor's Discharge



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## 9/11 Survivor's Discharge

- ◆ Part of Third Higher Education Extension Act of 2006
- ◆ Authorizes discharge of outstanding balance of Title IV loans of survivors of eligible public servants or other eligible victims of the September 11, 2001 terrorists attacks



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## 9/11 Survivor's Discharge

- ◆ Eligible public servant – individual who served as police officer, firefighter, other safety personnel, or member of the Armed Forces
  - ◆ Became permanently and totally disabled or died as result of injuries
- ◆ Eligible victim – individual who died or became permanently and totally disabled due to injuries



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## 9/11 Survivor's Discharge

- ◆ **Eligible parent – parent of eligible victim if parent owes PLUS loan taken out on behalf of eligible victim or parent owes Consolidation loan used to repay such PLUS loan**
- ◆ **Spouse of public servant – must have been the spouse of the eligible public servant at time of attacks**



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## 9/11 Survivor's Discharge

- ◆ **Eligible loan – any outstanding Title IV program loan on which amounts were owed by borrower on September 11, 2001; or the outstanding portion of a Consolidation loan made up of such Title IV loans**
- ◆ **Discharge limited to outstanding balances of eligible loans; discharge does not refund payments already made**



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## 9/11 Survivor's Discharge

- ◆ **Eligible public servant or victim has to be present at one of the attack sites at the time or in the immediate aftermath of the terrorists attacks**
  - World Trade Center in New York City
  - Pentagon in Virginia
  - Shanksville, PA site



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## 9/11 Survivor's Discharge

- ◆ Application completed by borrower
- ◆ Submitted to lender
  - Collection suspended
- ◆ Lender files claim with guarantor
- ◆ Guarantor makes determination
- ◆ Department of Education reimburses guarantor if approved



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## Resources

- ◆ [www.mygreatlakes.org](http://www.mygreatlakes.org)
- ◆ [www.mapping-your-future.org](http://www.mapping-your-future.org)
- ◆ [www.studentaid.ed.gov](http://www.studentaid.ed.gov)
- ◆ Common Manual...Unified Student Loan Policy
  - Chapter 13 – Discharge and Forgiveness
- ◆ FSA Handbook
  - Chapter 1 – Student Eligibility



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Questions??



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