



Reviewing the Department's Mandate on the Assignment of Defaulted Perkins Loans

DEPARTMENT OF EDUCATION



- Issued an FSA Partners Announcement on August 27th
 - Institutions “required to assign all Perkins Loans that have been in default for more than two years”
 - Must be assigned (or purchased) by June 30, 2022
 - In early 2022, Department will assess all assignment activity
 - Inactivity may result in a warning letter issued to financial aid office and CEO/President

COHEAO ACTION



- COHEAO sent 8 clarifying questions to FSA to better understand this apparently more aggressive policy compared to previous guidance
- Issued several Sparks to inform Members what action to take
- Most recent Spark issued on September 28
 - Noted that the announcement is sub-regulatory guidance
 - COHEAO reviewing
 - Other existing guidance documents
 - Current regulations
 - Higher Education Act law
- **STAY TUNED**

What Should Your Institution Do Now?



- Analyze all delinquent loans in your Perkins portfolio – utilize your most recent FISAP to assess.
- Assign your oldest, non-performing loans
 - First, assign loans that are clean and have all documentation.
 - Then, submit those that require alternative documentation.
- Attack younger loans in default. There are many successful strategies for returning borrowers to repayment status before getting to the 2-year default mark.
- Loans that are 2-7 years in default often have successful repayment opportunities – be aggressive.
 - Utilize your third-party collection agencies to assist with getting borrowers into a repayment plan, rehabilitation or consolidation.
 - Sending a letter prior to assigning may generate payments
 - Remember, you only need one payment to justify retaining the loan
- Develop a plan and put it in writing!

How to Analyze Your Perkins Portfolio



Part III. Federal Perkins Loan Program for Award Year July 1, 2020 through June 30, 2021

Section C. Cumulative Repayment Information as of June 30, 2021

Status of Borrowers as of June 30, 2021

	Amount (a)	Number of Borrowers (b)	Amount Lent (c)	Principal Amount Outstanding (d)
1.1. Borrowers whose loans are fully retired		_____	\$ _____	
1.2. Loans that have been purchased	\$ _____			
2. Borrowers whose loans were assigned to and officially accepted by the U.S. Department of Education as of June 30, 2021 (Note: Field 2 equals the sum of Field 2.1 plus Field 2.2.)		_____	\$ _____	\$ _____
2.1. Assignments due to default or liquidation		_____	\$ _____	\$ _____
2.2. Assignments due to total and permanent disability discharge		_____	\$ _____	\$ _____
3. Total borrowers not in repayment status		_____		\$ _____
4. Borrowers on schedule in repayment status		_____		\$ _____
5.1. In default less than 240 days (monthly installments) or less than 270 days (other installments)		_____	\$ _____	\$ _____
5.2. In default 240 days or more (monthly installments) or 270 days or more (other installments), up to 2 years		_____	\$ _____	\$ _____
5.3. In default more than 2 years but not more than 5 years		_____	\$ _____	\$ _____
5.4. In default more than 5 years		_____	\$ _____	\$ _____

Department's Focus for the assignment of defaulted loans

How to Analyze Your Perkins Portfolio



	Number of Borrowers (b)
3. Total borrowers not in repayment status	<u>772</u>
4. Borrowers on schedule in repayment status	<u>810</u>
5.1. In default less than 240 days (monthly installments) or less than 270 days (other installments)	<u>167</u>
5.2. In default 240 days or more (monthly installments) or 270 days or more (other installments), up to 2 years	<u>63</u>
5.3. In default more than 2 years but not more than 5 years	<u>69</u>
5.4. In default more than 5 years	<u>385</u>

To calculate the overall default percentage:

- | | |
|--|---------------|
| 1. Add the number of borrowers on lines 5.3 and 5.4 | <u>454</u> |
| 2. Add the number of borrowers on lines 3 thru 5.4 | 2,266 |
| 3. Divide the total from line 1 by the total from line 2 | 20.04% |

In this situation, 20.04% of the overall portfolio is in default.

Discussion and Q & A



Department of Education Q & A



COHEAO sent Federal Student Aid (FSA) several questions in order to clarify and better guide institutions. For your reference, they are presented here followed by the FSA's response.

Department of Education Q & A



Q In the past, ED identified those schools with a particular percentage of loans (75% in 2020 and 50% in 2021) that are in default status for two or more years and required these loans be assigned to ED. The 8/27 notice is a substantial departure from this policy so would you please explain why this change has occurred?

A There has not been a policy change as it has always been the intent of the Department to ultimately require all schools submit their 2+ years defaulted loans for assignment. The Department began the process of notifying institutions with the highest percentage of their total portfolio in default, we then decided to publish an Electronic Announcement informing institutions of their obligation to assign loans that have been in default for two or more years, and the deadline of June 30, 2022 that the institution should assign these loans.

Department of Education Q & A



Q Under the policy of identifying schools referenced in the previous question, the Department would send a letter to the institution requesting the loans. Why has this policy changed?

A The Secretary has required all Perkins Loans that have been in default for two or more years be assigned to the Department. The process of providing a deadline in stages, on the basis of the highest percentage of defaulted loans, was an operational implementation of the policy. This August 27, 2021 Electronic Announcement serves as updated guidance on operational implementation as well as notification to all schools to fulfill the assignment of the defaulted loans as indicated.

Department of Education Q & A



- Q The 8/27 notice indicates that ED will assess schools' situations early in 2022. When exactly will this occur? Schools will be more successful in complying if they have sufficient time to try to meet the Department's requirements.**
- A** The Department will assess each school's activity and determine if a good faith effort is being made to assign their loans by the deadline. We will be monitoring progress and will be reviewing cumulative reporting information of defaulted loan activity as reported on an institution's FISAP. This is an on-going requirement and an on-going process. Therefore, we will communicate specifically with institutions should we determine an institution is not assigning defaulted loans as required. Since our assessment is data driven and every institution is different, there is not a specific date. We believe that by notifying schools in August 2021 to assign by the end of June 2022 is sufficient time for an institution to begin this process and show a good faith effort of complying with the Secretary's directive.

Department of Education Q & A



Q The 8/27 announcement refers to the term “insufficient effort” by institutions during this process. Would the Department please define what “insufficient effort” is or define what “sufficient effort” would be?

A We believe every institution is unique and will determine each institution’s progress on a case-by-case basis. We fully anticipate working with our institutions in this effort and strongly encourage institutions to make a concerted effort to comply with this requirement.

Department of Education Q & A



Q Many schools servicing a large number of Perkins Loans will have significant difficulty complying with the June 30, 2022 assignment deadline due to the ongoing pandemic. Many have thousands of loans that will need to be assigned. In some states, schools will need to engage the office of the Attorney General for release of judgments which can take a significant amount of time. The Department has indicated in the past that a school would be in compliance if it had developed a plan and was following that plan. Will that still be the case moving forward? If a school is following a developed plan for assignment, will they still be in compliance?

A Any institution with questions or concerns about this process may contact the Department. The Department will consider each institution's circumstance and communicate directly with them on a case-by-case basis.

Department of Education Q & A



Q In developing the timing in the 8/27 notice, to what extent did the Department take into account the delays that the COVID pandemic has caused? In many instances, litigation ground to a halt, Attorneys General stopped the collection process, and institutional staff have been working from home, all factors which have hampered collection processes.

A The Department will consider each circumstance on a case-by-case basis to determine if an extended period is needed for assignment. It is the Department's belief that schools have adapted to the COVID pandemic through operational implementations ensuring their students are well served. The Department believes that sufficient time is given by providing notification in August 2021 to have loans assigned by the end of June 2022.

Department of Education Q & A



- Q In the past, ED has taken a good faith approach by working with schools and assisting them in compliance. However, this recent notice seems to imply a more punitive approach going forward, is that the case?**
- A The Department will continue to work with institutions on a case-by-case basis. It is our expectation that schools will make a good faith effort to assign these loans by the June 2022 deadline. The Department will consider each institution's individual situation to determine if an extended period is needed for assignment.

Department of Education Q & A



Q Would you please provide the statute and regulatory cite for the legal authority that ED relies on to justify the call for assignments and in determining the two-year non-payment status?

A As noted in the August 27, 2021 Electronic Announcement, Section 463(a)(4)(A) of the Higher Education Act of 1965, states that if an institution knowingly failed to maintain an acceptable collection record for a defaulted Federal Perkins Loan, the Secretary may require the institution to assign the loan to the Department of Education without recompense. The Secretary has determined that defaulted Perkins loans that are in a non-payment status for more than two years meet these conditions. Unless a borrower is actively making payments, in a deferment or forbearance, the loan is required to be assigned if it has been in default for two or more years.

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