

## **1Attachment 2: 0915-0044 Regulations**

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TITLE 42--PUBLIC HEALTH

CHAPTER I--PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 57--GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS--

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### **Sec. 57.201 Applicability.**

The regulations of this subpart apply to the federal capital contributions made by the Secretary to public or other nonprofit health professions schools for the establishment of health professions student loan funds and to loans made to students by schools from these funds.

### **§§57.202 Definitions.**

As used in this subpart:

Act means the Public Health Service Act, as amended.

Date upon which a student ceases to be a full-time student means the first day of the month which is nearest to the date upon which an individual ceases to be a full-time student as defined in this section.

Default means the failure of a borrower of a loan made under this subpart to make an installment payment when due, or comply with any other term of the promissory note for such loan, except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy, the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule, or the loan is in forbearance.

Federal capital loan means a loan made by the Secretary to a school under section 744(a) of the Act, as in effect prior to October 1, 1977, the proceeds of which are to be returned to the Secretary.

Full-time student means a student who is enrolled in a health professions school and pursuing a course of study which is a full-time academic workload, as determined by the school, leading to a degree specified in section 722(b) of the Act.

Grace period means the period of 1 year beginning on the date upon which a student ceases to be a full-time student at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine.

Health professions school or school, for purposes of this subpart, means a public or private

nonprofit school of medicine, school of dentistry, school of osteopathic medicine, school of pharmacy, school of podiatric medicine, school of optometry, or school of veterinary medicine as defined in section 799(1)(A) of the Act.

Health professions student loan means the amount of money advanced to a student by a school from a health professions student loan fund under a properly executed promissory note.

Institutional capital contribution means the money provided by a school, in an amount not less than one-ninth of the federal capital contribution, and deposited in a health professions student loan fund.

National of the United States means: (1) A citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States, as defined in the Immigration and Nationality Act, at [8 U.S.C. section 1101\(a\)\(22\)](#).

School year means the traditional approximately 9-month September to June annual session. For the purpose of computing school year equivalents for students who, during a 12-month period, attend for a longer period than the traditional school year, the school year will be considered to be 9 months in length.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

[44 FR 29055, May 18, 1979, as amended at 52 FR 20987, June 3, 1987; 53 FR 46549, Nov. 17, 1988; 56 FR 19293, Apr. 26, 1991; 56 FR 25446, June 4, 1991; 61 FR 6123, Feb. 16, 1996]

### **§§57.203 Application by school.**

(a) Each school seeking a Federal capital contribution must submit an application at the time and in the form and manner that the Secretary may require. The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the regulations of this subpart, and the terms and conditions of the award.

(b) Each application will be reviewed to determine eligibility and the reasonableness of the amount of Federal support requested. The Secretary may require the applicant to submit additional data for this purpose.

(c) An application will not be approved unless an agreement between the Secretary and the applicant school for a Federal capital contribution under section 721 of the Act is reached.

### **Sec. 57.204 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.**

(a) Annual payment. The Secretary will make payments to each school with which he or she has entered into an agreement under the Act at a time determined by him or her. If the total of the amounts requested for any fiscal year by all schools for Federal capital contributions exceeds the amount of Federal funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller: (1) The amount requested in the application, or (2) An amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of payment to be available for that fiscal year for the Health Professions Student Loan Program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all participating schools during that year. Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, but with whatever adjustments that may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(b) Method of payment. The payment of Federal capital contributions to a school will be paid in a manner that avoids unnecessary accumulations of money in any health professions student loan fund.

(c) Reallocation of funds remitted to the Secretary. All funds from a student loan fund established under this subpart which are remitted to the Secretary in any fiscal year shall be available for allotment under this subpart, in the same fiscal year and the succeeding fiscal year, to schools which, during the period beginning on July 1, 1972, and ending on September 30, 1985, established student loan funds with Federal capital contributions under this subpart. The Secretary will from time to time set dates by which the schools must file applications to receive a portion of these funds. If the total of the amounts requested for any fiscal year by eligible schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller: (1) The amount requested in the application, or (2) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at [[Page 260]] the time of payment to be available for that fiscal year for the Health Professions Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all eligible schools during that year. Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

#### **§§57.205 Health professions student loan funds.**

(a) Funds established with Federal capital contributions. Any fund established by a school with Federal capital contributions will be accounted for separately from other funds, providing a clear audit trail for all transactions. At all times the fund must contain monies representing the institutional capital contribution. The school must at all times maintain all monies relating to the fund in one or more interest-bearing accounts or investment instruments which meet OMB requirements established for Federal monies held by third parties. The school must place all earnings into the fund but may first deduct from total earnings any reasonable and customary charges incurred through the use of an interest-bearing account. An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments, and shall be responsible for reimbursing the fund for any losses that occur due to the use of investments that

are not federally insured.

(1) The Federal capital contribution fund is to be used by the school only for:

(i) Health professions student loans to full-time students;

(ii) Capital distribution as provided in section 728 of the Act or as agreed to by the school and the Secretary; and

(iii) Costs of litigation, costs associated with membership in credit bureaus, and to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of health professions student loans.

(2) A school must review the balance in the fund on at least a semi-annual basis to determine whether the fund balance compared with projected levels of expenditures and collections exceeds its needs. A school in closing status must review the balance in the fund on a quarterly basis. Monies identified as in excess of the school's needs must be reported, and the Federal share returned to the Federal Government, by the due date of the required report which identifies the excess monies. The school's determination is subject to the review and approval of the Secretary.

(b) Funds established with Federal capital loans. (1) Each Federal capital loan is subject to the terms of the promissory note executed by an authorized official on behalf of the borrowing school.

(2) The Federal capital loans must be carried in a special account of the school, to be used by the school only for (i) repayments of principal and interest on Federal capital loans; and (ii) costs of litigation; costs associated with membership in credit bureaus; and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of health professions student loans.

(c) Failure to comply with the requirements of this section will subject a school to the noncompliance provisions of §§57.218 and the Department's Claims Collections regulations (45 CFR part 30), as appropriate.

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[44 FR 29055, May 18, 1979, as amended at 48 FR 25069, June 3, 1983; 56 FR 40725, Aug. 15, 1991; 61 FR 6123, Feb. 16, 1996]

#### **§§57.206 Eligibility and selection of health professions student loan applicants.**

(a) Determination of eligibility. (1) Applicants are eligible for consideration for a health professions student loan if they are:

(i) Residents of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

(ii) Enrolled, or accepted for enrollment in the school as full-time students;

- (iii) In need of the amount of the loan to pursue a full-time course of study at the school;
  - (iv) Of exceptional financial need in the case of students of medicine or osteopathic medicine. A student will be considered to demonstrate exceptional financial need if the school determines that his or her resources, as described in paragraph (b)(1) of this section, do not exceed the lesser of \$6,700 or one-half of the costs of attendance at the school. Summer earnings, educational loans, veterans (G.I.) benefits and earnings during the school year will not be considered as resources in determining whether an applicant meets the eligibility criteria for exceptional financial need, but will be considered in determining the amount of funds a student may receive; and
  - (v) In compliance with the requirement to register for the draft, if required to do so under section 3 of the Military Selective Service Act.
- (2) An applicant who has previously attended an institution of higher education must submit a financial aid transcript which includes at least the following data:
- (i) Applicant's name and social security number;
  - (ii) Amounts and sources of loans and grants previously received by the applicant for study at an institution of higher education;
  - (iii) Whether the applicant is in default on any of these loans, or owes a refund on any grants;
  - (iv) Certification from each institution previously attended by the applicant that the applicant has received no financial aid, if applicable; and
  - (v) From each institution previously attended, the signature of an official authorized by the institution to sign such transcripts on behalf of the institution.
- (b) Selection of applicants. The school will select qualified applicants, including medical (M.D. and D.O.) applicants, and determine the amount of student loans by considering:
- (1) The financial resources available to the student by using one of the national need analysis systems or any other procedure approved by the Secretary of Education in combination with other information which the school has regarding the student's financial status. The school must take into account, regardless of the tax status of the student, the expected contribution from parents, spouse, self or other family members; and
  - (2) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's ability to attend the school on a full-time basis. The school must document the criteria used for determining these costs.
- (c) Selection of medical (M.D. and D.O.) student applicants. In addition to the factors in §§57.206(b), the school must select medical (M.D. and D.O.) students graduating after June 30, 1979, based on the order of greatest need, taking into consideration the other resources available to the student through the school. For purposes of establishing priority for selecting medical (M.D. and D.O.) student applicants to receive health professions student loans, summer earnings, educational loans, veterans (G.I.) benefits, and earnings during the school year will be considered as financial resources.

(d) Verification of loan information. The school must verify, to the best of its ability, the information provided by the student on the loan application. To comply with this requirement, a school may require that a student provide, for example: Photocopies of the parents', student's, and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the Internal Revenue Service; or other documentation that the school considers necessary to help assure that information on the loan application is correct.

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[44 FR 32698, June 7, 1979, as amended at 48 FR 25069, June 3, 1983; 49 FR 38112, Sept. 27, 1984; 52 FR 20987, June 3, 1987; 53 FR 46549, Nov. 17, 1988; 56 FR 19293, Apr. 26, 1991; 61 FR 6123, Feb. 16, 1996]

#### **§§57.207 Maximum amount of health professions student loans.**

The total of the health professions student loans made from the fund to any student for a school year may not exceed \$2,500 and the cost of tuition. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of study longer than the 9-month school year may be proportionately increased.

#### **§§57.208 Health professions student loan promissory note and disclosure requirements.**

(a) Promissory note form. Each health professions student loan must be evidenced by a properly executed promissory note in a form approved by the Secretary. The school must safeguard the promissory note against fire, theft, and tampering.

(1) Each promissory note must state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the loan is required, at the rate of 5 percent per year.

(2) Each promissory note must contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

(3) A copy of each executed note must be supplied by the school to the student borrower.

(b) Security. A school must require security or endorsement if the borrower is a minor and if, under the applicable State law, the note signed by him or her would not create a binding obligation. The school may not require security or endorsement in any other circumstances.

(c) Disclosure requirements. (1) For any loan made after June 30, 1986, the school shall, at the time the loan is made, provide the following loan information to the student:

(i) The yearly and cumulative maximum amounts that may be borrowed by the student;

(ii) The terms under which repayment of the loan will begin;

(iii) The maximum number of years in which the loan must be repaid;

(iv) The interest rate that will be paid by the borrower and the minimum amount of the required

monthly payment;

(v) The amount of any other fees charged to the borrower by the lender;

(vi) Any options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

(vii) A definition of default on the loan and a specification of the consequences which will result to the borrower if the borrower defaults, including a description of any arrangements which may be made with credit bureau organizations;

(viii) To the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(ix) A description of the actions that may be taken by the Federal Government to collect the loan, including a description of the type of information concerning the borrower that the Federal Government may disclose to:

(A) Officers, employees, or agents of the Department of Health and Human Services,

(B) Officers, employees, or agents of schools with which the Secretary has an agreement under this subpart, or

(C) Any other person involved in the collection of a loan under this subpart.

(2) For any loan made after June 30, 1986, the school shall, prior to the borrower's completion or termination of studies at the school, provide the following loan information to the student:

(i) Each amount borrowed by the student under this subpart;

(ii) The total amount borrowed by the student under this subpart; and

(iii) A schedule for the repayment of the amounts borrowed under this subpart, including the number, amount, and frequency of payments to be made.

(3) In addition to the requirements set forth in paragraphs (c)(1) and (c)(2) of this section, the school must comply with the applicable requirements of Truth in Lending Regulation Z ([12 CFR part 226](#)).

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[44 FR 29055, May 18, 1979, as amended at 48 FR 25069, June 3, 1983; 50 FR 34420, Aug. 23, 1985; 52 FR 20987, June 3, 1987; 56 FR 19293, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992]

### **§§57.209 Payment of health professions student loans.**

(a) Health professions student loans from any fund may be paid to or on behalf of student borrowers in installments considered appropriate by the school except that a school may not pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines the student needs for that period.

(b) No payment may be made from a fund to or on behalf of any student borrower if at the time

of the payment the borrower is not a full-time student.

**§§57.210 Repayment and collection of health professions student loans.**

(a) Each health professions student loan, including accrued interests, will be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Except as otherwise provided in this paragraph, repayment of a loan must begin one year after the student ceases to be a full-time student.

(1) If a borrower reenters the same or another school as a full-time student within the 1-year period, the date upon which interest will accrue and the repayment period will begin will be determined by the date on which the student last ceases to be a full-time student at that school.

(2) The following periods will be excluded from the 10-year repayment period:

(i) All periods for up to a total of 3 years of active duty performed by the borrower as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration Corps or the U.S. Public Health Service Corps;

(ii) All periods for up to a total of 3 years of service as a volunteer under the Peace Corps Act;

(iii) All periods of advanced professional training including internships and residencies, except as specified in paragraph (a)(2)(vi) of this section;

(iv) All periods during which the borrower is pursuing a full-time course of study at an eligible health professions school;

(v) A period not in excess of 2 years during which a borrower who is a full-time student in a health professions school leaves the school, with the intent to return to such school as a full-time student, to engage in a full-time educational activity which is directly related to the health profession for which the individual is preparing. To qualify for such deferment, the full-time educational activity must be one which:

(A) Is part of a joint-degree program or a formal program of joint study in conjunction with the health profession for which the borrower is preparing at the school; or

(B) Is an activity which will enhance the borrower's knowledge and skills in the health profession for which the borrower is preparing at the school, as determined by the school.

The borrower must request such deferment from the school in which he or she is enrolled no later than 60 days prior to leaving such school to engage in the full-time educational activity. The school must then determine, no later than 30 days prior to the borrower's leaving such school, whether the borrower qualifies for such deferment. A borrower who qualifies for this type of deferment receives the grace period upon completion or termination of his or her studies leading to the first professional degree in the health discipline being pursued. If the borrower fails to return to school, the school retroactively must begin the borrower's grace period based on the date the borrower terminated his or her studies at the school, and must begin the repayment period immediately following the end of the grace period; and

(vi) A period not in excess of 2 years during which a borrower who is a graduate of a health



professions school participates in:

(A) A fellowship training program which is directly related to the health profession for which the borrower prepared at the school, as determined by the school from which the borrower received his or her loan, and is engaged in by the borrower no later than 12 months after the completion of the borrower's participation in advanced professional training as described in paragraph (a)(2)(iii) of this section, or prior to the completion of such borrower's participation in such training. To qualify for such deferment, the fellowship training program must be one which:

- (1) Is a full-time activity in research or research training or in health care policy; and
- (2) Is a formally established fellowship program which was not created for a specific individual;  
or

(B) A full-time educational activity which is directly related to the health profession for which the borrower prepared at the school, as determined by the school from which the borrower received his or her loan, and is engaged in by the borrower no later than 12 months after the completion of the borrower's participation in advanced professional training as described in paragraph (a)(2)(iii) of this section, or prior to the completion of the borrower's participation in such training. To qualify for such deferment, the full-time educational activity must be one which:

- (1) Is part of a joint-degree program in conjunction with the health profession for which the borrower prepared at the school; or
- (2) Is required for licensure, registration, or certification in the health profession for which the borrower received the HPSL loan; or
- (3) Is a full-time educational program in public health, health administration, or a health care discipline directly related to the health profession for which the borrower received the loan.

(3) To receive a deferment, a borrower must, no later than 30 days prior to the onset of the activity (or no later than 30 days prior to the due date of the first payment if the borrower begins the activity during the grace period), and annually thereafter, provide the lending school with evidence of his or her status in the deferrable activity, and evidence that verifies deferment eligibility of the activity. This evidence must include certification by the Program Director or other authorized official that the borrower's activity meets the deferment requirements. The borrower must also notify the school upon completion or termination of the activity. It is the responsibility of the borrower to provide the lending school with all required information or other information regarding the requested deferment. The school may deny a request for deferment if it is not filed in accordance with the requirements of this section.

(4) Subject to the provisions of paragraph (b)(3) of this section, a borrower must establish a repayment schedule with the school providing for payments not less often than quarterly. Any borrower whose repayment is delinquent more than 60 days must establish a monthly repayment schedule with the school. However, a borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

(5) A school may grant forbearance whenever extraordinary circumstances such as

unemployment, poor health or other personal problems temporarily affect the borrower's ability to make scheduled loan repayments.

(b)(1) Each school at which a fund is established must exercise due diligence in the collection of health professions student loans due the fund. In the exercise of due diligence, a school must follow procedures which are at least as extensive and effective as those used in the collection of other student loan accounts due the school, and must use the steps outlined below in accordance with collection practices which are generally accepted among institutions of higher education:

(i) Conduct and document an entrance interview (individually or in groups) with the borrower prior to disbursing HPSL funds in an academic year. During the entrance interview the school must obtain documentation which indicates that the borrower is aware of the rights and responsibilities associated with HPSL funds and personal information which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. The requirements of this subparagraph may be met by correspondence, if the school determines that a face-to-face meeting (individually or in groups) is impracticable.

(ii) Conduct and document an exit interview (individually or in groups) with the borrower. During the exit interview, the school must provide each borrower with information necessary to carry out the terms of repayment, remind the borrower of the rights and responsibilities associated with HPSL funds, and update the personal information collected prior to disbursing HPSL funds which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. If the borrower terminates studies without advance notice, the school must document attempts to inform the borrower of the substance of the exit interview and to secure exit interview information from the borrower by mail.

(iii) Notify the borrower in writing of the impending repayment obligation at least twice during the grace period;

(iv) Notify a borrower who is in deferment status in writing of the impending repayment obligation 1 to 3 months prior to the expiration of the approved period of deferment;

(v) Perform regular billing;

(vi) Follow up past due payments with a series of at least four documented and reasonably spaced attempts to contact the borrower, at least three of which must be in writing at not more than 30-

day intervals, prior to the loan becoming 120 days past due, provided that the school has a current address for the borrower;

(vii) Perform address searches when necessary;

(viii) Use collection agents, which may include the use of an internal collection agent;

(ix) Institute legal proceedings against borrowers after all other attempts at collection have failed, unless the school determines, subject to the approval of the Secretary, that such litigation would not be cost-effective; and

(x) Become a member of a credit bureau and notify the credit bureau of accounts past due by

more than 120 days.

In place of one or more of the procedures outlined above schools may substitute collection techniques that are equally or more effective, but only after they have demonstrated the effectiveness of the techniques and obtained written approval from the Secretary.

(2) Late charge. (i) For any health professions student loan made after June 30, 1969, but prior to October 22, 1985, the school may fix a charge for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment under section 722(c) of the Act for any failure to file timely and satisfactory evidence of the entitlement. The amount of the charge may not exceed \$1 for the first month or part of a month by which the installment or evidence is late and \$2 for each succeeding month or part of a month. The school may elect to add the amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(ii) For any health professions student loan made on or after October 22, 1985, the school shall assess a charge for failure of the borrower to pay all or any part of an installment when the loan is more than 60 days past due and, in the case of a borrower who is entitled to deferment under section 722(c) of the Act, for any failure to file satisfactory evidence of the entitlement within 60 days of the date payment would otherwise be due. No charge may be made if the loan is less than 61 days past due. The amount of this charge may not exceed an amount equal to 6 percent of the amount due at the time the charge is calculated. The school may elect to add the amount of this charge to the principal amount of the loan as of the day on which the charge is calculated, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(3) With respect to any health professions student loan made after June 30, 1969, the school may require the borrower to make payments of at least \$15 per month on all outstanding health professions student loans during the repayment period.

(4) A school must, on an annual basis, review and assess the collectibility of any loan more than 3 years past due. If the school determines that the prospects of future collection are promising enough to justify periodic review of the debt, and neither the statute of limitations nor the 10-year repayment period has expired, the school may retain the account for continued collections, provided that it makes an attempt at least semi-annually to collect from the borrower. When the due diligence procedures required by paragraph (b)(1) of this section have been exhausted, the school is responsible for determining the collection methods it will use for the semi-annual collection effort required on these loans. If the school determines that the prospects of future collection are not promising, or when the statute of limitations or the 10-year repayment period has expired, the loan must be considered uncollectible. A school may determine a loan to be uncollectible sooner than 3 years past due when it has evidence that the loan cannot be collected, but in no case should a school consider a loan as uncollectible if it has not been in default for a least 120 days. A school is not subject to the requirements in paragraphs (b)(4) (i) and (iii) of this section for loans that became uncollectible, as determined by the school, before August 1, 1985.

(i) A school must request permission to write off an uncollectible loan within 30 days of the

determination that it is uncollectible or reimburse the fund in the full amount of the loan, pursuant to §§57.210(b)(4)(iii). The 30-day period for submitting the loan for write-off review begins on the date that the determination of uncollectibility is made, in accordance with paragraph (b)(4) of this section. In any instance where the Secretary determines that a school has failed to exercise due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, the school will be required to place in the fund the full amount of principal, interest, and penalty charges that remains uncollected on the loan. Reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less than 30 days following the Secretary's disapproval of the request for write-off approval.

(ii) If the Secretary determines that a school has exercised due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, or if the school determines that the loan was uncollectible prior to August 1, 1985, the school will be permitted to reduce its accounts receivable for the HPSL fund by the full amount of principal, interest, and penalty charges that remains uncollected on that loan and will not be required to return the Federal share of the loss to the Secretary.

(iii) If a school does not request permission to write off an uncollectible loan within the required timeframe, it must reimburse the fund for the full amount of principal, interest, and penalty charges that remains uncollected on that loan. This reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less than 30 days following its determination that a loan is uncollectible.

(iv) Failure to comply with the requirement of this section will subject a school to the noncompliance provisions of §§57.218 and the Department's Claims Collection regulations (45 CFR part 30), as appropriate.

(5) Disclosure of taxpayer identity information. Upon written request by the Secretary, the Secretary of the Internal Revenue Service (IRS) may disclose the address of any taxpayer who has defaulted on a health professions student loan, for use only by officers, employees, or agents of the Department, to locate the defaulted borrower to collect the loan. Any such mailing address may be disclosed by the Secretary to any school from which the defaulted borrower received a health professions student loan, for use only by officers, employees, or agents of the school whose duties relate to the collection of health professions student loan funds, to locate the defaulted borrower to collect the loan. Any school which requests and obtains this address information must comply with the requirements of the Secretary and the IRS regarding the safeguarding and proper handling of this information.

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[44 FR 29055, May 18, 1979, as amended at 48 FR 25069, June 3, 1983; 49 FR 38112, Sept. 27, 1984; 50 FR 34420, Aug. 23, 1985; 52 FR 20988, June 3, 1987; 53 FR 6092, Feb. 29, 1988; 56 FR 19293, Apr. 26, 1991; 56 FR 40726, Aug. 15, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

### **§§57.211 Cancellation of health professions students loans for disability or death.**

(a) Permanent and total disability. The Secretary will cancel a student borrower's indebtedness in accordance with section 722(d) of the Act if the borrower is found to be permanently and totally disabled on recommendation of the school and as supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment, which the Secretary expects to continue for a long time or to result in death.

(b) Death. The Secretary will cancel a student borrower's indebtedness in accordance with section 722(d) of the Act upon the death of the borrower. The school to which the borrower was indebted must secure a certification of death or whatever official proof is conclusive under State law.

(Approved by the Office of Management and Budget under control number 0915—0047)

[44 FR 29055, May 18, 1979, as amended at 56 FR 19293, Apr. 26, 1991; 61 FR 6123, Feb. 16, 1996]

### **§§57.212 [Reserved]**

### **§§57.213 Continuation of provisions for cancellation of loans made prior to November 18, 1971.**

Individuals who received health professions student loans as students of medicine, osteopathic medicine, dentistry or optometry prior to November 18, 1971, may still receive cancellation of these loans for practicing in a shortage area or for practicing in a rural shortage area characterized by low family income. The regulations set forth in 42 CFR 57.215(b) (1976), as adopted on February 7, 1974 remain applicable to cancellation on this basis. The provisions can be found at 39 FR 4774 (February 7, 1974) and a copy can be obtained by writing to the Division of Student Assistance, Bureau of Health Professions, Room 8—34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

[49 FR 38112, Sept. 27, 1984, as amended at 56 FR 19294, Apr. 26, 1991]

### **§§57.213a Loan cancellation reimbursement.**

(a) For loans made prior to October 22, 1985, in the event that insufficient funds are available to the Secretary in any fiscal year to enable him or her to pay to all schools their proportionate shares of all loans and interest canceled under this subpart for practice in a shortage area, death, or disability:

(1) Each school will be paid an amount bearing the same ratio to the total of the funds available for that purpose as the principal of loans canceled by that school in that fiscal year bears to the total principal of loans canceled by all schools in that year; and

(2) Any additional amounts to which a school is entitled will be paid by the Secretary at the time of distribution of the assets of the school's Fund under section 728 of the Act.

(b) For loans made on or after October 22, 1985, a school may assess the borrower a charge to

insure against the loss of the institutional share of a loan canceled due to the borrower's death or permanent and total disability. The school must develop annually a rate which reflects its cancellation experience. This charge shall not exceed .6 percent of the loan amount. Funds collected under this provision must be maintained by the school in an insured, interest-bearing account (with any earned interest credited to this insurance fund), and used only to reimburse the school for the institutional share of any HPSL loan made on or after October 22, 1985, that is canceled due to the borrower's death or permanent and total disability. A school is not required to establish a separate bank account, but is required to maintain separate accountability.

[53 FR 46549, Nov. 17, 1988, as amended at 56 FR 19294, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

**§57.214 Repayment of loans made after November 17, 1971, for failure to complete a program of study.**

In the event that the Secretary undertakes to repay educational loans under section 722(k) of the Act, he or she will use the following criteria to make a determination as to each applicant's eligibility:

- (a) An applicant will be considered to have failed to complete the course of study leading to the first professional degree for which an eligible education loan was made upon certification by a health professions school that the individual ceased to be enrolled in the school subsequent to November 17, 1971;
- (b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his or her expenses and financial obligations, the Secretary determines that repayment of the loan would constitute a serious economic burden on the applicant. In making this determination, the Secretary will take into consideration the applicant's net financial assets, his or her potential earning capacity, and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary under paragraph (c) of this section;
- (c) An applicant will be considered to be from a low-income family if the applicant comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in this program, and the family has no substantial net financial assets. Income levels as adjusted will be published annually by the Secretary in the Federal Register.
- (d) An applicant will be considered to be from a disadvantaged family if the individual comes from a family in which the annual income minus unusual expenses which contribute to the economic burdens borne by the family does not exceed the low-income levels published by the Secretary under paragraph (c) of this section and the family has no substantial net financial assets;
- (e) An applicant will be considered as not having resumed his or her health professions studies within two years following the date the individual ceased to be a student upon a certification so stating from the applicant; and

(f) An applicant will be considered as not reasonably expected to resume his or her health professions studies within two years following the date upon which he or she terminated these studies, based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties.

The Secretary will only repay education loans made subsequent to November 17, 1971.

[44 FR 29055, May 18, 1979, as amended at 61 FR 6123, Feb. 16, 1996; 61 FR 9532, Mar. 8, 1996]

#### **§§57.215 Records, reports, inspection, and audit.**

(a) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its health professions student loan funds as the Secretary may find necessary to carry out the purposes of the Act and these regulations. A school must submit required reports to the Secretary within 45 days of the close of the reporting period.

(1) A school which fails to submit a required report for its Federal capital contribution fund within 45 days of the close of the reporting period:

(i) Shall be prohibited from receiving new Federal capital contributions;

(ii) Must place the revolving fund and all subsequent collections in an insured interest-bearing account; and

(iii) May make no loan disbursements.

The above restrictions apply until the Secretary determines that the school is in compliance with the reporting requirement.

(2) A school that fails to submit a complete report within 6 months of the close of the reporting period will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(i) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(ii) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(iii) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in

the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to submit a complete report within 6 months of the close of the reporting period must continue to pursue collections and may reapply for participation in the program once it has submitted the overdue report.

(3) The school must also comply with the requirements of 45 CFR part 74 and section 798(e) of the Act concerning recordkeeping, audit, and inspection.

(b) The following student records must be retained by the school for 5 years after an individual student ceases to be a full-time student:

(1) Approved student applications for health professions student loans;

(2) Documentation of the financial need of applicants; and

(3) Copy of financial aid transcript(s).

(c) The following repayment records for each individual borrower must be retained for at least 5 years from the date of retirement of a loan:

(1) The amount and date of each loan;

(2) The amount and date of each payment or cancellation;

(3) Records of periods of deferment;

(4) Date, nature and result of each contact with the borrower or proper endorser in the collection of an overdue loan;

(5) Copies of all correspondence to or from the borrower and endorser;

(6) Copies of all correspondence with collection agents related to the individual borrower;

(7) Copies of all correspondence with a credit bureau related to an individual borrower; and

(8) Copies of all correspondence relating to uncollectible loans which have been written off by the Federal Government or repaid by the school.

(d) The school must also retain other records as the Secretary may prescribe. In all cases where questions have arisen as a result of a Federal audit, the records must be retained until resolution of all questions.

(e) Institutional officials who have information which indicates the potential or actual commission of fraud or other offenses against the United States, involving these loan funds, should promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

(Approved by the Office of Management and Budget under control number 0915—0047)

[48 FR 25070, June 3, 1983, as amended at 50 FR 34421, Aug. 23, 1985; 53 FR 46549, Nov. 17, 1988; 56 FR 19294, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]



## **§§57.216 What additional Department regulations apply to schools?**

(a) Participating schools are advised that in addition to complying with the terms and conditions of these regulations, several other regulations apply under this subpart. These include, but are not limited to:

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 83—Regulation for the administration and enforcement of sections 794 and 855 of the Public Health Service Act

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in Health and Human Services programs or activities receiving Federal financial assistance

45 CFR part 93—New Restrictions on Lobbying

(b) The recipient may not discriminate on the basis of religion in the admission of individuals to its training programs.

[44 FR 29055, May 18, 1979, as amended at 56 FR 19294, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

### **§§57.216a Performance standard.**

On June 30, 1984, and on each June 30 thereafter, except as provided in paragraph (b) of this section, each school must have a default rate (as calculated under paragraph (a) of this section) of not more than 5 percent.

(a) The default rate for each school shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of the school bears to the matured loans of the school. For this purpose:

(1) The term defaulted principal amount outstanding means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans in default for more than 120 days; and

(2) The term matured loans means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by the school to students who are:

(i) Enrolled in a full-time course of study at the school; or

(ii) In their grace period.

(b) Any school that has a default rate greater than 5 percent on June 30 of any year will be required to:

(1) Reduce its default rate by 50 percent (or a school with a default rate below 10 percent must reduce its rate to 5 percent) by the close of the following 6-month period; and

(2) By the end of each succeeding 6-month period, reduce its default rate to 50 percent of the required rate for the previous 6-month period, until it reaches 5 percent.

(c) Any school subject to the provisions of paragraph (b) of this section which fails to comply with those requirements will receive no new HPSL funds and will be required to:

(1) Place the revolving fund monies and all subsequent collections into an insured interest-bearing account;

(2) Make no loan disbursements; and

(3) By the end of the succeeding 6-month period, reduce its default rate to 50 percent of the rate it failed to achieve under paragraph (b) of this section, or 5 percent. A school that meets this requirement will be permitted to resume the use of its health professions student loan funds, but must continue to comply with the requirements of paragraph (b)(2) of this section if its default rate is still greater than 5 percent.

(d) Any school subject to the provisions of paragraph (c)(3) of this section which fails to comply with those requirements will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to comply with the provisions of paragraph (c)(3) of this section must continue to pursue collections and may reapply for participation in the program only when it has attained a default rate of 5 percent or less.

(Approved by the Office of Management and Budget under control number 0915—0047)

[50 FR 34423, Aug. 23, 1985, as amended at 52 FR 20988, June 3, 1987; 53 FR 46550, Nov. 17, 1988; 56 FR 19294, Apr. 26, 1991]

**§§57.217 Additional conditions.**

The Secretary may with respect to any agreement entered into with any school under §§57.205, impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect the advancement of the purposes of the agreement, the interest of the public health, or the conservation of funds awarded.

**§§57.218 Noncompliance.**

Wherever the Secretary finds that a participating school has failed to comply with the applicable provisions of the Act or the regulations of this subpart, he or she may, on reasonable notice to the school, withhold further payment of Federal capital contributions, and take such other action, including the termination of any agreement, as he or she finds necessary to enforce the Act and regulations. In this case no further expenditures shall be made from the health professions student loan fund or funds involved until the Secretary determines that there is no longer any failure of compliance.

**Subpart D—Nursing Student Loans**

Authority:

Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 ([42 U.S.C. 216](#)); secs. 835—842 of the Public Health Service Act, 77 Stat. 913—916, as amended by 99 Stat. 397—400, 536—537, and 102 Stat. 3160—3161 ([42 U.S.C. 297](#) a—i).

Source:

50 FR 34434, Aug. 23, 1985, unless otherwise noted.

**§§57.301 Applicability.**

The regulations in this subpart apply to the Federal capital contributions made by the Secretary to public or other nonprofit schools of nursing for the establishment of nursing student loan funds and to loans made to students from these funds.

**§§57.302 Definitions.**

As used in this subpart:

Academic year means the traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

Act means the Public Health Service Act, as amended.

Community health center means an entity as defined under section 330(a) of the Public Health Service Act, and in regulations at [42 CFR 51c.102\(c\)](#).

Date upon which a student ceases to be a full-time or half-time student means the first day of the month which is nearest to the date upon which an individual ceases to be a full-time or half-time student, as defined in this section.

Default means the failure of a borrower of a loan made under this subpart to make an installment payment when due, or comply with any other term of the promissory note for such loan, except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy, the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule, or the loan is in forbearance.

Federal capital loan means a loan made by the Secretary to a school under section 827(a) of the Act, as in effect prior to July 29, 1975, the proceeds of which are to be returned to the Secretary.

Full-time student means a student who is enrolled in a school and pursuing a course of study which constitutes a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

Good standing means the eligibility of a student to continue in attendance at the school where he or she is enrolled as a student in accordance with the school's standards and practices.

Grace period means the period of 9 months beginning on the date upon which a student ceases to be a full-time or half-time student at a school of nursing.

Half-time student means a student who is enrolled in a school and pursuing a course of study which constitutes at least one-half of a full-time academic workload but less than a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

Indian Health Service health center means a health care facility (whether operated directly by the Indian Health Service or operated by a tribal contractor or grantee under the Indian Self-

Determination Act), which is physically separated from a hospital, and which provides one or more clinical treatment services, such as physician, dentist or nursing services, available at least 40 hours a week for outpatient care to persons of Indian or Alaska Native descent.

Institutional capital contribution means the money provided by a school, in an amount not less than one-ninth of the Federal capital contribution, and deposited in a nursing student loan fund.

Migrant health center means an entity as defined under section 329(a) of the Public Health Service Act, and in regulations at [42 CFR 56.102\(g\)](#).

National of the United States means: (1) A citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States, as defined in the Immigration and Nationality Act, at [8 U.S.C. 1101\(a\)\(22\)](#).

Native Hawaiian health center means an entity (as defined in section 8 of Public Law 100—579)

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- (a) Which is organized under the laws of the State of Hawaii,
- (b) Which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
- (c) Which is a public or private nonprofit entity, and
- (d) In which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

Nursing facility means a facility as defined in section 1919(a) of the Social Security Act (SSA) (for fiscal year (FY) 1991 and subsequent fiscal years), except for FYs 1989 and 1990, the term means a ““skilled nursing facility,”” as such term is defined in section 1861(j) of the SSA, and an ““intermediate care facility,”” as such term is defined in section 1905(c) of such Act.

Nursing student loan means the amount of money advanced to a student by a school from a nursing student loan fund under a properly executed promissory note.

Registered nurse means an individual who has been licensed by a State Board of Nursing to practice professional nursing in accordance with State licensing laws requiring as a minimum one of the degrees or diplomas specified in this section.

Rural health clinic means an entity as defined under section 1861(aa)(2) of the Social Security Act, and in regulations at 42 CFR 491.2.

School means a public or other nonprofit school of nursing, as defined in section 853 of the Act.

Secretary means the Secretary of Health and Human Services and any other officer or employee to whom the authority involved has been delegated.

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

[50 FR 34434, Aug. 23, 1985, as amended at 52 FR 10195, Mar. 30, 1987; 53 FR 46554, Nov. 17, 1988; 56 FR 13771, Apr. 4, 1991; 61 FR 6123, Feb. 16, 1996]

### **§§57.303 Application by school.**

(a) Each school seeking a Federal capital contribution must submit an application at the time and in the form and manner that the Secretary may require. The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the regulations of this subpart, and the terms and conditions of the award.

(b) Each application will be reviewed to determine eligibility and the reasonableness of the amount of Federal support requested. The Secretary may require the applicant to submit

additional data for this purpose.

(c) An application will not be approved unless an agreement between the Secretary and the applicant school for a Federal capital contribution under section 835 of the Act is reached.

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13771, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992]

**§57.304 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.**

(a) Annual payment. The Secretary will make payments at a time determined by him or her, to each school with which he or she has entered into an agreement under the Act.

(1) For any fiscal year for which ““set-aside”” funds are available, the Secretary will first make payments in the manner described in (a)(2) of this section of not less than \$1,000,000 of the amount of Federal funds determined by the Secretary at the time of payment to be available for making loans under this subpart. These funds will be paid to schools submitting an application for ““set-aside”” funds to be used only for the purpose of making loans to individuals qualified to receive loans under this subpart who, on the date they receive the loan, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least 7 years. An individual may not receive a loan under this subparagraph that exceeds \$500 for any academic year.

(2) If the total of the amounts requested for any fiscal year by all schools for Federal capital contributions minus the amount received under paragraph (a)(1) of this section exceeds the amount of Federal funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller: (i) The amount requested in the application, or (ii) an amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all participating schools during that year.

(3) Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, but with whatever adjustments that may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(b) Method of payment. The payment of Federal capital contributions to a school will be paid in a manner that avoids unnecessary accumulations of money in any nursing student loan fund.

(c) Reallocation of funds remitted to the Secretary. (1) All funds from a student loan fund established under this subpart which are remitted to the Secretary in any fiscal year shall be available for allotment under this subpart, in the same fiscal year and the succeeding fiscal year, to eligible nursing schools. In making these allotments, the Secretary shall give priority to nursing schools which established a student loan fund under this subpart after September 30, 1975. The Secretary will make payments to eligible schools at a time determined by him or her, according to the procedures indicated in paragraphs (c)(2) and (c)(3) of this section.

(2) Eligible schools which established a nursing student loan fund after September 30, 1975. The Secretary will make awards first to those eligible schools that established a nursing student loan fund after September 30, 1975. If the total of the amounts requested for any fiscal year by these schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(i) The amount requested in the application, or

(ii) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in these eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(3) Eligible schools which established a nursing student loan fund prior to October 1, 1975. If there are funds remaining after making awards as specified by paragraph (c)(2) of this section, the Secretary will make awards to eligible schools which established a nursing student loan fund prior to October 1, 1975. If the total of the amounts requested for any fiscal year by these schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(i) The amount requested in the application, or

(ii) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in these eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

[50 FR 34434, Aug. 13, 1985, as amended at 53 FR 46554, Nov. 17, 1988]

#### **§§57.305 Nursing student loan funds.**

(a) Funds established with Federal capital contributions. Any fund established by a school with Federal capital contributions will be accounted for separately from other funds, providing a clear audit trail for all transactions. At all times the fund must contain monies representing the institutional capital contribution. The school must at all times maintain all monies relating to the fund in one or more interest-bearing accounts or investment instruments which meet OMB requirements established for Federal monies held by third parties, except that if the school

documents that the costs associated with the use of an interest-bearing account would exceed expected earnings, the school is not required to maintain these monies in an interest-bearing account. The school must place all earnings into the fund but may first deduct from total earnings any reasonable and customary charges incurred through the use of an interest-bearing account. An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments, and shall be responsible for reimbursing the fund for any losses that occur due to the use of investments that are not federally insured.

(1) The Federal capital contribution fund is to be used by the school only for:

(i) Nursing student loans to full-time or half-time students;

(ii) Capital distribution as provided in section 839 of the Act or as agreed to by the school and the Secretary; and

(iii) Costs of litigation, costs associated with membership in credit bureaus, and to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of nursing student loans.

(2) A school must review the balance in the fund on at least a semi-annual basis to determine whether the fund balance compared with projected levels of expenditures and collections exceeds its needs. A school in closing status must review the balance in the fund on a quarterly basis. Monies identified as in excess of the school's needs must be reported, and the Federal share returned to the Federal Government, by the due date of the required report which identifies the excess monies. The school's determination is subject to the review and approval of the Secretary.

(b) Funds established with Federal capital loans. (1) Each Federal capital loan is subject to the terms of the promissory note executed by an authorized official on behalf of the borrowing school.

(2) The Federal capital loans must be carried in a special account of the school, to be used by the school only for: (i) Repayments of principal and interest on Federal capital loans; and (ii) costs of litigation, costs associated with membership in credit bureaus, and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of nursing student loans.

(c) Failure to comply with the requirements of this section will subject a school to the noncompliance provisions of §§57.318 and the Department's Claims Collections regulations (45 CFR part 30), as appropriate.

(Approved by the Office of Management and Budget under control number 0915—0047)

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 40734, Aug. 15, 1991; 61 FR 6123, Feb. 16, 1996]

### **§§57.306 Eligibility and selection of nursing student loan applicants.**

(a) Determination of eligibility. (1) Applicants are eligible for consideration for a nursing student loan if they are:



(i) Residents of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

(ii) Enrolled, or accepted for enrollment in the school as full-time or half-time students;

(iii) In need of the amount of the loan to pursue the course of study at the school; and

(iv) Capable, in the opinion of the school, of maintaining good standing in the course of study.

(2) An applicant who has previously attended an institution of higher education must submit a financial aid transcript which includes at least the following data:

(i) Applicant's name and social security number;

(ii) Amounts and sources of loans and grants previously received by the applicant for study at an institution of higher education;

(iii) Whether the applicant is in default on any of these loans, or owes a refund on any grants;

(iv) Certification from each institution previously attended by the applicant that the applicant has received no financial aid, if applicable; and

(v) From each institution previously attended, the signature of an official authorized by the institution to sign such transcripts on behalf of the institution.

(b) Selection of nursing student loan applicants and determinations of need. The school will select qualified applicants, make reasonable determinations of need, and determine the amount of student loans.

(1) In selecting nursing student loan applicants the school will give preference to licensed practical nurses, and to persons with exceptional financial need. For purposes of this preference, a student will be considered to demonstrate exceptional financial need if the school determines that the student's resources, as described in paragraph (b)(2)(i) of this section, do not exceed one-half of the costs of attendance at the school. Summer earnings, educational loans, veterans (G.I.) benefits, earnings during the school year, and Aid to Families with Dependent Children (AFDC) will not be considered as resources in determining whether an applicant meets these criteria for exceptional financial need, but will be considered in determining the amount of funds a student may receive.

(2) In determining whether a student is in need of a nursing student loan to pursue a full-time or half-time course of study at the school, the school will take into consideration:

(i) The financial resources available to the student by using one of the national need analysis systems or any other procedure approved by the Secretary of Education in combination with other information which the school has regarding the student's financial status; and

(ii) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's financial ability to attend the

school on a full-time or half-time basis. The school must document the criteria used for determining these costs.

(c) Verification of loan information. The school must verify, to the best of its ability, the information provided by the student on the loan application. To comply with this requirement, a school may require that a student provide, for example: Photocopies of the parents', student's, and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the Internal Revenue Service; or other documentation that the school considers necessary to help assure that information on the loan application is correct.

(Approved by the Office of Management and Budget under control number 0915—0047)

[50 FR 34434, Aug. 23, 1985, as amended at 53 FR 46554, Nov. 17, 1988; 56 FR 13771, Apr. 4, 1991; 61 FR 6123, Feb. 16, 1996]

#### **§§57.307 Maximum amount of nursing student loans.**

The total of the nursing student loans made from the fund to any student for an academic year may not exceed \$2,500, except that for each of the final 2 academic years of the program, the total must not exceed \$4,000. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of study longer than the 9-month academic year may be proportionately increased. The total of all nursing student loans to any student must not exceed \$13,000.

[56 FR 13771, Apr. 4, 1991]

#### **§§57.308 Nursing student loan promissory note.**

(a) Promissory note form. Each nursing student loan must be evidenced by a properly executed promissory note in a form approved by the Secretary. The school must safeguard the promissory note against fire, theft, and tampering.

(1) Each promissory note must state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the loan is required, at the rate of 5 percent per year.

(2) Each promissory note must contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

(3) A copy of each executed note must be supplied by the school to the student borrower.

(b) Security. A school must require security or endorsement if the borrower is a minor and if, under the applicable State law, the note signed by him or her would not create a binding obligation. The school may not require security or endorsement in any other circumstances.

(Approved by the Office of Management and Budget under control number 0915—0047)

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13771, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992]

### **§§57.309 Payment of nursing student loans.**

(a) Nursing student loans from any fund may be paid to or on behalf of student borrowers in installments considered appropriate by the school except that a school may not pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines the student needs for that period.

(b) No payment may be made from a fund to or on behalf of any student borrower if at the time of the payment the borrower is not a full-time or half-time student.

### **§§57.310 Repayment and collection of nursing student loans.**

(a) Each nursing student loan, including accrued interest, will be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Repayment of a loan must begin 9 months after the student ceases to be a full-time or half-time student, except that if a borrower reenters the same or another school as a full-time or half-time student within the 9-month period, the date upon which interest will accrue and the repayment period will begin will be determined by the date upon which the student last ceases to be a full-time or half-time student at that school.

(1) The following periods will be excluded from the 10-year repayment period: (i) All periods up to a total of 3 years of active duty performed by the borrower as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration Corps or the U.S. Public Health Service Commissioned Corps;

(ii) All periods up to a total of 3 years of service as a volunteer under the Peace Corps Act; and

(iii) All periods up to a total of 10 years during which the borrower is pursuing a full-time or half-time course of study at a school leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist). For purposes of this paragraph, ““otherwise pursuing advanced professional training in nursing”” shall include full-time or half-

time training, beyond the first diploma or degree in nursing received by the particular borrower, of at least 1 academic year which will advance the borrower's knowledge of and strengthen his or her skills in the provision of nursing services. <sup>1</sup>

<sup>1</sup>Individuals who received nursing student loans prior to July 1, 1969, remain subject to the repayment provisions of 42 CFR 57.314(a)(3)(1976) as adopted on February 4, 1974. These provisions can be found at 39 FR 16473 (May 9, 1974), and a copy can be obtained by writing the Division of Student Assistance, Bureau of Health Professions, 5600 Fishers Lane, Parklawn Building, room 8—34, Rockville, MD 20857.

(2) Subject to the provisions of paragraph (b)(3) of this section, a borrower must establish a repayment schedule with the school providing for payments not less often than quarterly. Any borrower whose repayment becomes more than 60 days past due must be placed on a monthly repayment schedule by the school. A borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

(3) A school may grant forbearance whenever extraordinary circumstances such as unemployment, poor health or other personal problems temporarily affect the borrower's ability to make scheduled loan repayments.

(b) Collection of nursing student loans. (1) Each school at which a fund is established must exercise due diligence in the collection of nursing student loans due the fund. In the exercise of due diligence, a school must follow procedures which are at least as extensive and effective as those used in the collection of other student loan accounts due the school, and must use the steps outlined below in accordance with collection practices which are generally accepted among institutions of higher education:

(i) Conduct and document an entrance interview (individually or in groups) with the borrower prior to disbursing NSL funds in any academic year. During the entrance interview the school must obtain documentation which indicates that the borrower is aware of the rights and responsibilities associated with NSL funds and personal information which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. The requirement of this subparagraph may be met by correspondence if the school determines that a face-to-face meeting (individually or in groups) is impracticable.

(ii) Conduct and document an exit interview (individually or in groups) with the borrower. During the exit interview, the school must provide each borrower with information necessary to carry out the terms of repayment, remind the borrower of the rights and responsibilities associated with NSL funds, and update the personal information collected prior to disbursing NSL funds which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. If the borrower terminates studies without advance notice, the school must document attempts to inform the borrower of the substance of the exit interview and to secure exit interview information from the borrower by mail.

(iii) Notify the borrower in writing of the impending repayment obligation at least twice during the grace period;

(iv) Notify a borrower who is in deferment status in writing of the impending repayment obligation 1 to 3 months prior to the expiration of the approved period of deferment;

(v) Perform regular billing;

(vi) Follow up past due payments with a series of at least four documented and reasonably spaced attempts to contact the borrower, at least three of which must be in writing at not more than 30-

day intervals, prior to the loan becoming 120 days past due, provided that the school has a current address for the borrower;

(vii) Perform address searches when necessary;

(viii) Use collection agents, which may include the use of an internal collection agent;

(ix) Institute legal proceedings against borrowers after all other attempts at collection have failed, unless the school determines, subject to the approval of the Secretary, that such litigation would not be cost-effective; and

(x) Become a member of a credit bureau and notify the credit bureau of accounts past due by more than 120 days.

In place of one or more of the procedures outlined above schools may substitute collection techniques that are equally or more effective, but only after they have demonstrated the effectiveness of the techniques and obtained written approval from the Secretary.

(2) Late charge. (i) For any nursing student loan made after June 30, 1969, but prior to October 1, 1985, the school may fix a charge for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment under section 836(b)(2) of the Act, or cancellation or repayment under section 836(b)(3) of the Act, for any failure to file timely and satisfactory evidence of the entitlement. The amount of the charge may not exceed \$1 for the first month or part of a month by which the installment or evidence is late and \$2 for each succeeding month or part of a month. The school may elect to add the amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(ii) For any nursing student loan made on or after October 1, 1985, the school shall assess a charge for failure of the borrower to pay all or any part of an installment when the loan is more than 60 days past due and, in the case of a borrower who is entitled to deferment under section 836(b)(2) of the Act, for any failure to file satisfactory evidence of the entitlement within 60 days of the date payment would otherwise be due. No charge may be made if the loan is less than 61 days past due. The amount of this charge may not exceed an amount equal to 6 percent of the amount due at the time the charge is calculated. The school may elect to add the amount of this charge to the principal amount of the loan as of the day on which the charge is calculated, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(3) With respect to any nursing student loan made after June 30, 1969, the school may require the borrower to make payments of at least \$15 per month on all outstanding nursing student loans during the repayment period.

(4) A school must, on an annual basis, review and assess the collectibility of any loan more than 3 years past due. If the school determines that the prospects of future collection are promising enough to justify periodic review of the debt, and neither the statute of limitations nor the 10-year repayment period has expired, the school may retain the account for continued collections, provided that it makes an attempt at least semi-annually to collect from the borrower. When the due diligence procedures required by paragraph (b)(1) of this section have been exhausted, the school is responsible for determining the collection methods it will use for the semi-annual collection effort required on these loans. If the school determines that the prospects of future collection are not promising, or when the statute of limitations or the 10-year repayment period has expired, the loan must be considered uncollectible. A school may determine a loan to be uncollectible sooner than 3 years past due when it has evidence that the loan cannot be collected, but in no case should a school consider a loan as uncollectible if it has not been in default for at least 120 days. A school is not subject to the requirements in paragraphs (b)(4) (i) and (iii) of this section for loans that became uncollectible, as determined by the school, before January 1, 1983.

(i) A school must request permission to write off an uncollectible loan within 30 days of the determination that it is uncollectible or reimburse the fund in the full amount of the loan, pursuant to §§57.310(b)(4)(iii). The 30-day period for submitting the loan for write-off review begins on the date that the determination of uncollectibility is made, in accordance with paragraph (b)(4) of this section. In any instance where the Secretary determines that a school has failed to exercise due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, the school will be required to place in the fund the full amount of principal, interest, and penalty charges that remains uncollected on the loan. Reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less than 30 days following the Secretary's disapproval of the request for write-off approval.

(ii) If the Secretary determines that a school has exercised due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, or if the school determines that the loan was uncollectible prior to January 1, 1983, the school will be permitted to reduce its accounts receivable for the NSL fund by the full amount of principal, interest, and penalty charges that remains uncollected on that loan and will not be required to return the Federal share of the loss to the Secretary.

(iii) If a school does not request permission to write off an uncollectible loan within the required timeframe, it must reimburse the fund for the full amount of principal, interest, and penalty charges that remains uncollected on that loan. This reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less than 30 days following its determination that a loan is uncollectible.

(iv) Failure to comply with the requirements of this section will subject a school to the noncompliance provisions of §§57.318 and the Department's Claims Collection regulations (45 CFR part 30), as appropriate.

(5) Disclosure of taxpayer identity information. Upon written request by the Secretary, the Secretary of the Internal Revenue Service (IRS) may disclose the address of any taxpayer who has defaulted on a nursing student loan, for use only by officers, employees, or agents of the Department, to locate the defaulted borrower to collect the loan. Any such mailing address may be disclosed by the Secretary to any school from which the defaulted borrower received a nursing student loan, for use only by officers, employees, or agents of the school whose duties relate to the collection of nursing student loan funds, to locate the defaulted borrower to collect the loan. Any school which requests and obtains such address information must comply with the requirements of the Secretary and the IRS regarding the safeguarding and proper handling of this information.

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[50 FR 34434, Aug. 23, 1985, as amended at 52 FR 10195, Mar. 30, 1987; 56 FR 13771, Apr. 4, 1991; 56 FR 40734, Aug. 15, 1991; 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

### **§§57.311 Cancellation of nursing student loans for disability or death.**

(a) Permanent and total disability. The Secretary will cancel a borrower's indebtedness in

accordance with section 836(b)(4) of the Act if the borrower is found to be permanently and totally disabled on recommendation of the school and as supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment, which the Secretary expects to continue for a long time or to result in death.

(b) Death. The Secretary will cancel a borrower's indebtedness in accordance with section 836(b)(4) of the Act upon the death of the borrower. The school to which the borrower was indebted must secure a certification of death or whatever official proof is conclusive under State law.

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[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991]

### **§§57.312 Repayment of loans for service in a shortage area.**

(a) Service in a shortage area. Subject to the availability of funds, a person who:

(1) Has obtained a degree as specified in section 846(a)(1) of the Act;

(2) Has obtained one or more nursing student loans or any other loans necessary for costs (including tuition, books, fees, equipment, living and other expenses which the Secretary determines were necessary) of attending a school of nursing; and

(3) Enters into an agreement with the Secretary to serve as a full-time registered nurse for a period of not less than 2 years in an Indian Health Service health center, a Native Hawaiian health center, a public hospital, a migrant health center, a community health center, a nursing facility, a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses, will have a portion of these loans repaid by the Secretary in accordance with paragraph (c) of this section. Prior to entering an agreement for repayment of loans, other than nursing student loans, the Secretary will require that satisfactory evidence be provided of the existence and reasonableness of the education loans (i.e., a copy of the written loan agreement establishing the loan).

(b) When entering into agreements under paragraph (a) of this section, the Secretary shall give priority to:

(1) Applicants with the greatest financial need; and

(2) Applicants that, with respect to health facilities described in paragraph (a)(3) of this section, agree to serve in such facilities located in geographic areas with a shortage of and need for nurses, as determined by the Secretary.

(3) In addition to the priorities under paragraphs (b) (1) and (2) of this section, should specific needs warrant, the Secretary may establish additional preferences which will be announced from time to time in the Federal Register.

(c) Repayment. Loan repayment will be made by the Secretary to persons who meet the conditions set forth in paragraph (a) of this section. Payment will be as follows:

(1) Upon completion by the borrower of the first year of service as specified in the agreement, the Secretary will pay 30 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her service;

(2) Upon completion by the borrower of the second year of service, the Secretary will pay another 30 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her service;

(3) Upon completion by the borrower of a third year of service, the Secretary will pay another 25 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her service; and

(4) No more than 85 percent of the principal of any loan will be paid under this section.

(Approved by the Office of Management and Budget under control number 0915—0047)

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991; 61 FR 6123, Feb. 16, 1996]

#### **§§57.313 Loan cancellation for full-time employment as a registered nurse.**

(a) For loans made after November 18, 1971, and before September 29, 1979. A person who: (1) Received one or more nursing student loans after November 18, 1971, and before September 29, 1979; (2) is in compliance with the requirements of title VIII of the Act and these regulations; and (3) engages in full-time employment as a registered nurse (including teaching in any of the fields of nurse training or service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers) is entitled to have a portion of these nursing student loans canceled as follows: 15 percent of the total amount of the loans plus accrued interest on the loan which is unpaid on the first day of his or her service, for each of the first, second, and third year of service; and 20 percent of the total amount of the loan plus accrued interest on the loan for each complete fourth and fifth year of service thereafter, up to 85 percent of the total of the loans, plus accrued interest.

(b) Continuation of provisions for cancellation of loans made prior to November 18, 1971. A person who received one or more nursing student loans prior to November 18, 1971, may still receive cancellation of these loans for service under section 836(h) of the Act. The regulations set forth in 42 CFR 57.316 (a) and (b)(6) (1976), as adopted on February 4, 1974, remain applicable to cancellation on this basis. The provisions can be found at 39 FR 16473 (May 9, 1974) and a copy can be obtained by writing to the Division of Student Assistance, Bureau of Health Professions, Room 8—34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

(c) The determination of whether a person is entitled to have any portion of his or her nursing student loan canceled for full-time employment as a registered nurse will be made by the institution to whose fund his or her loan is payable, upon receipt and evaluation of an application for cancellation from that person.

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]



### **§§57.313a Loan cancellation reimbursement.**

In the event that insufficient funds are available to the Secretary in any fiscal year to enable him or her to pay to all schools their proportionate shares of all loans and interest canceled under this subpart for full-time employment as a nurse, death, or disability:

(a) Each school will be paid an amount bearing the same ratio to the total of the funds available for that purpose as the principal of loans canceled by that school in that fiscal year bears to the total principal of loans canceled by all schools in that year; and

(b) Any additional amounts to which a school is entitled will be paid by the Secretary at the time of distribution of the assets of the school's fund under section 839 of the Act.

### **§§57.314 Repayment of loans made after November 17, 1971, for failure to complete a program of study. <sup>2</sup>**

<sup>2</sup>Effective November 26, 1984, the Secretary stopped accepting applications under §§57.314 because Federal funds are not available for this provision.

In the event that the Secretary undertakes to repay educational loans under section 836(i) of the Act, he or she will use the following criteria to make a determination as to each applicant's eligibility:

(a) An applicant will be considered to have failed to complete the course of study in nursing for which an eligible education loan was made upon certification by a school of nursing that the individual ceased to be enrolled in the school subsequent to November 17, 1971;

(b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his or her expenses and financial obligations, the Secretary determines that repayment of the loan would constitute a serious economic burden on the applicant. In making this determination, the Secretary will take into consideration the applicant's net financial assets, his or her potential earning capacity, and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary in the Federal Register;

(c) An applicant will be considered as not having resumed his or her nursing studies within 2 years following the date the individual ceased to be a student upon certification so stating from the applicant; and

(d) An applicant will be considered as not reasonably expected to resume his or her nursing studies within 2 years following the date upon which he or she terminated these studies, based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties. The Secretary will only repay education loans made after November 17, 1971.

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

### **§§57.315 Records, reports, inspection, and audit.**

(a) Records and reports. (1) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its nursing student loan funds as the Secretary may find necessary to carry out the purposes of the Act and these regulations. A school must submit required reports to the Secretary within 45 days of the close of the reporting period.

(i) A school which fails to submit a required report for its Federal capital contribution fund within 45 days of the close of the reporting period:

(A) Shall be prohibited from receiving new Federal capital contributions;

(B) Must place the revolving fund and all subsequent collections in an insured interest-bearing account; and

(C) May make no loan disbursements.

The above restrictions apply until the Secretary determines that the school is in compliance with the reporting requirement.

(ii) A school that fails to submit a complete report within 6 months of the close of the reporting period will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(A) The request for a hearing is untimely (ie., fails to meet the 30-day requirement);

(B) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(C) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to submit a complete report within 6 months of the close of the reporting period must continue to pursue collections and may reapply for participation in the program once it has submitted the overdue report.

(2) The following student records must be retained by the school for 5 years after the individual student ceases to be a full-time or half-time student:

(i) Approved student applications for nursing student loans;

- (ii) Documentation of the financial need of applicants; and
  - (iii) Copy of financial aid transcripts.
- (3) The following repayment records for each individual borrower must be retained for at least 5 years from the date of retirement of a loan:
- (i) The amount and date of each loan;
  - (ii) The amount and date of each payment or cancellation;
  - (iii) Records of periods of deferment;
  - (iv) Date, nature, and result of each contract with the borrower or proper endorser in the collection of an overdue loan;
  - (v) Copies of all correspondence to or from the borrower and endorser;
  - (vi) Copies of all correspondence with a collection agency related to the individual borrower;
  - (vii) Copies of all correspondence with a credit bureau related to an individual borrower; and
  - (viii) Copies of all correspondence relating to uncollectible loans which have been written off by the Federal Government or repaid by the school.
- (4) The school must also retain other records as the Secretary may prescribe. In all cases where questions have arisen as a result of a Federal audit, the records must be retained until resolution of all questions.
- (b) Inspection and audit. (1) Any application for a Federal capital contribution will constitute the consent of the applicant school to inspection and fiscal audit, by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives, of the fiscal and other records of the applicant school which relate to the Federal capital contribution or Federal capital loan.
- (2) The school must comply with the audit requirements of the Department of Health and Human Services' Administration of Grants regulations which are set forth in 45 CFR part 74.
- (c) Institutional officials who have information which indicates the potential or actual commission of fraud or other offenses against the United States, involving these loan funds, should promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

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[50 FR 34434, Aug. 23, 1985, as amended at 53 FR 46555, Nov. 17, 1988; 56 FR 13772, Apr. 4, 1991; 57 FR 45735, Oct. 1, 1992]

### **§§57.316 What additional Department regulations apply to schools?**

Participating schools are advised that in addition to complying with the terms and conditions of these regulations, several other regulations apply under this subpart. These include, but are not

limited to:

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 83—Regulation for the administration and enforcement of sections 794 and 855 of the Public Health Service Act

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in Health and Human Services programs or activities receiving Federal financial assistance

45 CFR part 93—New Restrictions on Lobbying

[56 FR 13772, Apr. 4, 1991, as amended at 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

**§§57.316a Performance standard.**

On June 30, 1986, and on each June 30 thereafter, except as provided in paragraph (b) of this section, each school must have a default rate (as calculated under paragraph (a) of this section) of not more than 5 percent.

(a) The default rate for each school shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of the school bears to the matured loans of the school. For this purpose:

(1) The term ““defaulted principal amount outstanding”” means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans in default for more than 120 days; and

(2) The term ““matured loans”” means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by the school to students who are:

(i) Enrolled in a full-time or half-time course of study at the school; or

(ii) In their grace period.

(b) Any school that has a default rate greater than 5 percent on June 30, 1986, or on June 30 of any year thereafter will be required to:

(1) Reduce its default rate by 50 percent (or a school with a default rate below 10 percent must reduce its rate to 5 percent) by the close of the following 6-month period; and

(2) By the end of each succeeding 6-month period, reduce its default rate to 50 percent of the required rate for the previous 6-month period, until it reaches 5 percent.

(c) Any school subject to the provisions of paragraph (b) of this section which fails to comply with those requirements will receive no new NSL funds and will be required to:

(1) Place the revolving fund monies and all subsequent collections into an insured interest-bearing account;

(2) Make no loan disbursements; and

(3) By the end of the succeeding 6-month period, reduce its default rate to 50 percent of the rate it failed to achieve under paragraph(b) of this section, or 5 percent. A school that meets this requirement will be permitted to resume the use of its nursing student loan funds, but must continue to comply with the requirements of paragraph (b)(2) of this section if its default rate is still greater than 5 percent.

A school that meets the requirements of subparagraph (c)(3) of this section will be permitted to resume the use of its NSL funds, but must continue to comply with the requirements of subparagraph (b)(2) of this section if its delinquency rate is still greater than 5 percent.

(d) Any school subject to the provisions of paragraph (c)(3) of this section which fails to comply with those requirements will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to comply with the provisions of paragraph (c)(3) of this section must continue to pursue collections and may reapply for participation in the program only when it has attained a default rate of 5 percent or less.

(Approved by the Office of Management and Budget under control number 0915—0047)

[50 FR 34434, Aug. 23, 1985, as amended at 52 FR 10195, Mar. 30, 1987; 53 FR 46555, Nov. 17, 1988; 56 FR 13772, Apr. 4, 1991]

**§§57.317 Additional conditions.**

The Secretary may, with respect to any agreement entered into with any school under §§57.305, impose additional conditions prior to or at the time of any award when in his or her judgment the conditions are necessary to assure or protect advancement of the purposes of the agreement, the interest of the public health, or the conservation of funds awarded.

**§§57.318 Noncompliance.**

Whenever the Secretary finds that a participating school has failed to comply with the applicable provisions of the Act or the regulations of this subpart he or she may, on reasonable notice to the school, withhold further payments of Federal capital contributions and take other action, including the termination of any agreement, as he or she finds necessary to enforce the Act and regulations. In such case no further expenditures shall be made from the nursing student loan fund or funds involved until the Secretary determines that there is no longer any failure of compliance.