



**FFELP & Direct Loan
Discharge and Forgiveness**

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Agenda

- Review each type of FFELP and Direct Loan discharge and forgiveness
- Provide general eligibility requirements
- Identify situations that an FAA may encounter

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Discharge vs. forgiveness

- Discharge – Due to circumstances beyond the borrower's control
- Forgiveness – Due to circumstances within the borrower's control

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Types of discharge

- Bankruptcy
- Closed school
- Death
- False certification
- Total and permanent disability
- Unpaid refund

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Loan discharge

Definition:
The release of a borrower's obligation to repay his or her loan, either in whole or in part

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Bankruptcy discharge

For certain borrowers who have filed a petition for relief under the U.S. Bankruptcy Code

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Types of bankruptcy

- Chapter 7: Asset—liquidation
- Chapter 7: No-asset—liquidation; no assets available
- Chapter 11: Business
- Chapter 12: Family farmer
- Chapter 13: Wage earner plan reorganization; repayment of some debts

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Discharge Process

- Borrower/comaker/endorser files bankruptcy petition
- Lender notifies guarantor and suspends collection
- Loan held by lender or guarantor during bankruptcy discharge process
- Determination made by guarantor after bankruptcy court ruling

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FAA situation

Can the FAA certify a new loan if a borrower has a previous bankruptcy in his/her history?

- Loan certification
 - May not refuse to certify loan if all other eligibility criteria are met
 - May not certify loan for lower amount due *solely* to borrower's bankruptcy filing

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FAA situation

Can the student receive a second or subsequent disbursement if borrower has filed bankruptcy?

- Notify lender and guarantor to cancel subsequent disbursements
- A new MPN may be required by lender
- Certify the new loan

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Closed school discharge

Provides relief for a borrower unable to complete his or her program of study due to the closing of a school

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Eligibility requirements

Borrower (or student) must have met one of following conditions:

- Been enrolled on day school closed
- Withdrawn from school not more than 90 days before school closed
- Been on approved leave of absence on days school closed

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Eligibility requirements

Borrower (or student) must not complete the same or comparable program:

- Through a teach-out program at another school
- By transferring academic credits or hours earned at closed school
- By benefiting from any other means from training provided by closed school

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Discharge process

- ED's Closed School Branch sends guarantors monthly notifications
- Application mailed to identified borrowers
- Completed application reviewed
- Determination made by guarantor

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FAA situation

Is a borrower eligible for a new loan after a prior closed school discharge?

- Yes, the FAA can certify a new loan
- Any discharged loans are deducted from borrower's aggregate, if applicable

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Death discharge

For a borrower (of a Stafford, PLUS, or Consolidation loan) who has died or for a PLUS borrower whose dependent student (for whom the loan was obtained) has died

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Dependents

If dependent student for whom parent obtained a PLUS loan dies:

- Parent's loan is discharged
- Portion of Consolidation loan attributable to parent PLUS loan is discharged

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Spousal consolidation

- If only one borrower dies, the underlying loans of the deceased are discharged
- Surviving spouse responsible for remaining balance

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Discharge process

- Acceptable documentation received
 - Original or certified copy of death certificate or (effective November 1, 2007) accurate and complete photocopy of original or certified copy
- Loan balance discharged
- Any payments made after date of death refunded to sender or estate

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FAA situation

What should the FAA do if he or she learns of a borrower's death?

- Cancel pending disbursements
- Contact lender or guarantor

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False certification discharge

Refers to a situation in which a school falsely certified the eligibility of a borrower to receive a federal education loan

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Three types of false certification by school

- Unauthorized signature
- Ability to benefit (ATB)
- Disqualifying status

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False certification – crime of identity theft

An individual may obtain a false certification loan discharge on a loan(s) disbursed on or after January 1, 1986, if the individual's eligibility to receive the loan was falsely certified as a result of a crime of identity theft.

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Eligibility requirements

- Did not sign the promissory note, or that any other means of identification used to obtain the loan were used without the authorization of the individual.
- Did not knowingly receive or benefit from the proceeds of the loan that had been made without the individual's authorization.
- Provides copy of a local, state, or federal court verdict or judgment that determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft by a perpetrator named in the verdict or judgment.

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Discharge process

- Guarantor or ED may initiate process
- Application mailed to borrower
- Completed application reviewed
- Determination made by guarantor

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FAA situation

What should FAA do if student complains about a possible false certification situation?

- Cancel pending disbursements
- Contact lender or guarantor

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Total and permanent disability discharge

For a borrower who is totally and permanently disabled (TPD)

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Eligibility requirements (non-veterans)

Definition:

The condition of an individual who is unable to work and earn money due to an injury or illness that is expected to continue indefinitely or result in death

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Consolidation loans

- Borrower must be certified TPD for all underlying loans to qualify for discharge of Consolidation loan
- Borrower must provide lender disbursement dates of underlying loans, if requested

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Spousal consolidation

- If only one borrower disabled, his or her underlying loans may be discharged
- Both borrowers responsible for remaining balance

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Discharge process

- Application mailed to borrower
- Physician certifies medical condition
- Completed application reviewed
- Preliminary determination made by lender and guarantor

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Discharge process

- Loan assigned to ED
- Borrower enters three-year conditional discharge period
- ED makes final determination
- Any payments made after date of physician's certification are refunded

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Total and permanent disability-veterans

Definition:
The U.S. Department of Veterans Affairs has determined the borrower to be unemployable due to a service-connected condition

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Discharge process

- Borrower obtains letter from U.S. Department of Veterans Affairs (VA) stating that the VA has determined the borrower to be unemployable due to a service-connected condition
- Borrower signs ED's Total and Permanent Disability Application
- Guarantor reviews documentation and forwards to ED
- Loans not assigned to ED
- No conditional discharge period

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FAA situation

Is borrower eligible for new loan during 3-year conditional discharge period (for non-VA discharges)?

- Tricky question; yes, borrower can obtain a new loan, but this will jeopardize borrower's discharge on prior loans
- FAA is advised to counsel borrower and contact guarantor for assistance

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Obtaining new loans

To receive new loan within three-year conditional period, borrower must:

- Initiate process to return conditionally discharged loans to repayment status
- Submit physician certification
- Acknowledge that new loan can't be discharged without determination
- Acknowledge that collection will resume on loans in conditional status

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FAA situation

Is student eligible for new loan after final TPD discharge?

- Yes, but borrower must:
 - Submit physician certification
 - Acknowledge new loan can't be discharged without determination
- Borrower not required to reaffirm previously discharged loan(s)
- Contact guarantor for assistance

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Unpaid refund discharge

- Discharge intended for borrower who was due a refund but school failed to provide one
- Discharge became effective July 1, 2000

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Eligibility requirements

- Borrower must not have attended the school, or must have withdrawn or been terminated
- Borrower must not have received refund to which he or she was entitled

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Discharge process

- Guarantor or ED may initiate process
- Application mailed to borrower
- Completed application reviewed
- Determination made by guarantor

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Types of forgiveness

- Child care provider loan forgiveness (No longer funded)
- Teacher loan forgiveness
- Public service loan forgiveness (Direct loan program only)

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Loan forgiveness

Definition:

The release of a borrower's obligation to repay his or her loan, either in whole or in part, due to fulfillment some type of service requirement

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Teacher loan forgiveness

- To encourage and retain persons in the teaching profession
- Maximum forgiveness up to \$5,000 or \$17,500 (for certain math, science, or special education teachers)

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General eligibility requirements

For all borrowers:

- "New borrower" on/after October 1, 1998
- Full-time teacher for five complete, consecutive years at a Title I school, a school operated by the Bureau of Indian Education (BIE) or operated on an Indian reservation by an Indian tribal group under contract with the BIE, or educational service agency (ESA)
- One of the years of qualifying service must be after 1997-98
- Teaching at an ESA may be counted toward the required five consecutive complete academic years only if the consecutive five-year period includes qualifying service at an eligible educational service agency performed after the 2007-2008 academic year.

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Eligibility requirements

If qualifying teaching service began before October 30, 2004:
Up to \$5,000 forgiveness if CAO certifies that borrower:

- Met general eligibility requirements
- Taught in a subject matter relevant to degree, or demonstrated knowledge and teaching skills in reading, writing, math, and other areas of the elementary curriculum

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Eligibility requirements

If qualifying teaching service began after October 30, 2004:

Up to \$5,000 forgiveness if CAO certifies that borrower:

- Met general eligibility requirements
- Met the definition of “highly qualified”

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Eligibility requirements

If qualifying teaching service began after October 30, 2004*:

Up to \$17,500 forgiveness if CAO certifies that borrower:

- Met general eligibility requirements
- Taught secondary math or science, or elementary or secondary special education
- Met the definition of “highly qualified”

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Eligibility requirements

- Definition of “highly qualified” comes from the No Child Left Behind Act of 2001

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Definition of “teacher”

Someone who provides:

- Direct classroom teaching or
- Classroom-type teaching in non-classroom setting
- Note: Special education teachers are included in definition of “teacher” for purpose of this program

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Definition of “educational service agency”

A regional public multi-service agency authorized by state statute to develop, manage, and provide services or programs to local educational agencies. An otherwise eligible borrower may qualify for forgiveness if the borrower has performed qualifying teaching service at one or more locations that are operated by an educational service agency, but are not a school, and that have been determined by the Department, in consultation with the state, to be eligible locations for this purpose.

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Break in teaching service

- A return to postsecondary education related to teaching service
- A condition covered under FMLA
- A call or order to active duty for more than 30 days as member of Armed Forces reserve

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Forgiveness process

- Application mailed to borrower
- Chief administrative officer (CAO) certifies teaching service
- Completed application reviewed
- Determination made by guarantor

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Public service loan forgiveness

- New program under the College Cost Reduction and Access Act (CCRAA)
- Provides for forgiveness of the balance (principal and interest) of Direct loans

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Public service loan forgiveness

To be eligible for forgiveness:

- Borrower has to have made 120 payments on the loan after October 1, 2007
- Loan must not be in default
- Borrower must be employed in a public service job
 - During the period in which each of the 120 payments were made
 - At the time forgiveness is applied

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Public service loan forgiveness

Could a FFELP borrower consolidate his or her loans into the Direct Loan Program in order to qualify under this forgiveness program?

- Yes, on or after July 1, 2008; however, the borrower will have to make 120 payments on that Consolidation loan before qualifying for forgiveness

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Resources

- www2.mapping-your-future.org/paying/loanForgiveness.htm
- www.finaid.org/loans/forgiveness.phtml
- <http://studentaid.ed.gov/PORTALSWebApp/students/english/PSF.jsp>
- *Common Manual* – Sections 13.8 and 13.9
- *Ask TG™* – www.tgslc.org

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Questions?

Call (800) 845-6267,
e-mail cust.assist@tgslc.org,
or visit *Ask TG™* at
tgslc.custhelp.com

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