

Cancellation (Discharge) in Detail

Traditionally, Stafford Loans have provided for cancellation in cases where the loan was discharged in bankruptcy, or the borrower died or became permanently disabled. More recently, provisions have been added to allow discharge of the loan for certain consumer issues, such as an unpaid refund or the closure of a school before the borrower completes the program (Higher Education Amendments of 1992). Most recently, the law authorizes cancellation for child care providers and teachers at low-income schools (Higher Education Amendments of 1998).

Because of the targeted nature of these cancellations, we suggest that these fact sheets only be distributed to students who need them. For most students, the basic list of cancellations and deferments provided in Chapter 1 should be sufficient. That list directs students and borrowers who have a particular interest in a cancellation to visit our Web site for more detailed information.

Another kind of cancellation is offered by the Department of Defense as an enlistment incentive—it may repay part of an FSA loan for an enlisted person in certain specialties in the U.S. Army, the Army Reserves, the Army National Guard, or the Air National Guard. This program is not a Stafford/PLUS cancellation provision and the borrower remains responsible for payments on a Stafford/PLUS loan in the event that the DOD payments are not forthcoming. For more information, a student should contact his or her local Army or Air National Guard recruiting office. This is a recruitment benefit and cannot be offered retroactively for prior service.

CANCELLATION PROVISIONS

Loan Forgiveness for Public Service

- low-income teacher service
- child care provider

Closed School & Other Consumer Cancellations

- closed school
- forgery
- loan approved when the student did not have “ability to benefit”
- unpaid refund

Bankruptcy Cancellation

Disability Cancellation

Cancellation for Death of the Borrower



Low-Income School Teacher Cancellation

(does not apply to PLUS)

Low-income school list:
<http://www.ed.gov/studentaid>

Loans eligible for cancellation

You may be able to cancel up to \$5,000 of your Stafford Loans if you are teaching in a low-income school and you are a “new borrower” — you got your first Stafford Loan on or after October 1, 1998. (Or you had no remaining balance on Stafford, PLUS, or Consolidation Loans made before October 1, 1998 when you took out a Stafford Loan after that date.)

If you’ve consolidated Stafford loans that were eligible for teacher cancellation, the amount of the Consolidation Loan that is represented by the eligible Stafford Loans is eligible for cancellation.

Qualifying teacher service (5 years)

To qualify, you must work as a full-time teacher for 5 consecutive years in an elementary or secondary school that has been designated as a “low-income” school for Perkins and Stafford Loan cancellation. At least one of your qualifying years of teaching must have been after the 1997-98 school year. Low-income schools are designated by the Department each year, and a list of these schools, by year, is posted on our Web site at www.ed.gov/studentaid

▲ *Your school does not have to be designated a low-income school in each of the 5 consecutive years.* If you are teaching at a school that is listed as a low-income school for at least one year (during your employment), your subsequent years of service at that school can be counted in the five consecutive years, even if the school is not designated as a low-income school in every subsequent year. For example, if you began teaching at a secondary school in the 1994-95 academic year, and it was designated as a low-income school in 1996-97, you may count your five consecutive years of service at that school starting with the 1996-97 academic year, even if the school is not designated as a low-income school in subsequent years.

▲ *Your five consecutive years won't necessarily be interrupted* if you were unable to teach a full year because of a family or medical leave condition,* because you went back to school (at least half-time) for reasons directly related to the performance of your teaching service, or because you were called or ordered to active duty status for more than 30 days as a member of a reserve component of the Armed Forces.**

If you completed at least one-half of the academic year *and* your employer considers you to have fulfilled your contract requirements for the academic year for the purposes of salary increases, tenure, and retirement, that academic year can be counted as one of your qualifying years of teaching service.

*A condition that is covered under the Family and Medical Leave Act of 1993 (FMLA) (19 U.S.C. 2654)

**A reserve component of the Armed Forces named in section 10101 of title 10, United States Code.

How to Apply

To apply, you must submit a loan forgiveness discharge form to the lender or servicer holding your loan. The chief administrative officer at your school must certify on this form that you have taught full-time for five consecutive years at that school, and —

▲ *If you're teaching in an elementary school*, that you have knowledge or teaching skills in reading, writing, mathematics, and other areas of the elementary curriculum.

▲ *If you're teaching in a secondary school*, that you are teaching in a subject area relevant to your academic major

You can get a forbearance for up to 60 days while you're getting the required information for your application, and during the time it takes for your application to be reviewed by the lender and guarantor. (The loan holder and guaranty agency must notify you within 135 days of the decision on your application and, if it is approved, provide new repayment terms based on any remaining loan balances.)

The lender may cancel up to \$5,000 of the aggregate loan amount that is outstanding after you've finished your fifth year of teaching. (The aggregate loan amount includes both principal and interest.) However, the lender cannot refund the payments you made before you completed the fifth year of teaching service. You may want to request forbearance from your lender for each of the years of your qualifying teaching service if the expected cancellation amount will satisfy the anticipated remaining outstanding balance on the loan at the time of the expected cancellation.

Unless you give your lender or servicer other instructions, your unsubsidized Stafford loan balance will be cancelled first, followed by any outstanding subsidized Stafford loan balances, and then any eligible outstanding consolidation loan balances. The lender may cancel only the outstanding portion of the consolidation loan that was used to repay subsidized or unsubsidized Stafford loans that qualified for loan forgiveness.

The Fine Print

- "Academic year" means one complete school year at the same school, or two complete and consecutive half years at different low-income schools, or two complete and consecutive half years from different school years at either the same school or different schools. Half years exclude summer sessions and generally fall within a twelve-month period. For schools that have a year-round program of instruction, nine months is considered an academic year.
- "Elementary school" and "secondary school" means a public or nonprofit private school that provides elementary education or secondary education as determined by state law (or by the Department if the school is not in a state).
- "Full-time employment as a teacher" is determined by the state's standard. For a borrower teaching in more than one school, the determination of full-time is based on the combination or all qualifying employment.
- "Teacher" means a person who provides direct classroom teaching or classroom-type teaching in a non-classroom setting, including Special Education teachers.

Exclusions:

- At least one of the five qualifying years of service must be later than the 1997-98 academic year.
- A borrower is not eligible for teacher loan forgiveness on a defaulted loan unless the borrower has made satisfactory repayment arrangements with the holder of the loan.
- A borrower may not receive loan forgiveness for qualifying teaching service under this section if the borrower receives Americorps benefits for the same teaching service (paid under subtitle D of Title 1 of the National and Community Service Act of 1990).



Closed School & Other Consumer Cancellations

When can my Stafford loan be cancelled because of problems involving my school?

If your school closed while you were enrolled ... The loan can be cancelled if you were enrolled when the school closed and couldn't complete the program because of the closure. If you were on an approved leave of absence you are considered to have been enrolled at the school. If your school closed within 90 days after you withdrew, you are also considered eligible for the discharge. However, your loan cannot be cancelled because of personal circumstances that caused you to withdraw more than 90 days before the school closed. If you need to find out the day when your school officially closed, you can visit our Closed School Search Page on the Web at www.ed.gov/studentaid

Your loan cannot be cancelled if you are completing a comparable educational program at another school. If you complete a comparable program of study at another school *after* your loan is cancelled, you may have to pay back the amount that was cancelled. If you haven't received a diploma or certificate but have completed all of the coursework for the program, you're not eligible for this cancellation.

If you didn't have the "ability to benefit" from the coursework ... The loan can be discharged if the school admitted you based on your ability to benefit from the training, but you weren't properly tested to measure that ability or failed the test. If you had a high school diploma or GED when you enrolled in the program, you are ineligible for this discharge because those documents are sufficient to establish your ability to benefit from further training after high school. *You may not be eligible for a discharge if you received a GED before you completed your program of study at the college or career school or you completed a developmental or remedial program at the school.*

You may also be eligible for this type of discharge if you did not meet the physical or legal requirements of your state to enroll in the program or work in the career for which you were training, regardless of whether you had a high school diploma or GED.

If your signature was forged on the loan documents ... If you believed that someone forged your signature on the loan application, promissory note, or authorization for electronic fund transfer, you must attach five different samples of your signature to your application for the loan discharge. At least two of the samples must be on documents that are clearly dated within a year before or after the date of the contested signature. *You may not be eligible if the loan was used to pay your school charges for the portion of the program of study you completed (whether the payment was by a credit to your account or by cash or check).*

If the school owes you a refund ... You may also qualify for partial discharge of an Stafford Loan if your school failed to pay a tuition refund required under federal law. Only the amount of the unpaid refund will be discharged. You may qualify for this refund whether the school is closed or opened.

Can my loan be discharged because I wasn't satisfied with the school's services?

Your loan cannot be discharged solely because you believe that the school :

- ▲ provided poor training or had unqualified instructors or inadequate equipment,
- ▲ did not provide job placement or other services that it promised, or
- ▲ engaged in fraudulent activities (other than falsely certifying the loan).

Also, a loan discharge cannot be granted because you attended an ineligible program of study offered by the school. There is no authority for the discharge of your loan based on any of these reasons. The State licensing and accrediting agencies for the school have the responsibility for the quality of educational services that the school provides. The U.S. Department of Education does not endorse the school's educational programs or guarantee that the school will deliver the services for which a student contracted.

How do I apply for a loan discharge?

If the holder of your loan learns that a school closed, that organization will send you a loan discharge application. If you haven't received the discharge application, you may request one by contacting the organization that holds your loan. Or you can get a copy of the loan discharge application on the Department's website at:

www.ed.gov/offices/OSFAP/DCS/cancel/home.html

If you're not sure who holds your loan, you can contact our Federal Student Aid Information Center to find out (call 1-800-4-FEDAID or send an e:mail to SFAmail@ncs.ed.gov).

Am I required to make payments on the loan while the discharge application is being reviewed?

If you submit an application that appears to make you eligible for a loan discharge, the holder of your loan may grant forbearance until a decision is made on your application. If a forbearance is granted, no one is permitted to collect on your loan until the holder of your note determines whether you are eligible for a loan discharge.

If the lender does not grant forbearance, you should continue to make payments on your loan to prevent the loan from going into default or accruing additional interest, unless you are granted a forbearance. When you received your loan, you signed an a legally-binding agreement to repay that loan. Failure to honor that agreement may result in enforcement action against you, including a lawsuit, garnishment of your wages, offset by the of your federal income tax refund, an adverse credit record, and loss of eligibility to receive financial aid to attend other schools.

Where can I find the law governing loan discharges?

Section 437(c) of the Higher Education Act of 1965, as amended, allows the discharge of loans made under the Federal Family Education Loan (FFEL) Program (formerly known as the Guaranteed Student Loans), including Stafford, PLUS, and Consolidation Loans. The comparable section in the U.S. Code is 20 U.S.C. 1087(c). Discharge relief is also available for Federal Perkins Loans, and the William D. Ford Federal Direct Loans, including Direct Stafford, PLUS, and Federal Consolidation Loans. Congress, in the 1998 Higher Education Amendments added a partial loan discharge for a loan obtained on or after January 1, 1986, if the school fails to pay a tuition refund required under applicable Federal law and regulation when a student withdraws from school. The regulations that implement the unpaid refund discharge took effect on July 1, 2000. Regulations implementing these discharge relief options are found in §682.402(d), (e), and (l) for FFEL loans and §685.213 and 214 for Direct Loans.

For other questions ...

If you have questions that aren't answered in this fact sheet, you may write to:

Closed School Unit /SFA/ED
P.O. Box 23800
L'Enfant Plaza Station
Washington, DC 20026



Cancellations For Bankruptcy Disability, and Death

more information on repayment
<http://www.ed.gov/studentaid>

Bankruptcy discharge

A Stafford or PLUS loan cannot be discharged in bankruptcy unless a bankruptcy court has determined that repayment of the loan would cause an undue hardship to the debtor and his or her dependents. (The length of time a loan has been in repayment is no longer a condition for a discharge.)

For Stafford/PLUS loans that are discharged in bankruptcy, the borrower no longer is required to reaffirm the loan as a condition of receiving further SFA funds.

Total & permanent disability discharge

If a Stafford borrower becomes totally and permanently disabled, the borrower's obligation to repay the loan will be canceled. To apply for cancellation on the basis of a disability, the borrower or the borrower's representative must submit an official form with a physician's certification. The physician must be a doctor of medicine or osteopathy who is legally authorized to practice in a state.

The physician must certify that the borrower is "totally and permanently disabled," as defined in the program regulations: unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. A borrower is *not* considered totally and permanently disabled based on a condition that existed when the borrower applied for the loan, unless the borrower's condition substantially deteriorated after the loan was made.

Conditional discharge period (for discharge applications received after July 1, 2002). If a borrower submits an application for disability discharge and the loan holder approves the application, the loan will be assigned to the Department's conditional discharge servicer for a period of 3 years. The loan will be permanently cancelled after 3 years if the borrower doesn't take out any new Perkins, Stafford, or PLUS loans and the borrower's earnings don't exceed the poverty line for a family of two (based on the Community Service Block Grant Act). Collection activity is suspended during the three-year conditional period. The borrower is required to notify the conditional discharge servicer (888-636-6401) if his/her earnings exceed the poverty level for a family of two. The Department will resume collection of the outstanding loan amount if this happens during the conditional period, or if the borrower takes out a new SFA loan during this period.

Effect of permanent discharge. When a loan is permanently cancelled for disability, no repayment will be sought from an endorser or the borrower's estate. However, if a couple has consolidated their student loans jointly, the total disability of one of the borrowers does not relieve the other of the repayment responsibility. If both borrowers have a condition (not necessarily the same one) under which they qualify for loan cancellation, the loan may be canceled.

Eligibility for new loans after discharge. A borrower whose loan debt was discharged due to total and permanent disability and who later applies for a Stafford Loan must—

- provide the school with a physician's certification that the borrower's condition has improved and the borrower is able to engage in "substantial gainful activity" such as working or attending school, and
- sign a statement acknowledging that the new loan cannot be canceled in the future based on present impairment (unless the borrower's condition substantially deteriorates).



Cancellation for Child Care Providers (Stafford only)

If you received a Stafford Loan after October 7, 1998 and are a child care provider, you may qualify to have a portion of the loan cancelled through a new demonstration program. This limited program is available on a first-come, first-served basis to “new” Stafford borrowers—which means borrowers who didn’t have a Stafford Loan prior to October 7, 1998 (or who no longer had an outstanding balance on a Stafford Loan on October 7, 1998 or when they took out a new Stafford Loan after October 7, 1998).

To qualify for cancellation, you must have been employed full-time as a child care provider for two consecutive years in a child care facility that serves a low-income community before the year for which you are seeking loan cancellation. You also must have an associate or bachelor’s degree in the field of early childhood education. If you have received Americorps benefits for the same child care service, you are not eligible for this program.

You’ll have a portion of your eligible Stafford Loans cancelled for each year that you qualify. The first cancellation amount (for two consecutive years of service) will be 20% of your total eligible Stafford Loans. For fiscal year 2001 (ending September 30, 2001), the first year of the program, all cancellations will be for two consecutive years of service. Preference will be given in subsequent years to borrowers who have previously qualified for cancellation. If you are selected in subsequent years, another 20% of your Stafford Loan debt will be cancelled after three years of service, and 30% will be cancelled in both the fourth and fifth years of service.

Cancellation applications will be reviewed by the Department. If the cancellation is approved, the Department will forward payment for the cancelled amount to the lender that holds your largest current outstanding unsubsidized loan. If you have no outstanding unsubsidized loan, the Department will send the payment to the lender who holds your largest outstanding subsidized loan. Further details will be announced later this year—check our Web site at www.ed.gov/studentaid for updates.

more information on repayment
<http://www.ed.gov/studentaid>