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Status of the Federal Perkins Loan Program: Frequently Asked Questions

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Summary

The Federal Perkins Loan program authorizes the allocation of federal funds to institutions of higher education to assist them in capitalizing revolving loan funds for the purpose of making low-interest loans to students with exceptional financial need. Institutions participating in the program are required to provide matching funds equal to one-third of the federal funds they receive. Authorization of appropriations for the Perkins Loan program is due to expire at the end of FY2015, and the future operation of the program is uncertain. This report answers several frequently asked questions regarding the current and future status of the Federal Perkins Loan program, including the following:

- Is the Perkins Loan program currently authorized?
- What is the funding status of the Perkins Loan program?
- Without new appropriations, how does the program continue to function?
- What happens if authorization of appropriations for the Perkins Loan program expires?
- What would be the cost to the federal government if authorization for the Perkins Loan program is extended?

The Federal Perkins Loan program is one of three federal student aid programs authorized by the Higher Education Act, which are collectively known as the campus-based programs. The Federal Work-Study program and the Federal Supplemental Educational Opportunity Grant program are the two other campus-based programs. For an overview of each of the campus-based programs, see CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by (name redacted) and (name redacted).

Contents

Introduction.....	1
Is the Perkins Loan program currently authorized?.....	2
What is the funding status of the Perkins Loan program?	2
Without new appropriations, how does the program continue to function?	3
Disbursement of New Perkins Loans	3
Perkins Loan Cancellation	3
What happens if authorization of appropriations for the Perkins Loan program expires?	3
Would students be able to continue to borrow from institutional Perkins Loan funds?	4
What would happen to currently outstanding Perkins Loans?	4
Would institutions be required to return capital from their Perkins Loan funds to the federal government?	5
What would be the cost to the federal government if authorization of appropriations for the Perkins Loan program is extended?.....	6

Contacts

Author Contact Information.....	6
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Introduction

The Federal Perkins Loan program is one of three postsecondary student financial aid programs that are collectively referred to as the campus-based programs.¹ The Perkins Loan program authorizes the allocation of federal funds to institutions of higher education (IHEs) to assist them in capitalizing revolving loan funds for the purpose of making low-interest loans to students with exceptional financial need. The program is authorized under Title IV, Part E of the Higher Education Act (HEA).² It supersedes Title II—Loans to Students in Institutions of Higher Education—of the National Defense Education Act of 1958 (P.L. 85-864), which was incorporated into the HEA through the Education Amendments of 1972 (P.L. 92-318). Previously, these loans were known as National Defense Student Loans and National Direct Student Loans.

Institutions capitalize revolving loan funds created under the program with a combination of federal and institutional capital contributions (FCCs and ICCs, respectively). Each institution's ICC must equal one-third of the FCC received. The FCC is allocated according to statutorily prescribed procedures. After making loans, IHEs recapitalize their loan funds by depositing the principal and interest repaid by students who borrowed under the program, as well as any other charges or earnings associated with the operation of the program.

Perkins Loans are available to undergraduate and graduate and professional students. They must be made reasonably available to all eligible students,³ with priority given to students with exceptional financial need. Interest on Perkins Loans is fixed at a rate of 5% per year, and no interest accrues prior to a student beginning repayment, nor while repayment is suspended during deferment.

Individuals who have engaged in a variety of public service endeavors (e.g., full-time elementary or secondary school teachers employed at a public or private nonprofit school in which low-income students are more than 30% of total enrollment, full-time law enforcement officers) are eligible to have part or all of their Perkins Loan cancelled.⁴ The Secretary of Education (the Secretary) is required to reimburse IHEs for Perkins Loans cancelled for students engaged in public service. Funds for reimbursing institutions for loan cancellations may not come from appropriations designated for FCCs; rather, these funds are appropriated under a separate authorization.

In academic year 2013-2014, approximately 1,500 IHEs disbursed \$1.2 billion in new Perkins Loans to approximately 539,000 students.⁵

¹ The other two programs are the Federal Supplemental Educational Opportunity Grant (FSEOG) program and the Federal Work-Study (FWS) program. For additional information on the campus-based programs, see CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*, by (name redacted) and (name redacted).

² HEA §461 et seq. (20 U.S.C. §1087aa et seq).

³ For instance, institutional award policies for Perkins Loans cannot be used to exclude certain students or groups from consideration.

⁴ For additional details on the loan cancellation provisions of the Perkins Loan program, see CRS Report R43571, *Federal Student Loan Forgiveness and Loan Repayment Programs*, coordinated by (name redacted).

⁵ U.S. Department of Education, Federal Student Aid, *Title IV Program Volume Reports*, Campus-Based Volume, AY2013-2014, <https://studentaid.ed.gov/about/data-center/student/title-iv>.

Is the Perkins Loan program currently authorized?

The authorization of appropriations under HEA Section 461(b)(1), for the purpose of enabling the Secretary to make FCCs to IHEs for their revolving Perkins Loan funds, expired at the end of FY2014. However, Section 422 of the General Education Provisions Act (GEPA)⁶ provides that, generally, in the absence of legislation to extend or repeal a program administered by the Department of Education (ED), the authorization of appropriations, or the duration of a program, is extended for one additional fiscal year beyond its terminal year. The authorized level of appropriations for a program in the additional year shall be the same as that for the terminal year of the program. Thus, because Congress did not extend or repeal the Perkins Loan program prior to its expiration on September 30, 2014, the authorization of appropriations for the program was automatically extended for an additional year, through FY2015.

ED considers the authorization of appropriations under HEA Section 461(b)(1) to control the duration of the Perkins Loan program⁷ and has interpreted this section, along with the automatic one-year extension under GEPA Section 422, to mean that the Perkins Loan program is authorized through September 30, 2015.⁸

What is the funding status of the Perkins Loan program?

HEA Section 461(b)(1) authorizes discretionary appropriations to enable the Secretary to make FCCs to student loan funds established and operated at individual IHEs. Under this section \$300 million in appropriations are authorized annually for FY2009 through FY2014, and through FY2015 under GEPA Section 422. However, discretionary appropriations for FCCs were last provided in FY2004.⁹

Along with the regular authorization of appropriations, HEA Section 465(b) states that the Secretary “shall pay to each institution ... an amount equal to the amount of loans from its student loan fund which are cancelled” for employment in specified public service jobs. Although there is no explicit authorization of appropriations language, in the past Congress has appropriated funds specifically for reimbursing IHEs for Perkins Loans cancellation. Funds for the reimbursement of Perkins Loans cancellations were last appropriated in FY2009.¹⁰

⁶ GEPA contains a broad array of statutory provisions that are applicable to the majority of federal education programs administered by the Department of Education. 20 U.S.C. §1221 et seq. For additional information on GEPA, see CRS Report R41119, *General Education Provisions Act (GEPA): Overview and Issues*, by (name redacted) and (name redacted).

⁷ This report does not address the legal merits of ED’s interpretation.

⁸ U.S. Department of Education, Office of Postsecondary Education, “Status of the Perkins Loan Program,” Dear Colleague Letter, GEN-11-02, February 17, 2011, at <http://www.ifap.ed.gov/dpcletters/GEN1102.html>. See also, Office of Management and Budget, *Analytic Perspectives, Budget of the United States Government, Fiscal Year 2016*, p. 309.

⁹ In FY2006, \$4.7 million was provided for FCCs under a mandatory reappropriation in expired FY2005 funds pursuant to the National Disaster Student Aid Fairness Act (P.L. 109-86).

¹⁰ Although the statutory language uses the word “shall,” which would appear to authorize mandatory appropriations, reimbursement for Perkins Loan cancellations is classified as discretionary. At the time the reimbursement provisions were added to the HEA, the federal government did not use a system of classifying appropriations as mandatory or (continued...)

Without new appropriations, how does the program continue to function?

Disbursement of New Perkins Loans

Although funds to make new FCCs to the Perkins Loan program have not been appropriated in several years, IHEs continue to extend new Perkins Loans to borrowers. Because Perkins Loan funds are revolving and, thus, institutions recapitalize their loan funds by depositing the principal and interest repaid by students who borrowed under the program, most participating IHEs still have the ability to extend new Perkins Loans and many continue to do so. Additionally, IHEs may transfer up to 25% of their federal allotments under the Federal Work-Study program to their Federal Perkins Loan fund. This transfer of funds may also enable some IHEs to continue extending new loans to students, despite not receiving new FCCs under the Perkins Loan program.

Perkins Loan Cancellation

Perkins Loan cancellation is considered an entitlement to those individuals who complete the service requirements. Thus, IHEs must cancel those individuals' loan balances. However, because borrowers are relieved of the requirement to repay their Perkins Loans upon completion of their service requirements, the principal and interest that would have been repaid by such borrowers are not deposited into institutions' revolving student loan funds—and because IHEs are not receiving a reimbursement for that lost stream of capital, the revolving loan fund may have less money to extend new Perkins Loans to students.

Although IHEs have not been reimbursed for Perkins Loans cancellations in several years, ED annually calculates the reimbursement payments a school would be eligible to receive and maintains a record of those amounts.¹¹ It is unknown whether IHEs will be reimbursed for costs associated with loan cancellations in the future.

What happens if authorization of appropriations for the Perkins Loan program expires?

As described above, the statutory authority under the HEA to appropriate funds for the Perkins Loan program expired on September 30, 2014, and has been automatically extended through FY2015 under GEPA Section 422, and ED has interpreted this language to control the overall duration of the program. Absent congressional action prior to October 1, 2015, authorization of appropriations for the Perkins Loan program will expire.

(...continued)

discretionary, and reimbursements for Perkins Loan cancellations were not considered entitlements to institutions. Thus, appropriations for this provision were, and continue to be, classified as discretionary funds for budgetary purposes. Source: Conversation with Congressional Budget Office, February 3, 2015.

¹¹ See U.S. Department of Education, Office of Postsecondary Education, "2012-2013 Federal Perkins Loan Service Cancellation Reimbursement," electronic announcement, May 13, 2014, at <http://ifap.ed.gov/eannouncements/051314FederalPerkinsLoanServiceCancellationReimbursement20122013.html>.

Would students be able to continue to borrow from institutional Perkins Loan funds?

Recently, ED issued guidance describing the steps IHEs participating in the Perkins Loan programs should take if Congress does not enact legislation extending or repealing authorization of the program before the end of FY2015.¹² Specifically, IHEs may not extend Federal Perkins Loans to new borrowers after September 30, 2015. However, if prior to October 1, 2015, an IHE makes a first disbursement of a Perkins Loan to a student for the 2015-2016 award year, then the IHE may make remaining disbursements on that loan after September 30, 2015.¹³

Also, HEA Section 461(b)(2) includes a grandfathering provision that authorizes additional appropriations to enable IHEs to make Federal Perkins Loans to students who received Perkins Loans for academic years ending prior to October 1, 2015. These students may receive Perkins Loans for up to five additional years (through September 30, 2020)¹⁴ to assist them in continuing or completing their courses of study.¹⁵

What would happen to currently outstanding Perkins Loans?

Borrowers with currently outstanding Perkins Loans would remain responsible for making payments on the balance of those loans. Additionally, because cancellation benefits are considered entitlements to the borrower, written into the terms of the loan agreement, they would remain eligible for cancellation benefits upon completion of service requirements.

ED has not yet issued guidance to IHEs regarding how they should treat outstanding Perkins Loans should the program's authorization of appropriations not be extended. However, when IHEs end their participation in the Perkins Loan program, they are required to assign any outstanding loans to ED for collection.¹⁶ This process results in ED becoming the holder of the loans and collecting on balances owed by borrowers. It is possible similar procedures would be used in the event the Perkins Loan program ceases to operate beyond FY2015.

¹² U.S. Department of Education, Office of Postsecondary Education, "Wind-down of the Federal Perkins Loan Program," Dear Colleague Letter, GEN-15-03, January 30, 2015, at <http://ifap.ed.gov/dpclatters/GEN1503.html>.

¹³ IHEs typically make multiple disbursements of a federal student loan over the course of an entire academic year. For instance, an undergraduate student who is eligible for and accepts a \$5,500 Perkins Loan and who attends an IHE that uses semesters to measure academic terms would receive a \$2,750 Perkins Loan disbursement in the first semester and a \$2,750 in the second semester of the academic year.

¹⁴ Presumably, the automatic one-year extension under §422 of GEPA would also apply to this authorization, such that, should Congress fail to extend or repeal the provision before the end of FY2020, an additional year's worth of appropriations would be authorized and enable IHEs to extend Perkins Loans under the grandfathering provision through FY2021.

¹⁵ This is a narrow grandfathering provision under which a school may make a new Perkins Loan to a student after September 30, 2015, if all of the following conditions are met: (1) the school made at least one Perkins Loan disbursement to the student on or before June 30, 2015; (2) the student is enrolled at the same IHE where the last Perkins Loan disbursement was received; (3) the student is enrolled in the same academic program for which he or she received the last Perkins Loan disbursement; and (4) the student has been awarded all Direct Subsidized Loan aid for which he or she is eligible and still has unmet financial need.

¹⁶ 34 C.F.R. §674.17.

Would institutions be required to return capital from their Perkins Loan funds to the federal government?

HEA Section 466(a) provides that, beginning September 30, 2003, and no later than March 31, 2004, there was to be a capital distribution of the balance of each IHE's Perkins Loan fund (i.e., a distribution of assets). Under this provision, each participating IHE was to pay the Secretary an amount of the fund proportional to the FCCs paid by the Secretary and IHEs would have retained the remaining balance. Similarly, HEA Section 466(b) provides that after October 1, 2012, each participating IHE was to pay the Secretary the same proportion of any borrower payments in principal and interest on student loans made under the program (this is known as a distribution of late collections), with the IHE retaining any remaining balance.¹⁷

Although the HEA required the start of the distribution of assets and late collections by October 1, 2012, at the latest, ED determined that Section 461 of the HEA, which authorized appropriations for the Perkins Loan programs through FY2014, and Section 422 of GEPA, which authorizes an automatic one-year extension of appropriations through FY2015, supersede the October 1, 2012, distribution provisions. Thus, under ED's interpretation, IHEs need not begin a distribution of Perkins Loan assets and late collections until the end of FY2015.¹⁸

Presumably, if a distribution occurs, IHEs would be required to liquidate and close out their Perkins Loan portfolios following procedures similar to those IHEs are required to follow when they end their participation in the program.¹⁹ However, in recent guidance to IHEs regarding future disbursements of Perkins Loans to borrowers, ED stated it intends to provide information on additional wind-down procedures, including the disposition of IHEs' Perkins Loan portfolios.²⁰ This information has not yet been released.

¹⁷ A distribution of assets provision has been a part of the Perkins Loan program since its inception and the date on which the distribution was to occur has been amended numerous times. The National Defense Education Act (P.L. 85-364) established the Perkins Loan Program (then known as the National Defense Student Loan program) in 1958. It was originally intended to be a temporary program under which the federal government would provide assistance to IHEs to make low-interest loans to students beginning in FY1958 and to terminate at the end of FY1966 with a distribution of assets of the student loan fund. After FY1966, the program was to be self-sustaining (i.e., the funds from loan repayments would be adequate, without additional FCCs, to provide sufficient dollars for future loans). However, the number of IHEs participating in the program and the number of students receiving the loans increased faster than anticipated such that IHEs were unable to build up sufficient loan funds. It is believed that, at least in part due to this situation, federal appropriations for Perkins Loan FCCs were continually reauthorized for some time, despite the existing distribution of assets provisions. See archived CRS Report 90-272, *The Perkins Loan Program: background and issues for reauthorization*, by Kenneth Redd (available upon request).

¹⁸ U.S. Department of Education, Office of Postsecondary Education, "Status of the Perkins Loan Program," Dear Colleague Letter, GEN-11-02, February 17, 2011, at <http://www.ifap.ed.gov/dpccletters/GEN1102.html>.

¹⁹ For details on the Federal Perkins Loan program liquidation and closeout procedures, see U.S. Department of Education, *Federal Perkins Loan Liquidation and Closeout Procedures*, October 24, 2014, <http://ifap.ed.gov/cbpmaterials/attachments/FederalPerkinsLoanLiquidationProcedures.pdf>.

²⁰ U.S. Department of Education, Office of Postsecondary Education, "Wind-down of the Federal Perkins Loan Program," Dear Colleague Letter, GEN-15-03, January 30, 2015, at <http://ifap.ed.gov/dpccletters/GEN1503.html>.

What would be the cost to the federal government if authorization of appropriations for the Perkins Loan program is extended?

It is not yet clear what the cost would be to the federal government if authorization of appropriations for the Perkins Loan program is extended. Based on the Section 466 distribution of assets and late collections provisions, it could be argued that the federal government is expecting federal funds to be returned to it. If so, then continuing the program could postpone the return of these funds and thereby create a cost to the government, as it would be “losing” an expected stream of revenue. However, the Congressional Budget Office has indicated it has not yet determined how to calculate cost estimates in this novel situation.²¹

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²¹ Conversation with Congressional Budget Office, February 3, 2015.

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