

# **Analysis of the Higher Education Reconciliation Act of 2005 (S. 1932) (Title VIII of the Deficit Reduction Act of 2005)**

The Higher Education Reconciliation Act of 2005, which is Title VIII of the Deficit Reduction Act of 2005, was enacted into law February 8, 2006.

## **IMPORTANT NOTES ABOUT THIS DOCUMENT:**

- This summary lists only changes affecting **schools**.
- Unless otherwise noted in the document, the effective date of these provisions is July 1, 2006.
- Trigger events clarify effective dates. For example, a provision that is effective for “loan periods certified on or after July 1, 2006” has a trigger event of “loan periods certified on or after”. Congress rarely provides trigger events, but there are some included in S. 1932. These are noted in the column titled “Effective Date and Trigger Event.”

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Ref #	Topic	HEA & HERA Section	Summary of Change	Effective Date & Trigger Event	Comments
1	Modification of 50/50 Rule	HEA 102(a)(3) HERA 8002	Excludes courses offered by telecommunications from the 50 percent limitation on courses by correspondence which affects the institution's eligibility for Title IV participation.		Could make some schools that were not previously eligible for the FFELP program eligible.
2	Cost of Attendance	HEA 472 HERA 8016	<p>Adds to cost of attendance for half-time students room and board costs limited to 3 semesters, not more than 2 of which can be consecutive.</p> <p>Also adds to cost of attendance, at the option of and determined by the school, for a student in a program requiring professional licensure or certification, the one-time cost of obtaining the first professional credentials.</p>		
3	Correspondence Courses	HEA New Paragraphs 481(b)(3) and (4); 484(1)(1)(A) and (B) HERA 8020(b) 8020(c)	<p>Student eligibility for Title IV aid is revised, specifically with regard to a student's enrollment in courses offered via telecommunication. The law currently places limitations on such courses, requiring that they (among other things) be part of a program of study that is at least one year in length. This limitation is eliminated.</p> <p>Eliminates the provision that categorizes courses offered via telecommunications as correspondence courses if the total amount of telecommunications and correspondence courses at the school equals or exceeds 50% of the total amount of all courses at the school. Under current law, students enrolled in telecommunication courses at such schools would be ineligible for aid. Under this provision, these students would be eligible for aid, as long as they are in recognized certificate programs or recognized associate, bachelor's or graduate degree programs.</p>		Could make some schools that were not previously eligible for the FFELP program eligible.

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			<p>The provision also collapses the general requirement for schools under this section into a single exception, i.e., schools that fall under a particular section of the Carl D. Perkins Vocational and Technical Education Act of 1998 are exempted from these provisions such that students attending such schools are not subject to the limitation of this subsection.</p>		
4	Definition of Academic Year	<p>HEA 481(a)(2)  HERA 8020(a)</p>	<p>Clarifies that the definition of academic year for a course of study that measures its program length in credit hours must contain a minimum of 30 weeks of instructional time, and an academic year for a course of study that measures its program length in clock hours must contain a minimum of 26 weeks of instructional time.</p> <p>Also expands the definition of “eligible program” to include a program that is offered in whole or in part through telecommunications for institutions (other than foreign institutions) that have been evaluated and determined (before or after the date of enactment of the Higher Education Reconciliation Act of 2005) to have the capability to effectively deliver distance education programs by an accrediting agency or association that is recognized by the Secretary and has evaluation of distance education programs within the scope of its recognition.</p> <p>Also, allows a program that utilizes direct assessment of student learning, in lieu of credit or clock hours as a measure of student learning, to be an eligible program if the direct assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment. This provision also states that the Secretary will determine a</p>		

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			program's eligibility if such a program is being evaluated for the first time.		
5	School as Lender	HEA 435(d)(2)  HERA 8011	<p>Clarifies that a school can only make subsidized and unsubsidized Stafford loans to graduate or professional students enrolled at the school. Previously, a school could make PLUS loans or loans to undergraduates under very limited circumstances.</p> <p>Deletes provisions that allow schools to lend to up to 50% of their undergraduates if another lender turns the student down for a loan.</p> <p>Requires school to offer loans that have interest rates and/or origination fees lower than what is permitted in Title IV. Currently, this is not regulated.</p> <p>Also requires the cohort default rate of the school to be no more than 10%. Currently, schools are required to have a cohort default rate of less than 15%.</p> <p>Stipulates that the school must award any financing, servicing, or administration contract on a competitive basis.</p> <p>Requires the school to do an annual compliance review of the portfolio and to provide the audit report to ED.</p> <p>Clarifies that all earnings – including the proceeds from special allowance payments, interest payments and any proceeds from the sale or other disposition of loans – except for reasonable reimbursement of direct administrative expenses, must be used for need-based grant programs. Also clarifies that the earnings are to be used to supplement – not</p>	DCL GEN-06-02: School met the eligibility criteria as of 2/7/06 and made loans on or before 4/1/06, and for schools who qualify the statute is effective 7/1/06 for all SALs.	

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			<p>supplant – non-federal funds that would be used for need-based grants.</p> <p>To be an eligible lender under this part, the lender must have met the requirements of 435(d)(2)(A) – (F) that were in effect prior to the date of enactment of the Higher Education Reconciliation Act of 2005 (i.e., February 8, 2006), and must have made loans under this part on or before April 1, 2006.</p>		
6	Disbursement Rules	HEA 428G(a)(3) HERA 8010(1)	Reinstates the provision, previously in law, for low-cohort default rate schools (less than 10% for the three most recent fiscal years) that allows for the disbursement of any loan funds in a single installment for a single period of enrollment that is not longer than one semester, one trimester, one quarter, or a period of four months. This provision was previously in law and allowed to expire on September 30, 2002.	DCL GEN-06-02: Any disbursements scheduled by the school to be made on or after 2/8/06.	
7	Disbursement Rules	HEA 428G(b)(1) HERA 8010(2)	Reinstates the provision, previously in law, for low-cohort default rate schools (less than 10% for the three most recent fiscal years) to waive the 30-day delayed delivery of any loan funds to first-time borrowers who are first-year students.	DCL GEN-06-02: Disbursements scheduled by the school to be made on or after 2/8/06.	
8	Disbursement Rules	HEA 428G(e) HERA 8010(3)	Loans to students attending foreign schools are no longer exempt from the disbursement requirements of this section (i.e., multiple disbursement and delayed delivery). If a foreign school is to qualify for the waivers, it must meet the low-cohort default rate requirements applicable to non-foreign schools.	DCL GEN-06-02: Loans with a loan period beginning on or after 7/1/06.	
9	Disbursements to Foreign Schools and to Students Studying Abroad	HEA 428(b)(1)(N) HERA 8008(a)	<p>Revises the provisions dealing with disbursements to students enrolled in study abroad programs and foreign schools.</p> <p>Disbursements to a student in a study abroad program may still be, at the student's request, disbursed by check or other means directly to</p>	DCL GEN-06-02: Loans with a first disbursement made on or after 7/1/06.	

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			<p>the student, but the student’s enrollment must now be verified by the lender or guarantor prior to such disbursement.</p> <p>Adds that disbursements to a student in a program of study at an eligible foreign institution may be, at the request of the foreign institution, disbursed by check or other means directly to the student only after the student’s enrollment is verified by the lender or guarantor. Current HEA provisions permit a student attending a foreign school to request direct disbursement. However, the change eliminates the student’s ability to make such requests in the future.</p>		
10	Institutional Refunds	HEA 484B(a)(4) (A)  HERA 8022(4)	Amends language requiring the institution to contact the borrower in cases where the borrower is eligible for a late disbursement or post-withdrawal disbursement to confirm whether the loan funds are still needed. In making such contact, the institution must explain the borrower’s obligation to repay the funds following such disbursement. The institution must also document in the borrower’s file the decision of the borrower and final determination concerning the disbursement.		
11	Institutional Refunds	HEA 484(b)(1)  HERA 8022(5)	Requires an institution to return Title IV program funds not earned by the student not later than 45 days from the determination of withdrawal.		Although HEA does not currently specify a timeframe during which the school must return Title IV funds, federal regulations (668.22) stipulate that a school must return Title IV program funds not earned by the student no later than 30 days after the school's determination that the student withdrew. Therefore, this change provides schools with an additional 15 days (beyond the 30 days currently stipulated in regulations) to return funds to Title IV programs under the afore-mentioned circumstance.

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12	Institutional Refunds	HEA 484B(b)(2) (C)  HERA 8022(6)	Clarifies that for grant overpayments, a student is only required to return the amount that exceeds 50% of the total grant assistance received by the student when the amount is greater than \$50. Under current federal regulations, the student is not required to return an amount that is \$25 or less.		
13	Institutional Refunds	HEA 484B(a) & 484B(d)  HERA 8022(2), (7), & (8)	<p>Subsection (a)(3)(B)(ii) now refers to subsection (d) in determining whether a student has completed 60% of the payment period or period of enrollment, and has, therefore, earned 100% of the grant or loan assistance received.</p> <p>The language in subsection (d) is amended to state that for a program measured in clock hours, the percentage of the payment period or period of enrollment completed is equal to the total number of clock hours divided by the number of clock hours scheduled to be completed by the student in that period as of the day the student withdrew. The formula used for programs measured in credit hours did not change.</p>		