

Public Service Loan Forgiveness

The College Cost Reduction and Access Act of 2007 established a new public service loan forgiveness program. This program discharges any remaining debt after 10 years of full-time employment in public service. The borrower must have made 120 payments as part of the Direct Loan program in order to obtain this benefit. Only payments made on or after October 1, 2007 count toward the required 120 monthly payments. (Borrowers may consolidate into Direct Lending in order to qualify for this loan forgiveness program starting July 1, 2008.) This contrasts with the loan forgiveness of the remaining balance after 25 years of repayment under the income-contingent and income-based repayment plans for borrowers who are not employed full time in public service jobs.

Eligibility

The public service loan forgiveness program has several restrictions:

- **Term:** The forgiveness occurs after 120 monthly payments made on or after October 1, 2007 on an eligible Federal Direct Loan. Periods of deferment and forbearance are not counted toward the 120 payments. Payments made before October 1, 2007 do not count. Likewise, **only payments on a Federal Direct Loan** are counted.
- **What is forgiven?** The **remaining interest** and **principal** are forgiven.
- **Employment:** The borrower must be employed full-time in a public service job for each of the 120 monthly payments. Public service jobs include, among other positions, emergency management, **government** (excluding time served as a member of Congress), **military service**, public safety and law enforcement (police and fire), public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations), public education, early childhood education (including licensed or regulated childcare, Head Start, and State-funded prekindergarten), social work in a public child or family service agency, public services for individuals with disabilities or the elderly, public interest legal services (including prosecutors, public defenders and legal advocacy on behalf of low-income communities at a nonprofit organization), public librarians, school librarians and other school-based services, and employees of tax exempt 501(c)(3) organizations. Full-time faculty at tribal colleges and universities, as well as faculty teaching in high-need subject areas and shortage areas (including nurse faculty, foreign language faculty, and part-time faculty at community colleges), also qualify.
- **Eligible Loans:** Eligible loans include Federal Direct Stafford Loans (Subsidized and Unsubsidized), Federal Direct PLUS Loans, and Federal Direct Consolidation Loans. Borrowers in the Direct Loan program do not need to consolidate in order to qualify for loan forgiveness. Borrowers in the FFEL program will need to consolidate into Direct Loans.

(Beginning on July 1, 2008, FFEL borrowers may obtain a Federal Direct Consolidation Loan in order to qualify for public service loan forgiveness even if they had previously consolidated in the FFEL program. Such borrowers will be restricted to the income-based repayment, income-contingent repayment and standard repayment plans. Before July 1, 2008, FFEL borrowers who have not yet consolidated may obtain a Federal Direct Consolidation Loan in order to obtain income contingent repayment by stating that they are unable to obtain income sensitive repayment terms acceptable to the borrower. Before July 1, 2008, FFEL borrowers who have already consolidated in the FFEL program are only able to obtain a Federal Direct Consolidation Loan with income-contingent repayment terms if their loans have been selected by a guarantee agency for default aversion. Note that borrowers who took advantage of the early repayment status loophole have already consolidated their loans and so are subject to the more stringent requirements for a subsequent consolidation into the Direct Loan program.)

Although Perkins Loans are not eligible for public service loan forgiveness, if they are included in a Federal Direct Consolidation Loan the entire consolidation loan, including the Perkins Loans, is eligible for public service loan forgiveness. One may use income-based repayment and income-contingent repayment on such a consolidation loan.

Perkins loan borrowers will need to consider the tradeoffs of including the Perkins loans in a federal direct consolidation loan. When Perkins loans are consolidated, they lose several favorable benefits, such as subsidized interest, a 9 month grace period, and a generous loan forgiveness program.

Although Parent PLUS loans are nominally eligible for forgiveness, since the definition of Eligible Federal Direct Loan in section 455(m)(3)(A) of the Higher Education Act does not preclude Parent PLUS, such loans are not eligible for income-based repayment (section 493C(a)(1)) or income-contingent repayment (section 455(d)(1)(D)), so there will be no financial benefit to seeking forgiveness for such loans. However, if a Parent PLUS loan is included in a Federal Direct Consolidation Loan, it will be eligible for income-contingent repayment (but not income-based repayment), making it possible to obtain forgiveness. (However, income contingent repayment is not available for Federal Direct Consolidation Loans that include PLUS loans for borrowers who entered repayment before July 1, 2006, per 34 CFR 685.208(a)(1)(ii). Income contingent repayment is available for Federal Direct Consolidation Loans that include PLUS loans for borrowers who entered repayment on or after July 1, 2006, per 34 CFR 685.208(a)(2)(iii).)

Grad PLUS loans are eligible for forgiveness. However, the language in section 455(d)(1)(D) of the Higher Education Act of 1965 precludes the use of income-contingent repayment for PLUS loans. This is fixed by section 493C(b)(3), which amends the exclusion to apply to just Parent PLUS loans. But that amendment is effective July 1, 2009. So until July 1, 2009, income-contingent repayment cannot be used for Grad PLUS loans. On or after July 1, 2009, one can use income-contingent repayment for Grad PLUS loans. (Income-based repayment also becomes available for all direct loans except Parent PLUS and Perkins Loans on July 1, 2009.) However, as with Parent PLUS loans, Grad PLUS loans can become eligible for income-contingent repayment provided that they are included in a Federal Direct Consolidation Loan and the borrower did not enter repayment before July 1, 2006. Consolidation loans that include a Grad PLUS loan are also eligible for income-based repayment starting July 1, 2009.

Note that borrowers who took advantage of the early repayment status loophole to consolidate their loans during the in-school period technically entered repayment before July 1, 2006.

- **Eligible Repayment Plans:** Borrowers may use [income-based repayment](#), [income contingent repayment](#), standard repayment or a combination of these repayment plans. Payments made under other repayment plans (e.g., extended repayment and graduated repayment) do not count. To maximize the amount of forgiveness, borrowers should use income-based repayment. When income-based repayment is not available (e.g., prior to July 1, 2009), they should use income-contingent repayment.

If a borrower were to use only standard repayment for repaying their loans there would be no balance remaining after 10 years and so no debt to cancel. Standard repayment is only provided as an option to address situations when a borrower is unable to continue under income-based repayment because they no longer have a partial financial hardship and the payments under income-contingent repayment exceed standard repayment. In such a situation the borrower would use standard repayment for the remaining payments and obtain some loan forgiveness at the end of the ten years of payments.

- **Taxability:** Public service loan forgiveness is not taxable under section 108(f) of the Internal Revenue Code. See [Taxability of Student Loan Forgiveness](#) for additional details.

Bottom Line Advice

Although the details may seem complicated, the advice for taking advantage of this program is more straightforward.

- Borrowers who will be employed in public service jobs and who have loans under the FFEL program should obtain a Federal Direct Consolidation Loan as soon as possible. (Before July 1, 2008, they will need to consolidate into direct loans by stating that they were unable to obtain acceptable income-sensitive repayment terms. On or after July 1, 2008, they will be able to consolidate into direct loans to obtain public service loan forgiveness.)
- Parent PLUS borrowers who entered repayment on or after July 1, 2006 will need to consolidate their PLUS loans even if they are already in the Direct Loan program.
- Borrowers should start off with income-contingent repayment, if they can. They should switch to income-based repayment as soon as it becomes available on July 1, 2009, if they can. (Consolidation loans that include Parent PLUS loans are not eligible for income-based repayment.)

Caveats

The public service loan forgiveness program is targeted at students who pursue public service careers and who have high debt and low income. Borrowers with low debt or high income will not benefit as much.

As a back-end loan forgiveness program, the public service loan forgiveness is an all-or-nothing benefit. If a borrower stops working full-time in a public service job, even with just a few of the 120 payments left, they get no forgiveness.

The public service loan forgiveness option's main impact is to remove debt as a disincentive to pursuing a career in public service. Most borrowers will still earn less in a public service job than in the private sector, despite the forgiveness. But previously borrowers were precluded from long-term employment in public service jobs because the debt-to-income ratios were unaffordable.

Obtaining a Federal Direct Consolidation Loan

To obtain a [federal direct consolidation loan](#), call the US Department of Education at 1-800-557-7392 (TDD 1-800-557-7395).

If you have not yet consolidated, you can seek a federal direct consolidation loan in order to obtain an income contingent repayment plan. Federal direct consolidation loans are available if you haven't been able to obtain a FFEL consolidation loan, or if you haven't been able to obtain income sensitive repayment terms acceptable to you or if you have defaulted on your FFEL loans.

If you have already consolidated, you may find it more difficult to consolidate into direct loans. Borrowers who have already consolidated can obtain a federal direct consolidation loan with income-contingent repayment terms, but only if their loans have been selected for default aversion by a guarantee agency.

Starting July 1, 2008, you will also be able to obtain a federal direct consolidation

loan in order to qualify for public service loan forgiveness, regardless of whether you have already consolidated or not.

If the direct consolidation loan people say that you must have defaulted on your FFEL loans to consolidate into direct loans, remind them that this restriction was repealed by sections 7015(c) and 7015(d) of Public Law 109-234, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, June 15, 2006. If they still give you trouble, ask the [FSA Ombudsman](#) for help.

Be sure to ask for income-contingent repayment or income-based repayment. The consolidation loan application does not currently include a checkbox for requesting these repayment plans, so you must ask for it separately.

Additional Information

Prof. Phil Schrag, a law professor at Georgetown University Law Center has written a 21-page law review article concerning income-based repayment and public service loan forgiveness: Schrag, Philip G., *Federal Student Loan Repayment Assistance for Public Interest Lawyers and Other Employees of Governments and Nonprofit Organizations*, Hofstra Law Review 36(1), September 2007. The article includes practical advice concerning the two programs, as well as detailed examples. The article can be found at the [Social Science Research Network](#), the [NELLCO Legal Scholarship Repository](#) and on the [Georgetown University Law Center](#) web site.