

“THE LEGAL BRIEF”

Advice to those Who Are Always First



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Student Loan Forbearance During Coronavirus (COVID-19) National Emergency

Under the CARES (Coronavirus Aid, Relief, and Economic Security) Act signed by the president on 27 March 2020, Congress provided a measure of relief for some student loan borrowers through an administrative forbearance that will last until 30 September 2020. For a student loan borrower to qualify, they must have either Direct Loans* and/or Federal Family Education Loans (FFEL loans) **currently owned** by the U.S. Department of Education. Perkins Loans, commercially held FFEL loans and other private student loans are not covered by the CARES Act.

The primary specific relief provisions for eligible federal student loan borrowers are:

- Suspension of payments on **non-defaulted** loans from 13 March 2020 until 30 September 2020, including auto-debit payments
- Interest shall not accrue on loans while payments are suspended—effectively a rate of 0% during the period of administrative forbearance
- For credit reporting purposes, suspended payments will not be a negative mark against the borrower, but instead be treated as if regularly scheduled payments were made
- For loans that are in an income-driven repayment plan, the suspended payments will be qualified as payments that can be counted toward forgiveness
- For borrowers in a Public Service Loan Forgiveness plan, suspended payments will be counted as qualified payments towards the 10-year period of public service employment and
- All involuntary collection of **defaulted** Direct Loans and federally owned FFEL loans is suspended until 30 September 2020, inclusive of non-judicial wage garnishment, tax offsets and federal benefit offsets. While not explicitly stated in the Act, involuntary collection should also include state tax offsets, and federal salary and contract offsets.
- For **defaulted** loans that are enrolled in a rehabilitation payment plan, each month of suspended collection will count as a month in which on-time payment was made, even if actual payment is not made by the borrower
- The Secretary of Education is to notify borrowers within 15 days for whom loan payments are suspended and interest waived, or for whom involuntary collection is suspended, and starting 1 August 2020, must provide notice at least six times to each borrower of when payments are to resume
- Notices of payment resumption from the Secretary of Education will also inform the borrower of the option to enroll in income-driven repayment

Notably, the relief provisions are automatic for qualified federal student loan borrowers and do not require applying for the administrative forbearance and interest waiver. However, borrowers can choose to continue making their scheduled payments and once all interest that accrued **prior** to 13 March is paid, the full amount of the payments will be applied to the principal.

In the case of auto-debit payments processed during the period of suspension, borrowers may request refunds from their loan servicers. Borrowers who want to continue making payments must contact their loan servicer to opt out of the administrative forbearance and resume their auto-debit payments.

*Direct Loans can include PLUS loans—federal loans by parent borrowers for dependent undergraduates and federal loans for independent graduate and professional students—as well as consolidation loans. However, the Act does not explicitly enumerate PLUS loans, consolidation loans and other types of federal student loans as Direct Loans eligible for COVID-19 emergency relief. Student loan borrowers should contact their servicing lenders to confirm whether their loans are currently owned by the U.S. Department of Education and qualify for the administrative forbearance enacted in the CARES Act.

As the COVID-19 national emergency continues, the Department of Education will issue updates to clarify or add details regarding the implementation of the Act. Current reports and other helpful information can be found at the following sites:

<https://studentaid.gov/> – The U.S. Department of Education website on Federal Student Aid

<https://www.studentloanborrowerassistance.org/> - the SLBA (Student Loan Borrower Assistance) is a project of the National Consumer Law Center (NCLC) with resources for borrowers, their families, and advocates representing borrowers

<https://www.nclc.org/special-projects/covid-19-consumer-protections.html> - a guide for consumers and consumer advocates, listing resources for consumer protection in many areas, including student loan relief, and is continually updated as new information is available

<https://www.studentloanborrowerassistance.org/what-the-cares-act-means-for-repayment-of-federal-student-loans/> - latest SLBA blog entry on the CARES Act, with the most recent U.S. DoE updates

<https://www.forbes.com/sites/advisor/2020/03/26/what-to-do-about-your-student-loans-during-the-coronavirus-covid-19-crisis/#6bfe043d1509> – comprehensive outline of options for federal and private student loan borrowers

<https://www.businessinsider.com/personal-finance/private-student-loan-lenders-help-with-payments-2020-4> - specific to student loan borrowers with private loans, with links to many of the large private lenders

<https://www.experian.com/blogs/ask-experian/what-the-covid-19-stimulus-does-for-your-student-loans/> - provides information for student loan borrowers not eligible under the CARES Act

<https://www.consumerfinance.gov/about-us/blog/what-you-need-to-know-about-student-loans-and-coronavirus-pandemic/> - an updated blog with basic information on COVID-19 student loan relief

<https://www.nasfaa.org/covid19> – news articles and statements from the National Association of Student Financial Aid Administrators (updated daily with mostly institutional perspective, but has some articles of general interest for borrowers)

LEGAL ASSISTANCE QUESTIONS: For those who need help with questions or issues on how the COVID-19 may affect them in personal legal matters or on any other legal assistance matters, please call the First District Legal Office at (617) 223-8337 or email Paralegal Specialist Elisabeth Corlett at Elisabeth.A.Corlett@uscg.mil for assistance with scheduling an appointment with our Legal Assistance Attorney, Benjamin McCarty.

For US Coast Guard coronavirus (COVID-19) information you can go to <https://www.uscg.mil/Coronavirus/>

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