1.4.1.3.1 General

As of July 1, 2010, Direct Consolidation Loans are the only type of federal consolidation loans available. Although prior rules required the borrower to have at least one outstanding FFEL Program loan or Direct Loan in order to obtain a Direct Consolidation Loan, new regulations that went into effect on July 1, 2017, eliminated the requirement that the borrower have a Direct Loan or FFEL Program loan to consolidate. This means that a Perkins loan can now be consolidated on its own into a Direct Consolidation Loan without any other federal loans.

Borrowers have the option to consolidate all, some, or even just one of their existing student loans. There is no minimum or maximum size for a Direct Consolidation Loan. More information about applying for consolidation loans can be found in Chapter 7, including information about the new consolidation application system as of 2014 that requires borrowers to select servicers.

Borrowers can consolidate if they are out of school but in repayment or, most importantly for many low-income borrowers, if they are already in default. Borrowers may consolidate their loans while they are in grace periods. However, borrowers lose any remaining grace period after these loans are consolidated and must therefore affirmatively select on their consolidation application if they wish to delay processing of their consolidation application until the end of their grace period.

Borrowers may not consolidate if the loans are subject to a judgment unless the judgment has been vacated. Borrowers are also prohibited from consolidating if the loans are subject to a wage garnishment order. The limit on consolidating after a garnishment has begun applies only to garnishments pursued under Higher Education Act authority.

There have been numerous changes to the consolidation program over time. For example, prior to July 1, 2006, borrowers could obtain a Direct Consolidation Loan when they were still in school. In-school consolidation was eliminated by the Higher Education Reconciliation Act. There was also a joint consolidation loan program for married borrowers that was eliminated in 2006.

The Department created a “Special Direct Consolidation Loan program” that was in existence only from January 17, 2012, through June 30, 2012. The program was open to certain borrowers who had at least one Direct Loan or Department-held FFEL Program loan and at least one commercially-held FFEL Program loan. The Department issued specific loan verification certificates for this program. To be eligible, the loans had to be in grace, repayment, deferment, or forbearance. The benefits of this program included a 0.25% interest rate reduction from the current interest rate on commercially-held FFEL Program loans as of the date of consolidation and no change in repayment term.

Footnotes

54 {52} 81 Fed. Reg. 76,083 (Nov. 1, 2016) (amending 34 C.F.R. § 685.220 to remove paragraph (d)(1)(i)). See also 34 C.F.R. § 685.220.

55 {53} See § 7.2 [2], infra.

56 {54} See § 4.2 [3], infra (grace periods).

57 {55} 34 C.F.R. § 685.220(d)(1)(i)(B).

58 {56} 34 C.F.R. § 685.220(d)(1)(i)(C) (Direct Loan).

This presents an interesting issue because the Department of Education uses Debt Collection Improvement Act authority to garnish FFEL Program loan holders, in contrast, use Higher Education Act authority. There may be an argument that this limit applies only if the garnishment is pursued using Higher Education Act authority. See §§ 7.2.2 [4], 9.2.2 [5], 9.2.3 [6], infra.
1.4.1.3.1 General


60 [58] See § 1.4.1.3.4 [7], infra.


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