



Brigham Young University—Hawaii
Office of Compliance & Ethics Research Memo
Financial Aid Provisions of the Health Care and Education Reconciliation Act
(HCERA)

Law/Act:	Health Care and Education Reconciliation Act (HCERA) of 2010	
Public Law Citation:	Pub. L. No. 111-152, §§ 2101, 2201-2213	
U.S. Code Citation:	20 U.S.C. § 1070 et seq.	
Code of Federal Regulations Citation:	Pending	
Responsible Regulator:	Department of Education	
BYU–Hawaii Responsible Officer:	Head Financial Aid and Scholarships	
	Updated 2010	
	Version 1.0	Effective Date: July 16, 2010

HISTORY

The Health Care and Education Reconciliation Act (HCERA) of 2010 was signed into law on March 30, 2010.¹ This new law eliminates the Federal Family Education Loan (FFEL) Program and makes the William D. Ford Direct Loan Program the only source of (1) subsidized Stafford Loans, (2) unsubsidized Stafford Loans, (3) PLUS Loans, and (4) federal consolidation loans.² No new FFEL loans may be created after June 30, 2010.³ During the adjustment period, HCERA allows federal direct consolidation loans for students with loans from both the FFEL program and Direct Loan program from July 1, 2010 to July 1, 2011.⁴ HCERA also alters the Income-Based Repayment program, allowing new borrowers who assume loans after July 1, 2014, to cap their student loan repayments at 10 percent of their discretionary income and have the balance forgiven after 20 years (compared to the current 15 percent and 25 years, respectively).⁵ In addition, HCERA increases funding for Pell grants and incrementally increases the maximum Pell grant available to students to \$5,975 (from the current \$5,350) in 2017.⁶

When providing Stafford, PLUS, and consolidation loans to students, schools previously had the option of choosing between the Direct Loan Program and the private bank-based FFEL program.⁷ In the Direct Loan Program, funds are provided by the Secretary of Education directly from the U.S. Treasury rather than private financial markets.⁸ Under HCERA, these loans will be serviced by eligible non-profit organizations under contract with the Department of Education.⁹

¹ Pub. L. No. 111-152, 124 Stat. 1029 (2010).

² Pub. L. No. 111-152, §§ 2201-2212, 124 Stat. 1029, 1074-81 (2010) (to be codified as amended at 20 U.S.C. § 1070 *et seq.*). Rather than repealing the statutes authorizing FFEL loans, these provisions amend the FFEL statutes so that they terminate on July 1, 2010. This structure allows the Direct Loan Program to continue as previously provided: “loans made to borrowers under this part [i.e. the Direct Loan Program,] shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under [the FFEL statutes.]” 20 U.S.C. 1087e.

³ Pub. L. No. 111-152, § 2201, 124 Stat. 1029, 1074 (2010) (to be codified as amended at 20 U.S.C. § 1070a(b)).

⁴ Pub. L. No. 111-152, § 2206, 124 Stat. 1029, 1075-76 (2010) (to be codified as amended at 20 U.S.C. § 1087i-2(a),(b)).

⁵ Pub. L. No. 111-152, § 2213, 124 Stat. 1029, 1081 (2010) (to be codified as amended at 20 U.S.C. § 1098e).

⁶ Pub. L. No. 111-152, § 2101, 124 Stat. 1029, 1071-73 (2010) (to be codified as amended at 20 U.S.C. § 1070a(b)).

⁷ In FY 2008, 66% of federally subsidized student loans went to FFEL recipients. U.S. DEPT. OF EDUCATION, OFFICE OF INSPECTOR GENERAL, FINAL MANAGEMENT INFORMATION REPORT (2009), *available at* <http://www2.ed.gov/about/offices/list/oig/auditreports/fy2010/x19i0006.pdf>.

⁸ 20 U.S.C. § 1087a. (West, Westlaw through May 2008 amendments).

⁹ Pub. L. No. 111-152, § 2212, 124 Stat. 1029, 1078-81 (2010) (to be codified as amended at 20 U.S.C. § 1087f).



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APPLICABILITY TO BYU–HAWAII

In the past, Brigham Young University-Hawaii offered Stafford, PLUS, and consolidation loans through the FFEL program. To continue providing these after July 1, 2010, the university must transition to the Direct Loan Program.

REQUIREMENTS

Any school currently eligible and certified for Federal Student Aid is eligible to participate in the Direct Loan Program.¹⁰ Thus, the university may continue to certify disbursements of Stafford and PLUS loans for its students for enrollment periods commencing after July 1, 2010, as long as its financial aid program is compatible with the Direct Loan Program by then. Transitioning to the Direct Loan Program requires the university, among other things, to make requisite applications to the Department of Education, ensure that its financial aid software is Direct Loan-compatible, and modify its financial aid media (i.e. pamphlets, websites) to inform students and parents about the university's participation in the Direct Loan Program. A complete "Checklist for the Transition to Direct Loans" is provided by the Department of Education's Office of Federal Student Aid.¹¹ (See link below.) HCERA requires the Secretary of Education to provide technical assistance to institutions transitioning to the Direct Loan Program and allocates \$50 million to that end.¹² A list of resources available to financial aid officers is provided below.

COMPLIANCE CALENDAR

The university must transition to the Direct Loan Program prior to certifying any Stafford or PLUS loans for enrollment periods commencing after July 1, 2010.

STAYING UP-TO-DATE

The following websites provide valuable information regarding this law and its applicability.

DOCUMENT/REFERENCE	DESCRIPTION
Health Care and Education Reconciliation Act of 2010	Article providing an overview of HECRA.

¹⁰ DEPT. OF EDUCATION, OFFICE OF FEDERAL STUDENT AID, GETTING STARTED – SCHOOLS NEW TO DIRECT AID (2010), <http://www.direct.ed.gov/participating.html>.

¹¹ OFFICE OF FEDERAL STUDENT AID, U.S. DEPT. OF EDUCATION & THE NATIONAL ASSOCIATION. OF STUDENT FINANCIAL AID ADMINISTRATORS, TRANSITIONING TO PARTICIPATION IN THE WILLIAM D. FORD DIRECT LOAN PROGRAM: CHECKLIST FOR THE TRANSITION TO STUDENT LOANS (2010).

¹² Pub. L. No. 111-152, § 2212, 124 Stat 1029, 1078-81 (2010) (to be codified as amended at 20 U.S.C. § 1087f).