

**MEMORANDUM OF UNDERSTANDING BETWEEN
FDA AND NTEU REGARDING FEDERAL STUDENT LOAN
REPAYMENT PROGRAM**

This Memorandum of Understanding is entered into between the Food and Drug Administration (FDA) and the National Treasury Employees Union (NTEU) regarding implementation of the FDA's policy for administration of its Federal Student Loan Repayment Program.

The FDA has made a number of changes to its policy in response to recommendations by the NTEU. The revised policy document incorporates those changes and is attached to and incorporated by reference into this memorandum. In view of these revisions, the NTEU and the FDA agree that the Federal Student Loan Repayment Program will be administered pursuant to the provisions of the attached policy.

Absent mutual agreement of the parties, this MOU shall remain in effect until expiration of the FDA/NTEU Collective Bargaining Agreement or the reopening of that agreement at the end of its five-year term. In the event the Collective Bargaining Agreement expires or is reopened at the end of its term, the terms of this MOU shall remain in effect until they are revised through the collective bargaining process.

For NTEU:

For FDA:

Peter F. Gimbrere
NTEU National Negotiator

Edwin S. Campbell, Jr.
Labor Relations Officer

STUDENT LOAN REPAYMENT PROGRAM

PURPOSE:

The Student Loan Repayment Program provides FDA the ability to repay all or part of any outstanding federally-insured student loan previously taken out by a current employee or a candidate to whom an offer of employment has been made. The student loan repayment program may be utilized to recruit or retain highly qualified personnel. More than one loan may be repaid so long as the combined repayments do not exceed the limit of \$6,000 a calendar year.

REFERENCES:

Title 5, United States Code, Section 5379
Title 5, Code of Federal Regulations, Part 537

DEFINITIONS:

Direct Student Loan Program: Loans provided by the Department of Education.

Federal Family Education Loan (FFEL): Loans provided by private lenders, such as banks, credit unions, and savings and loan associations. These loans are insured by the Department of Education.

Student Loan: A loan made, insured, or guaranteed under parts B, D, or E of Title IV of the Higher Education Act of 1965; or a health education assistance loan made or insured under Part A of Title VII of the Public Health Service Act; or under Part E of Title VIII of that Act.

Federal loans covered under the Student Loan Repayment Program include such loans as:

- ?? **Stafford Loans** (formerly the Guaranteed Student Loan) ? including Federal subsidized, Federal unsubsidized, direct subsidized, and direct unsubsidized.
- ?? **Supplemental Loans for Students.**
- ?? **Plus Loans** ? Federal and Direct Plus Loans.
- ?? **Consolidation Loans** ? direct subsidized, direct unsubsidized, and Federal Consolidation Loans.
- ?? **Defense Loans** ? made before July 1, 1972.
- ?? **Perkins Loans** ? formerly the National Direct Student Loan Program.
- ?? **Federally Insured Student Loan** (ended in 1984).

- ?? **National Direct Student Loans ?** made between 7/1/72 and 7/1/87.
- ?? **Guaranteed Student Loan**

Loans covered under the Public Health Service Act include;

- ?? **The Nursing Student Loan**
- ?? **The Health Profession Student Loan**
- ?? **The Health Education Assistance Loan**

Subsidized Loan: The U.S. Government pays the interest on the loan while the student is in school, during the 6-month grace period, and during authorized periods of deferment.

Unsubsidized Loan: The student is responsible for paying the interest accrued while the student is in school, during the 6-month grace period, and during authorized periods of deferment.

BASIC ELIGIBILITY:

The following employees are covered:

- ?? Permanent employees.
- ?? Employees serving a term appointment with at least 3 years left on their appointment, including Service Fellows.
- ?? Employees serving in excepted appointments with non-competitive conversion to term, career, or career-conditional appointments (*e.g., Presidential Management Interns, VRAs, and career interns*).
- ?? Temporary employees under 5 CFR 315.704 who are serving on appointments leading to conversion to term or permanent appointments.

NOTE: Employees receiving Physicians' Comparability Allowance (PCA) under 5 CFR 595.105(e) are eligible; however, the amount of their PCA must be reduced by an amount equal to any loan repayment benefit received under this program.

DETERMINATION OF RECIPIENT(S) OF A STUDENT LOAN REPAYMENT BENEFIT

- ?? Recipient(s) of a student loan repayment benefit will be determined on a case by case basis based on organizational need, specific case justification, and budget limitations without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition.
- ?? A student loan repayment benefit may be used for recruitment and/or retention purposes based on the organization's need.

RECRUITMENT:

Loan repayment may be authorized after a written determination is made documenting that in the absence of offering student loan repayment benefits, FDA would encounter difficulty in filling the position with a highly qualified candidate. Evidence of this may include:

- ?? The success of recent efforts to recruit suitable candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions.
- ?? Recent turnover in the same or similar positions.
- ?? Labor market factors that affect FDA's ability to recruit for similar positions.
- ?? Any special qualifications needed.

The written determination must document the criteria used in determining the amount of the student loan repayment benefit. Managers may consider the following criteria in deciding the amount:

- ?? The severity of the recruiting problem.
- ?? The average salary reported in published salary surveys for comparable private sector positions.
- ?? The importance/criticality of the position to be filled and the effect on FDA if it is not filled or there is delay in filling the position.
- ?? Current salary of the candidate.
- ?? Salary documented in a competing job offer.
- ?? The disparity in cost-of-living between the candidates current residence and the proposed duty station.
- ?? The projected cost of a renewed recruitment effort if the candidate does not accept the position.
- ?? The extent of the individual's past training and experience that serves to qualify him/her for the position.
- ?? Budget availability.

Each determination for recruitment purposes and the amount to be paid must be made before the employee actually enters on duty in the position.

RETENTION:

A loan repayment may be authorized after a written determination is made documenting that, in the absence of offering the student loan repayment benefits, FDA would encounter difficulty in retaining a highly qualified employee.

The written determination must also document:

- ?? The unique or high qualifications of the employee or the special need of FDA for the employee's services that makes it essential to retain the employee.
- ?? The employee would be likely to leave for employment outside the Federal service if he/she does not receive loan repayment benefits.
- ?? The extent to which the employee's departure would affect FDA's ability to carry out an activity or perform a function that is deemed essential to the Agency's mission.

The written determination must document the criteria used in determining the amount of the student loan repayment benefit. Managers may consider the following criteria in deciding the amount:

- ☒☒ The average salary reported in published salary surveys for comparable private sector positions.
- ☒☒ Salary documented in a competing job offer.
- ☒☒ The importance/criticality of the position and the effect on the agency if the employee were to leave.
- ☒☒ The projected cost of a recruitment and training associated with replacement of the employee.
- ☒☒ The length of service of the employee with FDA.
- ☒☒ Budget availability.

LOSS OF ELIGIBILITY FOR STUDENT LOAN REPAYMENT BENEFITS:

An employee receiving student loan repayment benefits will be ineligible for continued benefits from FDA if the employee:

- ?? Separates from FDA for any reason;
- ?? Does not maintain a "meets" performance level; or
- ?? Violates any of the conditions of the service agreement.

SERVICE AGREEMENT:

- ?? Before any loan repayment may be made, an employee must sign a service agreement.
- ?? Minimum period of employment under the service agreement is 3 years, regardless of the amount of student loan repayment benefit authorized.
- ?? If student loan repayment benefits are approved in the 2nd or 3rd year, the service agreement will not be extended beyond the original service agreement period.
- ?? Any student loan repayment benefit approved after the 3-year service agreement has been completed will serve to extend the service agreement an additional year for each additional payment approved.
- ?? The service agreement in no way constitutes a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service.

?? Acceptance of the agreement does not alter the conditions or terms of employment; accordingly, the agreement will not preclude nor limit the FDA from effecting personnel actions as may be appropriate.

FAILURE TO COMPLETE A SERVICE AGREEMENT:

An employee who fails to complete the agreed upon period of service because he/she voluntarily leaves HHS or is involuntarily separated for misconduct or performance is indebted to the Federal government. The employee must reimburse HHS for the full amount of any student loan repayment benefits he/she received during the initial 3-year agreement. If the employee fails to complete the period of employment under a 1-year extension (i.e., 4th year, 5th year, etc.), the employee is indebted for the student loan repayment benefit made in the extension year only.

If an employee fails to reimburse the Agency for the amount owed, a sum equal to the amount outstanding will be recovered from the employee.

WAIVER OF REPAYMENT:

The Director, Office of Human Resources and Management, may waive, in whole or in part, an employee's debt if he or she determines that recovery would be against equity and good conscience or against the public interest. In making this determination, the Agency will take into account consistency, fairness, and the cost to the taxpayer of recovering monies owed to the government.

Student loan repayment benefits will be automatically waived if the employee leaves the Federal service due to disability or a serious health condition (requires medical certification). If necessary, the medical certification will be reviewed by the FDA medical consultant.

All waiver requests must be submitted from the Center Director to the Director, Office of Human Resources and Management Services.

PROCEDURES FOR MAKING LOAN REPAYMENTS:

Conditions for Payment:

- ?? Maximum amount payable is \$6,000 per employee per calendar year with a maximum of \$40,000 during the employee's HHS career.
- ?? Payments may be applied only to the indebtedness outstanding at the time FDA and the employee enter into an agreement.
- ?? Payments will be made directly to the lending institution holding the loan on behalf of the employee.
- ?? Payments may not begin before an employee enters on duty.

- ?? Student loan repayment benefits are in addition to basic pay.
- ?? Tax withholdings will be deducted at the time payment is made and are subject to Federal income tax, FICA and Medicare withholding, and any applicable State or local income tax.

Loans to be Repaid:

- ?? More than one loan may be repaid as long as the total loan repayments do not exceed \$6,000 per year nor \$40,000 during the employee's HHS career.

RESPONSIBILITIES

Center/Office:

- ?? Ensuring selection of employee(s) to receive a student loan repayment benefit is made without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition.
- ?? Prepare the written justification for the loan.
- ?? Maintaining case files (including written justification, service agreement, verification from loan holder, and the approved request form).

OHRMS:

- ?? Developing and disseminating policy governing FDA's use of the student loan repayment program.
- ?? Providing updates to Centers/Offices when changes are made to the laws governing the student loan repayment program.
- ?? Consolidating Agency input for reporting.
- ?? Providing necessary training to Centers/Offices.
- ?? Serve as liaison with OPM, OMB, etc., for FDA program.
- ?? Verifying student loan is federally insured and loan balance before payment is authorized.
- ?? Counsel employee, i.e., effect of payments, service agreement, etc.
- ?? Work with lending institution.
- ?? Work with HHS payroll.

Employee:

- ?? The employee must submit verification from the loan holder of the type of Federally funded loan(s), the balance of the loan(s), and the date the loan was obtained. (Most holders will provide a computer statement listing the types of loans, balance and interest due.) The employee must also provide the current loan holders name,

address, phone number and tax identification number. See Attached Student Loan Repayment Program Outstanding Loan Information Form.

- ?? The employee is responsible for making loan payments on the portion of the loan that continues to be the employee's responsibility.
- ?? Student loan repayment benefits made by FDA do not exempt an employee from his/her responsibility and/or liability for any loan(s) the employee has taken out.
- ?? The employee will also be responsible for any income tax obligation resulting from the student loan repayment benefit.

RECORDKEEPING:

FDA must keep a record of each determination made under this part and make such records available for review upon OPM's request (see attached). These records may be destroyed after 3 years or after OPM formally evaluates the program (whichever comes first).

RECORDKEEPING

Each Center/ORR office must complete the following report and forward to DCBT by October 30 of each year.

**STUDENT LOAN REPAYMENT PROGRAM
RECORDKEEPING**

CENTER: _____

Employee's Name	Title	Pay Plan Series/Grade	Amount Received	Service Agreement Period

