

PART 2051 - HOURS AND PAY

Subpart C - Student Loan Repayment Program

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Part 2051 - HOURS AND PAY

SUBPART C - Student Loan Repayment Program

§ 2051.65 Purpose.

This instruction supplements Departmental Regulation No. 4050-537, Repayment of Student Loans dated September 1, 2004.

§ 2051.66 Legal authorities.

The instructions contained in this supplement and the Departmental Regulation 4050-537 constitutes the United States Department of Agriculture (USDA) and Rural Development's Student Loan Repayment Program. This plan meets the requirements set forth in 5 CFR Part 537, Repayment of Student Loans.

§ 2051.67 Responsibilities.

(a) The Assistant Administrator for Human Resources is responsible for setting policy and providing technical guidance and direction for Rural Development's Student Loan Repayment Program.

(b) It is the responsibility of the management official to check the sites referenced in this instruction before making any decisions to grant student loan repayments since updates will occur.

§ 2051.68 Delegation of authority.

Authority to approve repayment of student loans has been delegated to the Deputy Administrator for Operations and Management (DOAM). The authority may be redelegated to the Assistant Administrator for Human Resources, the Chief, Headquarters Services Branch, and the Chief, Field Services Branch in St. Louis, Missouri.

§ 2051.69 Definitions.

Agency. Rural Development, a mission area under USDA.

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Employee. For purposes of repaying a student loan, employee means a candidate who will be appointed to a job, who is highly qualified, who is eligible for student loan repayment if all other conditions are met; positions which are excepted from the competitive service because of their confidential, policy-determining, policy-making, or policy advocating character, i.e., employees serving under Schedule C appointments or non-career Senior Executive Service appointments are exempt from this program.

Involuntarily separated. A separation initiated by an agency against the employee's will and without his or her consent, for reasons other than cause on charges of misconduct or delinquency. An involuntary separation includes a separation resulting from the employee's actual inability to do the work following genuine efforts to do so, but does not include a separation under 5 CFR Part 752 (Adverse Actions), or an equivalent procedure for reasons that involve culpable wrongdoing on the part of the employee. In addition, when an employee is separated because he or she declines to accept reassignment outside his or her commuting area, the separation is involuntary if the employee's position description or other written agreement does not provide for such reassignment. However, an employee's separation is not involuntary if, after such a written mobility agreement is added, the employee accepts one reassignment outside his or her commuting area, but subsequently declines another such reassignment.

Service agreement. In conjunction with repayment of a student loan, means a written agreement between Rural Development and an employee under which the employee agrees to a specified period of employment with the Agency in return for repayment of a student loan.

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. A list of qualifying student loans can be found at the following internet sites: <http://www.opm.gov/oca/pay/StudentLoan/> or Departmental Regulation, <http://www.ocio.usda.gov/directives/files/dr/DR4050-537.htm>.

§ 2051.70 Eligibility requirements.

Employees who hold the following types of appointments are eligible to receive repayments for student loans:

- (a) Temporary employees who are serving on appointments leading to conversion to term or permanent appointments; or

§ 2051.70 (Con.)

- (b) Term employees with at least 3 years left on their appointment; or
- (c) Permanent employees; or
- (d) Employees serving on excepted appointments with conversion to term, career, or career-conditional appointments (including, but not limited to, Career Interns, Presidential Management Fellows, Senior Presidential Management Fellows or Student Educational Employment Program-Student Career Experience Program students).

§ 2051.71 Criteria for repayment of student loans and approving documents.

- (a) Loan repayments must be based on a written determination that, in the absence of offering loan repayment benefits, it would be difficult to fill the position with a highly qualified candidate. Please reference attached Exhibit A, "Sample Recommendation and Approval of the Repayment of Student Loan(s)." This form will assist you in assuring that all of the required information is provided to the approving official.
- (b) Each determination for recruitment purposes, including the amount to be paid, must be made before the employee actually enters on duty in the position for which he or she was recruited.
- (c) The determination that repayment of a student loan may be paid may be made before the recruitment or announcement takes place or after such activity takes place.
- (d) Payments authorized in order to recruit an employee must be based upon a written determination that the high or unique qualifications of the employee, or special need of the agency for the employee's services, makes it essential to recruit the employee, and that in the absence of offering student loan repayment benefits, the employee would be likely to accept employment outside the Federal service. This determination must be based on a written description of the extent to which the employee's declination of a job offer would affect the agency's ability to carry out an activity or perform a function that is deemed essential to an agency's mission.
- (e) Rural Development is authorizing use of this authority **only** as a recruitment incentive for highly-qualified candidates where there has been documented difficulty in recruiting for such candidates. Rural Development is not authorizing use of this program as a retention incentive for current employees.

(f) An employee who receives a student loan repayment and moves to another Federal agency, or USDA agency, or Rural Development organization, is not obligated to repay the benefit, unless the employee has agreed to make a repayment in these circumstance. The gaining agency is not obligated to reimburse the losing agency for the amount of the student loan.

(g) Management officials must adhere to merit system principles and take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented.

(h) Payments will be at the discretion of the DAOM, or to whomever the DOAM has redelegated the authority, and are subject to limitations, or conditions mutually agreed to, in writing, between Rural Development and the employee. Payments may be applied only to the indebtedness outstanding at the time Rural Development and the employee enter into the service agreement, and may not begin before the employee enters on duty with Rural Development. Student loan repayment benefits must be in addition to basic pay and any other form of compensation otherwise payable to the employee involved. Payments will be made by the National Finance Center (NFC) directly to the holder of the loan by electronic funds transfer.

(i) Tax withholdings must be deducted or applied at the time any payment is made. Tax payments may not be spread out over time. Since these tax implications could create a financial hardship for the recipient of the repayment benefit, the following are ways to lessen the impact of tax withholding on an employee's paycheck:

- (1) Make smaller payments at periodic intervals through the fiscal year or subsequent years, rather than issue payments under this part in one lump sum;
- (2) The employee can write a check to Rural Development to cover the tax liability rather than have the tax liability withheld from the employee's paycheck; or
- (3) Deduct the amount of taxes to be withheld from the loan repayment benefit before issuing payment to the holder of the loan.

## § 2051.71 (Con.)

(j) Before authorizing loan repayments, Rural Development must verify with the holder of the loan that the employee has an outstanding student loan that qualifies for repayment. Rural Development must verify remaining balances with the holders of the loan to ensure that loans are not overpaid. Rural Development may repay more than one loan as long as the loan repayments do not exceed the limit. The amount paid by the agency is limited to \$6,000 per employee per calendar year or a total career payment of \$40,000 per employee. Funding of loan repayments will come from individual budgets. In determining the size of the loan payments, management should take into consideration the employee's value to Rural Development and how far in advance the mission area can commit funds. If budgetary constraints are an issue, management officials have the discretion to determine the repayment benefit amount given to an employee each year.

(k) The employee will be responsible for making timely loan payments on the portion of the loan(s) that continues to be his or her responsibility. Payments do not exempt an employee from his or her responsibility and/or liability for any loan(s) the individual has taken out.

(l) Rural Development is not authorizing the use of this program for students who have defaulted on their student loans and/or have not received a degree/diploma.

(m) The National Office Human Resources office will perform an initial review and recommendation for National Office employees. The St. Louis Field Services Branch will perform an initial review and recommendation of repayment of student loans for St. Louis employees. State Offices will forward requests for repayment of student loans to the St. Louis Field Services Branch for an initial review and recommendation.

§ 2051.72 Service agreements and repayments.

Before any loan repayments or service agreements may be made, an employee must sign a service agreement, with Rural Development to complete a specified period of employment and to reimburse Rural Development for loan repayment benefits if the employee is separated involuntarily on account of misconduct, or failure to maintain an acceptable level of performance, or the employee leaves the agency voluntarily before the specified period of employment. Please reference attached Exhibit B, "Sample Service Agreement for a Receipt of Repayment of Student Loan(s)," which gives you an example of how an agreement should be written. The agreement may also specify any other employment conditions such as, but not limited to, the employee's position and the duties he or she is expected to perform, work schedule, or level of performance.

RD Instruction 2051-C  
§ 2051.72 (Con.)

(a) The minimum period of employment to be established under a service agreement must be 3 years, regardless of the amount of loan repayment authorized. Service agreements can state that increases or renewals of payments made under this part can be made without requiring the employee to enter into a new service agreement or Rural Development can require an additional period of service in the service agreement. All service agreements must include a requirement for repayment, regardless of the type of separation other than the separation described in § 2051.73 of this instruction.

(b) There is no requirement to refund the loan repayment when the employee fails to complete a period of employment established under a service agreement because the employee is involuntarily separated for reasons described in §2051.69 of this instruction.

(c) Any amount repaid, or recovered from any employee will be credited to the appropriation account from which the amount involved was originally paid. If possible, any amount so credited will be merged with other sums in such account and will be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

(d) When an employee is promoted or reassigned to a position with greater promotion potential in another USDA agency, the service agreement will be transferred with the employee and no repayment will be required by Rural Development. However, if the employee then fails to complete the remainder of the service agreement with the new USDA agency, the pro rata payment for the unexpired service agreement must be made to Rural Development.

(e) The service agreement will be placed on the left side of the employee's Official Personnel Folder for the period of time specified in the service agreement.

§ 2051.73 Student loan payment waivers.

The DAOM has the authority to waive, in whole or part, a right of recovery of an employee's debt under 5 U.S.C. 5514 if it is determined that recovery would be against equity and good conscience, or against the public interest.

§ 2051.74 Records.

State Offices must keep a record of each student loan repayment determination and have the records available for review when requested. These records may be destroyed 3 years after the loan has been repaid or after the Office of Personnel Management has evaluated the program, whichever is later.

§ 2051.75 Reports.

(a) No later than October 31<sup>st</sup> of each year, the Headquarters Services Branch and the St. Louis Services Branch must report to the Human Resources Programs Branch the following information for the previous fiscal year:

- (1) The number of employees given student loan repayments;
- (2) The pay plan, series, grade, step, salary, title and location of the employees who received student loan repayments;
- (3) The total amount of the student loan paid to each employee;
- (4) The total amount of student loan repayments made; and
- (5) Please reference attached Exhibit C, "Reports and Records."

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**SAMPLE RECOMMENDATION AND APPROVAL  
 OF THE REPAYMENT OF STUDENT LOAN(S)**

|                     |                                   |                                |                                |
|---------------------|-----------------------------------|--------------------------------|--------------------------------|
| 1. Agency Name      | 2. Agency Code                    | 3. Case No.                    | 4. Personnel Office Identifier |
| 5. Name of Employee | 6. Social Security No.            | 7. Duty Station Code           |                                |
| 8. Position Title   | 9. Location (City, State)         | 10. Pay Plan/series/grade/Step |                                |
| 11. Salary          | 12. Organization                  | 13. Effective Date             |                                |
| 14. Accounting Code | 15. Mail Check to (if applicable) |                                |                                |

**The following information must be attached, for review by the recommending and approving officials for a student loan repayment:**

- A written justification outlining the difficulty experienced or expected in filling the position if a student loan is not repaid, and
- A written determination that unusually high or unique qualifications of the employee or a special need of the agency exists.
- In addition, the proposed amount of the loan repayment, along with the rationale for the amount proposed.

|                                    |       |      |
|------------------------------------|-------|------|
| 16. Recommended Amount \$          |       |      |
| Signature of Recommending Official | Title | Date |
| 17. Approved Amount \$             |       |      |
| Signature of Approving Official    | Title | Date |

**SAMPLE RECOMMENDATION AND APPROVAL  
OF THE REPAYMENT OF STUDENT LOAN(S)**

Comments/Changes:

| Signature of Approving Official | Title | Date |
|---------------------------------|-------|------|
|---------------------------------|-------|------|

**Privacy Act Statement**

Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal Government furnish a social security number or tax identification number. This is an amendment to title 31, section 7701. Furnishing the social security number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application. If your agency uses the information furnished on this form for purposes other than those indicated above, they should provide you with an additional statement reflecting the purpose.

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**SAMPLE SERVICE AGREEMENT FOR A RECEIPT  
OF REPAYMENT OF STUDENT LOAN(S)**

In return for the repayment of my student loan(s) as described below, I hereby agree to remain an employee of the U.S. Department of Agriculture (USDA) - Rural Development for the period beginning \_\_\_\_\_ following the effective date of the student loan repayment, unless I am separated for reasons beyond my control and which are acceptable to the above named agency. The amount of the repayment of student loan I will be receiving under this agreement is \_\_\_\_\_.

I agree that if I do not remain in the agency and maintain an acceptable level of performance for the above specified period I will repay to the agency the total amount of student loan repayment benefits I have received. I understand that this service agreement does not constitute a right, promise, or entitlement for continued employment of noncompetitive conversion to the competitive service. I understand that under such circumstances these monies are recoverable from me as a debt due the United States Government and the agency is not responsible for making your loan payments and any late fees you are charged.

|           |      |
|-----------|------|
| Signature | Date |
|-----------|------|

**REPORTS AND RECORDS**

(a) No later than October 31<sup>st</sup> of each year, the Headquarters Services Branch, and the St. Louis Services Branch, must report the information listed below to the Human Resources Programs Branch. In turn, the Human Resources Programs Branch will, no later than November 15<sup>th</sup> of each year, provide the Office of Human Resource Management (OHRM) this information for the previous fiscal year:

(1) The number of employees given student loan repayments\_\_\_\_\_.

(2) The pay plan, series, grade, step, salary and title of the employees who received student loan repayments (list below):

(3) The total amount of the student loan paid to each employee (list name of each student and amount received below):

(4) The total amount of student loan repayments made by the program offices \_\_\_\_\_.

(a) OHRM will request race, sex, national origin, and disability information from the National Finance Center data base. This information will be reviewed and evaluated to determine if there are any disparities or issues related to protected groups by grade, salary, title location, amount paid, or between Mission Areas or Staff Offices.

(b) Each Staff Office must keep a record of each student loan repayment determination and have the record available for review when requested. These records may be destroyed 3 years after the loan is repaid.

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