

# NASFAA Webinars: Final Rules Presented November 2007

National Association of Student  
Financial Aid Administrators


**NASFAA's Webinar Series**

**Final Rules:**

**The Title IV Student Loan  
Programs**

**November 19, 2007**

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Introduction: NASFAA Staff

Eunice Powell

Associate Director

Professional Assessment, Training, &  
Regulatory Assistance

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Introduction: NASFAA Staff

David Futrell

Assistant Director

Professional Assessment, Training, &  
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Introduction: NASFAA Staff

Stacey Peterson  
Associate Director  
Professional Assessment, Training, &  
Regulatory Assistance

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Questions, please!

If you wish to ask a question, please do so by using the "SUBMIT QUESTION" button in the lower left hand corner of your screen.

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Introduction

The Title IV Student Loan Programs

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Final Rules: Title IV Student Loan Programs

NPRM published June 12, 2007

- Deadline for comments August 13, 2007
- 241 comments received
- No consensus on NPRM

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Final Rules: Title IV Student Loan Programs

- Final Rule published November 1, 2007
  - Effective Date: July 1, 2008
- Optional early implementation of some provisions
  - Maintain documentation of any early implementation
  - Must continue early implementation once it's begun

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Title IV Loan Program Final Rules

Provisions Common  
to All Title IV Loan  
Programs

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## Common Loan Program Provisions

Effective July 1, 2008; early implementation allowed (no limiting ED conditions):

- *Simplification of Deferment Process* [674.38; 682.210; 685.204]
- *Accurate and Complete Copy of a Death Certificate* [674.61; 682.402; 685.212]

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## Simplification of Deferment Process

- No changes to NPRM
- Simplifies deferment granting process based on deferments granted by other lenders
- Allows “borrower’s representative” to request military service or Armed Forces deferment

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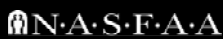
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## Simplification of Deferment Process

- Lender may grant deferment based on another lender’s action
  - FFEL lender may grant based on other FFEL lender or DL servicer
  - ED (for DL) may grant based on FFEL lender
  - School may grant Federal Perkins deferment based on FFEL, DL, or other Federal Perkins lender
- Deferment must reflect same reason and time period

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**Simplification of Deferment Process**

- Affects loans made on or after July 1, 1993 for:
  - Graduate fellowships
  - Rehabilitation training programs
  - Unemployment
  - Military service
  - Economic hardship
- Lender may rely on other lender's determination if no contradictory evidence

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**Simplification of Deferment Process**

Lender may not automatically grant deferment on basis of another lender's action

- Borrower must still request deferment
- Request may be written, electronic, or verbal

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**Simplification of Deferment Process**

- "Borrower's representative" remains undefined by ED
- Borrower's representative may apply for military service deferment
  - Armed Forces deferment for loans made before July 1, 1993
  - Current military service deferment

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**Common Loan Program Provisions**

Other deferment changes made due to passage of CCRAA:

- *Military Deferments* [674.34; 682.210; 685.204]
- *Economic Hardship Deferments* [674.34; 682.210; 685.204]

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**Military Deferments**

- Extends military deferment to all Title IV borrowers regardless of when their loans were made
- Eliminates 3-year limit on military deferment
- Adds 180-day period of deferment following borrower's demobilization as of October 1, 2007

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**Military Deferments**

Authorizes 13-month deferment following conclusion of military service for certain Armed Forces members who were enrolled in program of instruction at eligible institution at time, or within 6 months prior to time borrower was called to active duty as of October 1, 2007

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## Economic Hardship Deferment

Revises definition of economic hardship to allow borrower to earn 150% of poverty line applicable to his or her family size as of October 1, 2007

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## Accurate and Complete Copy of a Death Certificate

- Death certificate is required documentation for discharge of:
  - FFEL, DL, or Federal Perkins loan if borrower dies
  - PLUS if student for whom parent borrowed dies
- Currently, only original or certified copy is acceptable

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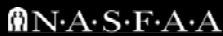
## Accurate and Complete Copy of a Death Certificate

No changes to NPRM

- Allows use of accurate and complete photocopy of original or certified copy of borrower's death certificate as documentation to support discharge of a Title IV loan
- Photocopy may be accepted by lender unless evidence indicates it is inaccurate or incomplete

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**Accurate and Complete Copy  
of a Death Certificate**

Still not allowable:

- Faxes
- Electronic versions
- NSLDS data
- SSA Death Master File
- Police reports
- Court documents

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**Common Loan Program Provisions**

*Total and Permanent Disability Discharge*  
[674.61; 682.402; 685.213]

- Effective July 1, 2008
- Early implementation allowed for Federal Perkins and FFEL programs; not allowed for DL
- Changes to NPRM

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**Total and Permanent Disability Discharge**

Current *definition* of “total and permanent disability” remains unchanged:

- Borrower is unable to work or earn money because of an injury or illness that is expected to continue indefinitely or result in death

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**Total and Permanent Disability Discharge**

Current application *process* unchanged:

- Borrower has physician certify disability
- If certification supports discharge:
  - FFEL lender submits claim to GA
  - School assigns Federal Perkins Loan to ED
- If GA agrees, it pays claim, assigns loan to ED
- If ED's initial determination supports claim, it conditionally discharges loan

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**Total and Permanent Disability Discharge**

- Date of disability becomes date on which physician certifies that a disability exists
- 3-year conditional period begins with date physician certifies disability discharge (not date of ED's initial determination)
- Borrower must submit application within 90 days of physician's certification

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**Total and Permanent Disability Discharge**

- After receiving Federal Perkins borrower's completed application, school must:
  - Suspend collection activity
  - Inform borrower that it will review application and if it determines that certification supports disability claim, it will assign loan to ED for eligibility determination
- School resumes collection if it determines that certification doesn't support disability claim

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**Total and Permanent Disability Discharge**

School must assign loan to ED and notify borrower that:

- Loan has been assigned to ED for total and permanent disability discharge determination
- No payments are due on the loan

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**Total and Permanent Disability Discharge**

ED may require additional:

- Medical evidence of borrower's total and permanent disability
- Review by independent physician at ED's expense

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**Total and Permanent Disability Discharge**

During 3-year conditional period, borrower may still not:

- Have income over specified poverty line
- Receive new Title IV loans

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**Total and Permanent Disability Discharge**

- Borrower must return any disbursement made after ED's initial determination, on loans received prior to the physician's certification
- Upon final discharge, ED must return any payments received after date of physician's certification

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**Total and Permanent Disability Discharge**

- Loan holders must disclose disability discharge requirements
- For Federal Perkins, school must provide borrower with detailed description of disability discharge process after receiving discharge application

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**Common Loan Program Provisions**

Effective July 1, 2008; no early implementation:

- *NSLDS Reporting* [674.16; 682.208; 682.401; 682.414]
- *Certification of Electronic Signatures on MPNs Assigned to ED* [674.19; 674.50; 682.409; 682.414]
- *Record Retention Requirements on MPNs Assigned to ED* [674.19; 674.50; 682.406; 682.409]

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# NASFAA Webinars: Final Rules Presented November 2007

**NSLDS Reporting**

Changes to Federal Perkins and FFEL program regulations to bring NSLDS reporting requirements for Federal Perkins and FFEL programs in line with existing DL reporting requirements

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**NSLDS Reporting**

Institutions, lenders, and guarantors must report:

- Enrollment status
- Loan status
- Any other data requested by ED

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**NSLDS Reporting**

- NPRM:
  - Reduce regulatory time frame for guarantor to report enrollment changes to current loan holder from 60 days to 30 days
- Final Rule:
  - Regulatory time frame for guarantor reporting changed to 35 days to accommodate months with 31 days

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**Certification of Electronic Signatures on MPNs Assigned to ED**

- No changes to NPRM
- Certification of electronic signatures
  - New documentation requirements for defaulted loans assigned to ED
  - Applicable to Federal Perkins and FFEL program loans; brings electronic signature requirements in line with DL

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**Certification of Electronic Signatures on MPNs Assigned to ED**

Certification of electronic signatures

- Affidavit or certification of creation and maintenance of electronically signed MPNs
  - Steps borrower followed to execute note
  - Copies of screens borrower would have seen
  - Field edits and other security measures
  - Method of preserving MPN to avoid alteration
  - Authentication and signature processes

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**Certification of Electronic Signatures on MPNs Assigned to ED**

Cooperation with ED

- Requires cooperation with ED to enforce electronically signed MPNs assigned to ED
- School or lender must respond to ED requests within 10 business days

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**Record Retention Requirements on MPNs Assigned to ED**

- No changes to NPRM
- School must retain Federal Perkins MPN disbursement records for 3 years after loan is satisfied
  - Date and amount of each disbursement
  - Electronic authentication and signature
- School must submit assigned loan's disbursement records to ED upon request
- No change to rules on repayment history records

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**Record Retention Requirements on MPNs Assigned to ED**

School or FFEL loan holder must retain original electronically signed MPN for 3 years after all loans on it are satisfied

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**Title IV Loan Program Final Rules**

**Provisions Affecting Federal Perkins Loan Program Only**

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**Federal Perkins Loan Program Provisions**

Effective July 1, 2008; early implementation allowed (no limiting ED conditions):

- *Reasonable Collection Costs* [674.45]

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**Reasonable Collection Costs**

- No changes to NPRM
- Limits amount of collection costs school may assess against Federal Perkins Loan borrower
- Current caps on collection costs pertain only to rehabilitated loans (24%)

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**Federal Perkins Loan Program Provisions**

- Caps collection costs
  - 30% for first collection effort
  - 40% for subsequent collection efforts and/or litigation
  - For loans placed with collection firm on or after 7/1/08
- No change to limits on amount of unpaid costs charged to Federal Perkins Fund

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## Federal Perkins Loan Program Provisions

Effective July 1, 2008; no early implementation:

- *Mandatory Assignment of Defaulted Federal Perkins Loans* [674.8; 674.50]
- *Child or Family Service Cancellation* [674.56]

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## Mandatory Assignment of Defaulted Federal Perkins Loans

- No changes to NPRM
- Assignment no longer voluntary; required when:
  - Loan has been in default 7 years or more
  - Outstanding principal is \$100 or more
  - No payment received in last 12 months unless none due because of forbearance or deferment
- SSN not required for mandatory assignment

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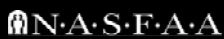
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## Child or Family Service Cancellation

- No changes to NPRM
- Codifies GEN-05-15 guidance
- Qualifying service must be provided directly and exclusively to high-risk children (and their families) from low-income communities
- Any services provided to children's families must be secondary

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# NASFAA Webinars: Final Rules

## Presented November 2007

FFEL and Direct Loan

### Provisions Common to the FFEL and Direct Loan Programs

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### Grad/Professional PLUS Borrowers

Before certifying a PLUS loan application for graduate or professional student borrower, school must determine borrower's eligibility for a Stafford loan and notify student of:

- Interest rates for both Stafford and PLUS
- Periods when interest accrues on Stafford and PLUS
- Points when Stafford and PLUS enters repayment
- Provide student opportunity to accept Stafford

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### Grad/Professional PLUS Borrowers

Initial loan counseling required for all graduate and professional PLUS borrowers

- Schools must provide certain information to grad PLUS borrowers with and without prior Stafford Loans
- Schools not required to develop separate counseling materials for grad PLUS borrowers

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**Grad/Professional PLUS Borrowers**

Exit counseling must be provided for borrowers with both Stafford and grad PLUS loans

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**Maximum Length of Loan Period**

- New provisions eliminates maximum 12 month loan period
- Allows greater flexibility in non-term and non standard term program loan certification
  - For example: School may certify loan for a 15 month program when the school's academic year is 10 months

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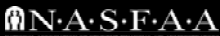
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**Maximum Length of Loan Period**

New provisions allows greater flexibility in rescheduling loan disbursements for students in non-term and certain nonstandard term programs who are:

- Progressing academically in their programs more slowly than anticipated, or
- Who drop out and return within the permitted 180-day period to retain Title IV disbursements

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**Identity Theft Discharge**

- No changes to current regulations on discharge eligibility requirements
- Regulation modified to state individual must now provide a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the person who is named as the borrower of the loan was the victim of a crime of identify theft *by a perpetrator named in the verdict or judgment*

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**Identity Theft Discharge**

Upon receipt of a valid identity theft report or notification from a credit bureau, lender may:

- Grant 120-day administrative forbearance
- Suspend credit bureau reporting for 120 days

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**Frequency of Capitalization**

Final rules limit capitalization on Federal Consolidation loans to quarterly

- Except lender may capitalize the unpaid interest for a period of authorized in-school deferment only at the expiration of the deferment

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Title IV Loan Program Final Rules

## Final Rules Pertaining to College Cost Reduction and Access Act

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### Interest Rates

Reduces interest rates for **undergraduate** FFEL and Direct **subsidized** Stafford loans:

- 6.0 percent for loans originated between July 1, 2008, and June 30, 2009
- 5.6 percent beginning July 1, 2009
- 4.5 percent beginning July 1, 2010
- 3.4 percent beginning July 1, 2011
- Interest rate returns to 6.8 percent for subsequent years

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### Interest Rates

New regulatory guidance is silent on change in interest rates for:

- Undergraduate unsubsidized Stafford Loans
- Graduate subsidized and unsubsidized Stafford Loans

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## FFEL Lender and Guaranty Agency

The special allowance rate for any loan for which the first disbursement of principal is made on or after October 1, 2007 is reduced

- Rates differ for eligible not-for-profit lenders and other lenders
- ED estimates a reduction in federal costs by \$14 billion over 2007-2012

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## FFEL Lender and Guaranty Agency

- The percentage of default collections that a guaranty agency may retain is reduced from 23 to 16 percent as of October 1, 2007
- The account maintenance fee paid to guaranty agencies based on the original principal amount of outstanding FFEL Program loans insured by the guaranty agency is decreased from 0.10 to 0.06 percent effective October 1, 2007

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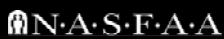
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## FFEL Lender and Guaranty Agency

- For any FFEL loan made on or after October 1, 2007, lenders must pay the Secretary a loan fee equal to 1.0 percent of the principal amount of the loan
- Effective October 1, 2007, the “exceptional performer” status for lenders and loan servicers has been eliminated

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# NASFAA Webinars: Final Rules Presented November 2007

Final Rules: Title IV Student Loan Programs

## Preferred Lender Lists

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### Preferred Lender Lists

Schools may choose to have preferred lender lists. If this option is elected, the list must:

- Have at least 3 unaffiliated lenders
- Disclose method and criteria used to select lenders included on the list
- Provide comparative information on borrower benefits offered by all lenders listed

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### Preferred Lender Lists

Schools:

- **Must not** include lenders that were solicited or provided school or school-employee benefits
- May include lenders solicited for best borrower benefits

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**Preferred Lender Lists**

- Must include prominent statement advising borrowers that use of school preferred lender not required
- Unnecessary delays in certification for borrowers not using one of the school's preferred lenders prohibited
- Must be updated at least annually

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**Final Rules: Title IV Student Loan Programs**

## Inducements

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**Inducements**

The provisions on inducements:

- Affect FFEL lender and guaranty agency eligibility and participation in the program
- Create the concept of "rebuttable presumption" for prohibited and allowed activities
- Expand the FTC "holder rule" to loans for all schools

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**Inducements**

- Provisions are applicable to guarantee agencies and lenders as redefined under 682.200
- Provisions describe:
  - Prohibited activities
    - ✓ Non-exhaustive list
  - Allowed activities

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**Inducements – Prohibited Activities**

- Payments to prospective borrowers
  - This includes but is not limited to prizes and additional financial aid
- Payments, premiums, points, or other benefits to a school, school-affiliated organization, or individual for:
  - Loan applications,
  - Volume of loans made, or
  - Placement on a preferred lender list

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**Inducements – Prohibited Activities**

- Payments or other benefits to student lender reps on campus or other solicitors to secure loan applications from prospective borrowers
- Payment of referral or processing fees not required to comply with federal or state law to another lender or other party
- Payment of conference or training registration, transportation, and lodging costs for school or school-affiliated organization employees
- Payment for service on lender advisory boards

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## Inducements – Prohibited Activities

- Providing staffing to a school except on a short-term, emergency basis
- Payment of entertainment expenses related to lender-sponsored activities for school or school-affiliated employees
- Undertaking philanthropic activities in exchange for FFEL applications, volume, or placement on a school's preferred lender list

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## Inducements – Allowed Activities

- Assistance to schools comparable to that provided to DL schools by the Secretary
- Support or participation in student financial aid literacy outreach with schools and guaranty agencies
- Toll-free numbers for FFEL information and school loan data transmission

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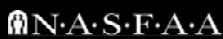
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## Inducements – Allowed Activities

- Reasonable costs of meals, refreshments, and receptions for meeting, training, or conferences if open to all attendees
- Reduced origination fees and interest rates
- Payment of Federal Default Fees
- Borrower benefits under repayment incentive programs
- Items of nominal value

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**Inducements – Allowed Activities**

Allowed activities specific to guarantee agencies include:

- Payments for default aversion activities approved by the Secretary
- Payments for expenses related to participation on guarantor's governing board, official advisory committee, or for other official GA-sponsored activities

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**Thank You!**

Please join us on  
Tuesday, December 11, 2007  
1:30PM to 3:00PM EST

NASFAA's Webinar Series  
Final Rules:  
The Title IV Student Loan Programs  
Revisited

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**Survey!**

- Please complete the survey that appears on your screen
- You will need to disable your pop-up blocker in order to complete the survey

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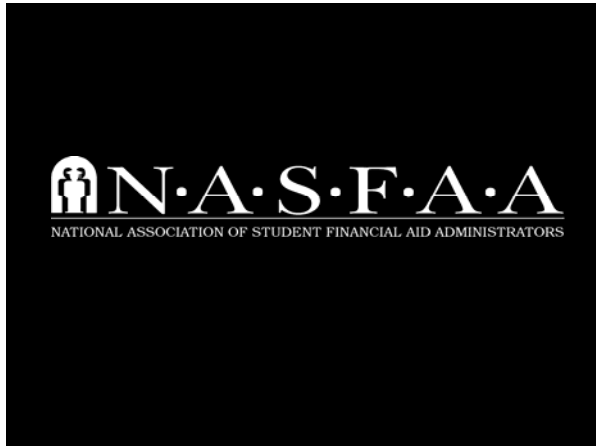
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# NASFAA Webinars: Final Rules Presented November 2007



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