

Discharges for Borrowers with Total and Permanent Disability

Under the Higher Education Act, individuals who experience a total and permanent disability (TPD) are entitled to a full, tax-exempt discharge of their federal student loans. Prior to changes made over the past several years, all borrowers were required to proactively apply for this relief—and borrowers who received a discharge were then subject to income monitoring for three years.

During this post-discharge monitoring period, the borrower could have their loan reinstated if their earnings were above a certain threshold, or if they did not respond to requests for earnings information. These application and monitoring requirements posed a significant barrier to relief.¹

In 2019, the Department of Education (Department) [began](#) automatically discharging loans for a subset of borrowers: those identified through an information-sharing agreement with the Veterans Administration. However, this left out many borrowers eligible based on data from the Social Security Administration (SSA).²

In 2021, the Department announced a [new regulation](#) through which it will grant automatic TPD discharges to more than 323,000 additional eligible borrowers, totaling \$5.8 billion in relief. This action expanded the 2019 policy by including borrowers identified through the SSA, in addition to those identified through the VA. Eligible borrowers will receive notices of their approval for a discharge by the end of 2021.

As part of this announcement, the Department also indicated that it plans to pursue permanent elimination of the three-year monitoring period (which is required under current regulations) via the upcoming negotiated rulemaking process. The announcement that the Department plans to permanently eliminate the monitoring period builds on a [prior announcement](#) from earlier in 2021 that the Department would no longer subject borrowers to post-discharge income monitoring for the duration of the pandemic. This monitoring period was originally implemented in response to concerns about fraudulent discharges, but a [2016 report](#) by the Government Accountability Office found that 98 percent of rejected disability discharges occurred because borrowers did not submit the requested documentation—not because their earnings were too high.

In addition to permanently eliminating the post-discharge monitoring period, ED should expand the number of borrowers who qualify for TPD discharge, based on the existing statute, and ensure that the alternative physician certification process is as simple and easy to use as possible. These changes will ensure that all borrowers can automatically access the relief to which they are legally entitled, and that borrowers are not subject to unnecessary hurdles caused by the post-discharge monitoring period.

¹ Student Defense. *Student Defense Petitions Department of Education to Automatically Discharge Debt for all Eligible Students with Disabilities*. April 19, 2021. <https://bit.ly/3teKbc3>

² The Department entered into information-sharing agreements with the SSA and VA in 2016 and 2019, respectively.