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34 CFR Parts 668, 674, 682, and 685
Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 682, and 685

RIN 1840–AD12

[Docket ID ED–2013–OPE–0063]

Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions, Federal Perkins Loan (Perkins Loan) Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan (Direct Loan) Program regulations. These final regulations will: Amend the FFEL and Direct Loan program regulations to reflect changes made to the Higher Education Act of 1965, as amended (HEA), by the SAFRA Act included in the Health Care and Education Reconciliation Act of 2010; incorporate statutory changes to interest rates and other recent statutory changes in the Direct Loan Program regulations; update, strengthen, and clarify various areas of the Student Assistance General Provisions, Perkins Loan, FFEL, and Direct Loan program regulations; and provide for greater consistency in the regulations governing the title IV, HEA student loan programs. These final regulations will ensure that the title IV, HEA Federal student aid programs operate as efficiently as possible.

DATES: *Effective date:* These regulations are effective July 1, 2014.

Implementation dates: For implementation dates, see the *Implementation Date of These Regulations* section of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For further information related to loan rehabilitation reasonable and affordable payments, contact Brian Smith or Pamela Moran at (202)–502–7551 or (202)–502–7732 or by email at: *Brian.Smith@ed.gov* or *Pamela.Moran@ed.gov.* For further information related to administrative wage garnishment, contact Nathan Arnold or Pamela Moran at (202)–219–7134 or (202)–502–7732 or by email at: *Nathan.Arnold@ed.gov* or *Pamela.Moran@ed.gov.* For further information related to Federal Perkins Loan program changes, contact Gail McLarnon or Brian Smith at (202)–219–7048 or (202)–502–7551 or by email at: *Gail.McLarnon@ed.gov* or *Brian.Smith@ed.gov.* For further information related to Direct Loan program changes, contact Gail McLarnon, Jon Utz, or Pamela Moran at (202)–219–7048, (202)–377–4040, or (202)–502–7732 or by email at: *Gail.McLarnon@ed.gov, Jon.Utz@ed.gov,* or *Pamela.Moran@ed.gov.* For further information on FFEL program changes, contact Pamela Moran or Nathan Arnold at (202)–502–7732 or 202–219–7134 or by email at: *Pamela.Moran@ed.gov* or *Nathan.Arnold@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary:

Purpose of This Regulatory Action: These final regulations address issues arising from the changes made to the HEA by the SAFRA Act, included in the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152). The SAFRA Act ended the origination of new loans under the FFEL Program after June 30, 2010. With this change, all new Stafford, PLUS, and Consolidation loans with a first disbursement on or after July 1, 2010, are now made under the Direct Loan Program. Because all new loans are being made under the Direct Loan Program, these final regulations amend the FFEL Program regulations in 34 CFR part 682 by removing provisions related to the making of new loans. The final regulations also reflect changes made to interest rates in the Direct Loan program by the Bipartisan Student Loan Certainty Act of 2013 (Pub. L. 113–28). In addition, the regulations amend the Direct Loan Program regulations in 34 CFR part 685 by adding detailed regulations in areas where the Direct Loan Program regulations cross-reference the FFEL Program regulations.

The regulations also strengthen and clarify provisions of the Perkins Loan, FFEL, and Direct Loan program regulations including, but not limited to, regulations governing: deferments, forbearances, loan cancellation, rehabilitation of defaulted loans, administrative wage garnishment, and satisfactory repayment arrangements. The regulations also make the rules governing the various title IV, HEA loan programs more consistent.

Summary of the Major Provisions of This Regulatory Action: The final regulations—

- Raise the participation rate index ceiling applicable to institutions that have a single three-year cohort default rate of over 40 percent for purposes of challenges to, and appeals from, sanctions based on that default rate. (34 CFR 668.204(c) and 668.214(a) and (d))
- Clarify the Perkins Loan, FFEL, and Direct Loan program regulations to provide that a borrower who makes six payments in the course of rehabilitating a defaulted loan, but who does not seek additional title IV aid, will not be considered to have used the one-time-only opportunity to regain title IV eligibility by making satisfactory repayment arrangements. The regulations also define the term ''satisfactory repayment arrangement'' more consistently across the title IV, HEA loan programs. (34 CFR 674.2(b), 674.9(k), 682.200(b), 685.102(b), and 685.200(d))
- Amend the closed school discharge provisions in the Perkins Loan, FFEL, and Direct Loan program regulations to specify that a borrower may qualify for a loan discharge if the borrower withdrew from school not more than 120 days before the school closed, instead of the current 90-day standard. The regulations also add examples of the types of exceptional circumstances under which the Department may extend the 120-day window. (34 CFR 674.33(g), 682.402(d), and 685.214)
- Update the FFEL and Direct Loan program enrollment status reporting requirements for institutions to reflect current processes and eliminate obsolete terms and procedures. The regulations also add comparable enrollment status reporting provisions to the Perkins Loan Program regulations. (34 CFR 674.19(f), 682.605, 682.610(c), and 685.309(b))
- Revise the terms under which a guaranty agency in the FFEL Program may authorize a lender to grant forbearance to permit a borrower or endorser to resume honoring the agreement to repay a debt after default but prior to claim payment to require either a signed written agreement to repay or an oral affirmation of the borrower's or endorser's obligation to repay the debt. The regulations provide that if a forbearance is granted based on the borrower's or endorser's oral request and affirmation of the obligation, the forbearance is limited to 120 days and cannot be granted for consecutive periods. In addition, the lender must orally review with the borrower the terms and conditions of the forbearance and send a notice to the borrower or endorser that confirms the terms of the forbearance. The regulations also define the term ''affirmation.'' Finally, the regulations also add comparable provisions to the Direct Loan Program regulations. (34 CFR 682.211(d) and 685.205(a)(8))
- Require that lenders grant forbearance to FFEL borrowers who are

performing service that qualifies them for loan repayment under the Department of Defense student loan repayment programs in addition to the program authorized by 10 U.S.C. 2171 (which is currently referenced in the regulations). A comparable forbearance provision is added to the Direct Loan Program regulations. (34 CFR 682.211(h) and 685.205(a)(9))

• Authorize a lender to grant an administrative forbearance to a FFEL borrower who is delinquent at the beginning of an authorized period of forbearance and add a corresponding provision to the Direct Loan Program regulations. (34 CFR 682.211(f) and 685.205(b)(2))

• Provide that the Secretary, in both the FFEL and Direct Loan programs, and the guaranty agency, in the FFEL Program, once the rehabilitation discussion has begun, initially considers a borrower's reasonable and affordable loan rehabilitation payment amount to equal 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12. If the amount determined using this calculation is less than $5, the borrower's monthly rehabilitation payment is $5. (34 CFR 682.405(b) and 685.211(f))

• Specify in the FFEL and Direct Loan program regulations that a reasonable and affordable loan rehabilitation payment amount must not be a required minimum payment (except that a payment amount calculated as described in the immediately preceding paragraph may not be less than $5), a percentage of the borrower's total loan balance, or an amount based on other criteria unrelated to the borrower's total financial circumstances. (Note that these changes to the loan rehabilitation reasonable and affordable payment amount calculation do not prohibit the Secretary, his designee, or a guaranty agency from discussing other payment arrangements with the borrower, including payment of the full defaulted loan balance or payment of the defaulted loan through consolidation, outside of the context of the loan rehabilitation program and its associated requirements.) (34 CFR 682.405(b) and 685.211(f))

• Require that the Secretary, in the FFEL and Direct Loan programs, or the guaranty agency, in the FFEL Program, provide the borrower with a written rehabilitation agreement within 15 business days of the determination of the borrower's reasonable and affordable payment amount along with a comprehensive description of the borrower's rights, the terms and conditions of the payments, the effects of loan rehabilitation, and, for a FFEL borrower, the treatment of unpaid collection costs. (34 CFR 682.405(b) and 685.211(f))

• Provide that, if the borrower objects to the initial payment amount determined by the Secretary or the guaranty agency, the Secretary or the guaranty agency will recalculate the amount of the borrower's rehabilitation payment based on the borrower's and, if applicable, the borrower's spouse's current disposable income, family size, and reasonable and necessary expenses. The information about income and expenses needed to determine the alternative reasonable and affordable payment amount will be provided by the borrower to the Secretary or the guaranty agency on a form approved by the Secretary and, if requested, with supporting documentation from the borrower or other sources. (34 CFR 682.405(b) and 685.211(f))

• Provide that, while the borrower is making payments under a rehabilitation agreement, the Secretary and the guaranty agency will limit contact with the borrower to collection activities required by law or regulation and communications that support the rehabilitation. (34 CFR 682.405(b) and 685.211(f))

• Amend the Direct Loan and FFEL program regulations to provide that, when a loan is being collected by administrative wage garnishment (AWG), the Secretary or the guaranty agency, respectively, will suspend AWG after the borrower makes five qualifying monthly payments under a loan rehabilitation agreement, unless the borrower requests that AWG continue. (34 CFR 682.405(a) and 685.211(f))

• Incorporate into the Perkins Loan Program the same eligibility criteria used in the Direct Loan and FFEL programs to define an ''eligible graduate fellowship program'' and to establish the eligibility of a Perkins Loan borrower for a graduate fellowship deferment. (34 CFR 674.34(f))

• Eliminate the debt-to-income economic hardship deferment category in the Perkins Loan Program. (34 CFR 674.34(e))

• Modify the rehabilitation provisions in the Perkins Loan Program regulations to define the term ''on-time'' as it relates to the series of payments required to successfully rehabilitate a defaulted loan. (34 CFR 674.39(a)(2))

• Allow assignment of a Perkins Loan to the Secretary without the borrower's Social Security Number if the loan was made before September 13, 1982. (34 CFR 674.50(e)(1))

• Permit a Perkins Loan borrower who is unable to complete the second half of an academic year of teaching due to a condition covered under the Family and Medical Leave Act (FMLA) to still count that year as eligible teaching service for loan cancellation purposes, if the borrower's employer considers the borrower to have fulfilled the teacher contract requirements for that academic year. (34 CFR 674.52(c)(1))

• Permit a Perkins Loan borrower who is unable to complete a full year of eligible public service due to a condition that is covered under the FMLA to count that year as a full year of public service for loan cancellation purposes if the borrower completes at least six months of consecutive eligible service. (34 CFR 674.52(c)(2))

• Specify that, if a Perkins Loan borrower who is performing service that qualifies the borrower for loan cancellation at a cancellation rate progression of 15 percent for the first and second years of qualifying service, 20 percent for the third and fourth years of qualifying service, and 30 percent for the fifth year of qualifying service, takes a job in a different field that qualifies the borrower under a different cancellation category that provides loan cancellation at the same cancellation rate progression as the prior category, the borrower's cancellation rate under the new cancellation category will continue from the last year the borrower received a cancellation under the former cancellation category, rather than starting over at the first-year cancellation rate. (34 CFR 674.52(g))

• Change the timeframe for FFEL lenders to send the required repayment disclosure for borrowers who are 60 days delinquent from five calendar days to five business days after the date the borrower becomes 60 days delinquent. (34 CFR 682.205(a)(5))

• Amend the FFEL Program regulations to provide that a lender does not have to send a repayment disclosure to a borrower who is having difficulty making payments if the borrower's difficulty has been resolved through contact resulting from an earlier disclosure or from other contact between the lender and the borrower. (34 CFR 682.205(a)(4))

• Amend the regulations governing AWG to reflect the borrower's right to request a hearing on the enforceability of the debt and to allow the borrower to object to the amount or rate of AWG withholding if such withholding would cause financial hardship to the borrower. (34 CFR 682.410(b)(9))

• Revise the regulations governing AWG to conform the requirements for borrowers whose defaulted loans are held by a guaranty agency to the rules and procedures used by the Secretary. (34 CFR 682.410(b)(9))

• Amend the regulations governing AWG to incorporate existing policy guidance related to third-party servicers or collection contractors retained by guaranty agencies. (34 CFR 682.410(b)(9))

• Amend the regulations governing AWG to more clearly describe the process, from the initial garnishment notice to withholding. (34 CFR 682.410(b)(9))

• Amend the regulations governing AWG to better reflect due process requirements and to specify the functions, delegations of authority, recordkeeping requirements, and permissible activities of guaranty agencies and third-party servicers or collection contractors. (34 CFR 682.410(b)(9))

• Clarify the limitations on the amount that may be subject to AWG if a guaranty agency is garnishing pay from a borrower who is not already subject to a withholding order or from a borrower who is already subject to one or more withholding orders. The regulations will also permit a greater amount or percentage to be withheld with the borrower's consent. (34 CFR 682.410(b)(9))

• Require that for a borrower to receive a hearing before AWG begins, the borrower's written request for a hearing must be received on or before the 30th day following the date the garnishment notice was sent, and remove a rule providing that a borrower is considered to have received a garnishment notice five days following the date of the notice. (34 CFR 682.410(b)(9))

• Provide that if a borrower's written request for a hearing is received by the guaranty agency after the 30th day following the date of the garnishment notice, the agency must provide the borrower a hearing and issue a decision within 60 days following receipt of the request. If a decision is not rendered within 60 days, the guaranty agency must suspend the order beginning on the 61st day after the hearing request was received until a hearing is provided and a decision is rendered. (34 CFR 682.410(b)(9))

• Amend the FFEL Program regulations to: specify the contents of an AWG notice; describe how an AWG hearing is administered, including provisions for the submission of additional evidence and the granting of continuances; provide for the withholding order to end by either rescission or full recovery of amounts owed by the borrower; and clarify that a borrower who wishes to object that he or she is not subject to garnishment because of involuntary separation bears the burden of raising and proving that claim. (34 CFR 682.410(b)(9))

• Eliminate provisions in the FFEL Program regulations governing loan origination and disbursement and related requirements and activities except for certain school-based requirements and related activities. (34 CFR Part 682)

• Eliminate obsolete provisions that do not reflect the current procedures in the FFEL Program. (34 CFR Part 682)

• Make necessary conforming changes in various FFEL Program provisions to update the regulations. (34 CFR Part 682)

• In the Direct Loan Program regulations, modify the exception to the minimum loan period requirement for clock-hour and certain non-standard term programs that allows a school, in certain transfer student situations, to originate a loan for a period shorter than the lesser of the academic year or program length only if the school accepts credit or clock hours from the school that the student was previously attending. The regulations remove the provision that limits this exception to situations in which the school into which the student transfers accepts credit or clock hours from the prior school. (34 CFR 685.301(a)(10))

• Add detailed regulations to 34 CFR part 685 in areas where the Direct Loan Program regulations cross-reference the FFEL Program regulations. (34 CFR Part 685)

• Remove obsolete provisions that do not reflect current procedures used in administering the Direct Loan Program. (34 CFR Part 685)

• Revise the Direct Loan Program regulations to reflect the impact of the SAFRA Act, the Bipartisan Student Loan Certainty Act of 2013, and other recent statutory changes. (34 CFR Part 685)

Chart 1 summarizes the final regulations and related benefits, costs, and transfers that are discussed in more detail in the *Regulatory Impact Analysis* section of this preamble. Significant benefits of these final regulations include a clearer process for determining a reasonable and affordable payment for loan rehabilitation that should result in more consistent treatment of borrowers, the elimination of FFEL Program regulations that are no longer needed, the expansion of the period during which a borrower who withdraws from a school prior to its closure may qualify for a closed school discharge, and additional changes to promote transparency and efficiency in the administration of the Federal student loan programs. The estimated net budget impact of the regulations is $2.8 to $3.4 million over ten years from 2013–2022, driven by the expansion of the time period for eligibility for a closed school discharge. As shown in the Accounting Statement within the Regulatory Impact Analysis of these final regulations, the annualized estimated transfer from the Federal government to borrowers associated with the statutory changes to Direct Loan interest rates is $1.2 billion at a 7 percent discount rate and $467 million at a 3 percent discount rate. For some future cohorts, depending on the cost of funds of the Federal government, the transfer may be reversed and the students would have higher interest rates than if the PB2014 baseline assumed rates of 6.8 percent for Direct Subsidized Loans and Direct Unsubsidized Loans and 7.9 percent for Direct PLUS Loans had continued in effect.

CHART 1—SUMMARY OF THE FINAL REGULATIONS

Issue and key features	Benefits	Cost/transfers
Three-Year Cohort Default Rate Participation Rate Index Challenges and Appeals (34 CFR 668.204 and 668.214).	More schools with low Title IV participation but high default rates (above 40%) will be able to appeal their loss of Title IV eligibility. This is important as the change from a 2-year to a 3-year cohort default rate is predicted to leave many schools ineligible to appeal their sanctions under the previous regulations.	No significant costs projected.
Raises the Participation Rate Index ceiling for purposes of challenges to and appeals from sanctions based on one three-year cohort default rate of over 40 percent from 0.06015 to 0.0832.		

CHART 1—SUMMARY OF THE FINAL REGULATIONS—Continued

Issue and key features	Benefits	Cost/transfers
Perkins Loan, FFEL, and Direct Loan Programs: Satisfactory Repayment Arrangements (34 CFR 674.2(b), 674.9(k), 682.200(b), 685.102(b), and 685.200). Makes the definitions of ''satisfactory repayment arrangement'' more consistent across the three title IV student loan programs.	Creates a consistent standard across the three loan programs and adds clarity to the regulations regarding defaulted loan rehabilitation.	No significant costs projected.
Closed School Discharge (34 CFR 674.33(g), 682.402(d), and 685.214). Extends the current 90-day window for students who leave before a school closes to 120 days and adds examples of the types of exceptional circumstances under which the Department may extend the 120-day window.	Expanding the window an extra 30 days will provide discharges to students who failed to meet the 90-day criteria but withdrew from a program as it was preparing to close. Citing clear examples of exceptional circumstances adds clarity to the loan regulations and gives borrowers a basis on which to make educated decisions.	We estimate these changes to have a cost of approximately $3.1 million over 10 years as the pool of borrowers eligible for discharge will increase.
School Enrollment Status Reporting Requirements (34 CFR 674.19, 682.605, 682.610, and 685.309). Revises the regulations to reflect the current processes by which schools receive and report student enrollment status information and provides the Secretary with greater flexibility to modify enrollment reporting procedures in the future.	Improves the Department's information collection process and supports a more efficient loan servicing process.	No significant costs projected.
Forbearance for Borrowers Who are 270 or More Days Delinquent Prior to Guaranty Agency Default Claim Payment or Transfer by the Department to Collection Status (34 CFR 682.211(d) and 685.205). Requires lenders to send a notice within 30 days of a forbearance agreement to the borrower if the agreement is based on an oral request or agreement.	Creates a consistent standard across the loan programs and ensures that borrowers are fully informed of the details of their forbearance agreement. Borrowers will have to affirm their commitment to repay and acknowledge their debt, which may improve the probability of full repayment.	No significant costs projected.
Forbearance Provisions for Borrowers Receiving Department of Defense Student Loan Repayment Benefits (34 CFR 682.211(h) and 685.205). Requires that lenders grant forbearance to borrowers who are performing service that qualifies them for loan repayment under the Department of Defense student loan repayment programs authorized by 10 U.S.C. 2171, 2173, or 2174, or under any other student loan repayment program administered by the Department of Defense.	Creates consistency across loan programs	No significant costs projected.
Borrowers Who Are Delinquent When an Authorized Forbearance Is Granted (34 CFR 682.211(f) and 685.205). Authorizes lenders to grant an administrative forbearance to a borrower who is delinquent at the beginning of an authorized period of forbearance.	Borrowers who opt to use forbearance will not have to worry about having a delinquent repayment status upon exiting forbearance.	No significant costs projected.
Loan Rehabilitation Agreement: Reasonable and Affordable Payment Standard (34 CFR 682.405(b) and 685.211(f)). Establishes standards for determining a ''reasonable and affordable'' loan repayment for rehabilitation purposes.	Reduces the burden on defaulted borrowers who are attempting to rehabilitate their loans and adds transparency to the process. This will possibly increase the percentage of defaulted borrowers that complete the rehabilitation process and fully repay their loans.	No significant costs projected.
Loan Rehabilitation Agreement: Treatment of Borrowers Subject to Administrative Wage Garnishment (34 CFR 682.405(a) and 685.211(f)). Suspends AWG after a borrower has made five qualifying payments under a loan rehabilitation agreement.	Provides financial relief to borrowers whose loans are being collected through AWG but who are taking positive steps to repay their loans.	No significant costs projected.

CHART 1—SUMMARY OF THE FINAL REGULATIONS—Continued

Issue and key features	Benefits	Cost/transfers
Federal Perkins Loan Graduate Fellowship Deferment Eligibility (34 CFR 674.34(b)(1) and (f)). Requires schools that participate in the Perkins Loan Program to use the same eligibility criteria that are used in the FFEL Program (under § 682.210(d)) to define an eligible graduate fellowship program and to establish the eligibility of a Perkins Loan borrower for a graduate fellowship deferment.	Creates consistency across loan programs	No significant costs projected.
Federal Perkins Loan Economic Hardship Deferment Debt-to-Income Ratio Provision (34 CFR 674.34(e)(4)). Eliminates an inconsistency between the economic hardship deferment eligibility criteria in the Perkins Loan program and the eligibility criteria in the Direct Loan and FFEL programs.	Creates consistency across loan programs	No significant costs projected.
Federal Perkins Loan Standard for On-time Loan Rehabilitation Payment (34 CFR 674.39(a)(2)). Identifies what is considered an ''on-time'' loan payment for rehabilitation purposes within the Perkins Loan program.	Creates consistency across loan programs	No significant costs projected.
Social Security Number Requirement (SSN) for Assignment of Defaulted Federal Perkins Loans to the United States (34 CFR 674.50(e)(1)). Allows assignment of a Perkins Loan without the borrower's SSN if the loan was made before September 13, 1982.	Makes the administration of Perkins Loans less burdensome by bringing the regulations more in line with past practices.	No significant costs projected.
Federal Perkins Loan Break in Cancellation Service Due to a Condition Covered under the Family and Medical Leave Act (34 CFR 674.52(c)(1)). Allows a Perkins Loan borrower who is unable to complete a second half of an academic year of teaching or a full year of public service due to a condition covered under the Family Medical and Leave Act to still count that year as a full year of service if the borrower's employer considers the borrower to have fulfilled the requirements for that year.	Adds consistency across the loan programs. It also provides leniency for eligible borrowers who are unable to complete their service requirements because of injury or illness.	No significant costs projected.
Federal Perkins Loan Cancellation Rate Progression (34 CFR 674.52(g), 674.53(d), 674.56(h), 674.57(c)(2), and 674.59(c)(2)). Allows borrowers to continue their progression toward full loan cancellation when they change jobs to a position with the same cancellation eligibility requirements.	Borrowers who are progressing toward loan cancellation based on employment in a particular field who switch jobs will no longer lose credit for their time served as along as the new job has the same loan cancellation eligibility.	No significant costs projected.
FFEL Lender Repayment Disclosures for Borrowers Who Are 60 Days Delinquent (34 CFR 682.205(a)(5)). Changes the requirement that FFEL Lenders have to provide a repayment disclosure to a borrower from five calendar days after the date the borrower becomes 60 days delinquent to five business days after that date.	Reduces the burden on FFEL lenders by accounting for holidays and weekends.	No significant costs projected.
FFEL Lender Repayment Disclosures to Borrowers Who Are Having Difficulty Making Payments (34 CFR 682.205(a)(4)). Removes requirement that a FFEL lender provide a borrower with a disclosure upon notification from the borrower that he or she is having trouble making payments, if the borrower's difficulty has been previously resolved.	Reduces the paperwork burden on FFEL lenders.	No significant costs projected.

CHART 1—SUMMARY OF THE FINAL REGULATIONS—Continued

Issue and key features	Benefits	Cost/transfers
Administrative Wage Garnishment of the Disposable Pay of Defaulted FFEL Program Borrowers (34 CFR 682.410(b)). Borrower Hearing Opportunities on the Enforceability of the Debt and a Borrower's Claim of Financial Hardship (34 CFR 682.410(b)(9)(i)). Changes the regulations regarding Administrative Wage Garnishments (AWG) for FFEL borrowers to align with the rules governing AWG for Department-held loans.	Ensures that borrowers who object to the proposed AWG have an appropriate opportunity to challenge the existence or amount of the debt or to demonstrate that the withholding would cause financial hardship.	No significant costs projected.
Use of Third-Party Contractors in AWG Hearings (34 CFR 682.410(b)(9)). Adds language to clarify that an AWG hearing official may not be under the supervision or control of the guaranty agency or of a third-party servicer or contractor employed by the agency.	Ensures borrowers receive impartial hearings	No significant costs projected.
Amount or Rate of Wage Withholding (34 CFR 682.410(b)(9)). Adds language to clarify the maximum amount that may be withheld during AWG.	Provides clarity to loan program	No significant costs projected.
Borrower Hearing Requests (34 CFR 682.410(b)(9)). Changes the notification timelines regarding AWG hearing requests.	Provides borrowers with more time to request hearings.	No significant costs projected.
Modification of the FFEL Program Regulations (34 CFR part 682). Modifies the FFEL Program regulations to remove provisions that are obsolete because of the implementation of the SAFRA Act.	Provides clarity to lenders, guaranty agencies, financial aid administrators and borrowers.	No significant costs projected.
Minimum Loan Period for Transfer Students in Non-Term and Certain Non-Standard Term Programs (34 CFR 685.301). Allows students who transfer into non-term and certain non-standard term programs during the middle of an academic year, to be eligible for a Direct Loan to cover the remainder of the academic year (within annual loan limits) regardless of whether the new academic program accepts credits from the prior program.	Borrowers will no longer have to worry about the ramifications of transferring to a school that does not accept credit or clock hours from the previous school.	No significant costs projected.
Modification of the Direct Loan Program Regulations (34 CFR part 685). Modifies the Direct Loan Program regulations to remove provisions that are obsolete because of the implementation of the SAFRA Act and to add necessary language to replace cross-references and reflect program requirements.	Adding consistency to regulations and removing inapplicable regulations dealing with Direct Loans will provide clarity to program participants.	No significant costs projected.

On July 29, 2013 the Secretary published a notice of proposed rulemaking (NPRM) for these regulations in the **Federal Register** (78 FR 45618). The final regulations contain several changes from the NPRM. We fully explain the changes in the *Analysis of Comments and Changes* section of the preamble that follows.

Implementation Date of These Regulations

Section 482(c) of the HEA requires that regulations affecting programs under title IV of the HEA be published in final form by November 1, prior to the start of the award year (July 1) to which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier and the conditions for early implementation.

Consistent with the Department's objective to improve servicing processes for title IV borrowers, the Secretary is exercising his authority under section 482(c) to designate the following new and amended regulations included in this document for early implementation beginning on November 1, 2013, at the discretion of each loan holder, guaranty agency, or institution, as applicable:

(1) Section 674.2(b).
(2) Section 674.9(k).
(3) Section 674.39(a)(2).
(4) Section 674.52(c) and (g).
(5) Section 682.205(a)(4).
(6) Section 682.205(a)(5).
(7) Section 682.211(d).
(8) Section 682.211(f).
(9) Section 682.211(h).
(10) Section 682.410(b)(9).
(11) Section 685.301(a)(10).

The Secretary also intends to implement early provisions in 34 CFR 685.205 comparable to the provisions in 34 CFR 682.205(a)(4) and (5).

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 25 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses.

We discuss other substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address technical or other minor changes.

We received recommendations from some commenters to make numerous technical changes, including changes that would provide for greater consistency in the regulations of the Perkins Loan, FFEL, and Direct Loan programs. We will consider these changes for inclusion in future technical corrections.

Finally, we note that although the amendatory language in the NPRM included a series of individual revisions to certain parts of 34 CFR 685.220 and 34 CFR 685.301 as part of the overall modification of the Direct Loan Program regulations, these final regulations restate §§ 685.220 and 685.301 in their entirety for greater clarity. However, we have made no changes to these sections other than those that were proposed in the NPRM.

Student Assistance General Provisions Issue

Three-Year Cohort Default Rate Participation Rate Index Challenges and Appeals (34 CFR 668.204 and 668.214)

Comments: Several commenters agreed with the proposed change to raise the participation rate index (PRI) ceiling applicable to institutions that have a single three-year cohort default rate (CDR) of over 40 percent. One commenter stated that continuity and consistency among and between various portions of the regulations, as evidenced by this change, were important and also commended the Department for clarifying that all types of institutions were eligible to challenge and appeal their respective rates using the criteria.

Another commenter requested that the Department change the PRI appeal requirements to allow a PRI appeal to be made annually for each published rate. The commenter believed this would dissuade community colleges from discontinuing participation in the Direct Loan program for the purpose of preventing the loss of eligibility for the Pell Grant Program based on high CDRs.

Discussion: We appreciate the commenters' support of this change. However, we do not agree with the proposal that we allow institutions to file a PRI appeal annually, whether or not the institution would be subject to a sanction. This proposal would impose an unmanageable workload on the Department and is not necessary to protect institutions. Evaluating a PRI appeal is a time-consuming, labor-intensive process. The recommended change would require the Department to consider a significantly higher number of PRI appeals than under the current process, which would delay decisions for institutions that are potentially subject to sanctions. Moreover, the Department believes institutions have ample opportunity to demonstrate in a timely manner that they qualify for relief from sanctions based on their PRI. Current regulations permit institutions to bring a PRI appeal not only when an official rate leading to sanctions is published, but also seven months earlier, at the draft rate stage, when the loss of eligibility is not imminent. At the draft rate stage, just as at the official rate stage, the institution may challenge the draft CDR and file a PRI challenge with respect to any or all of the official rates that would support a loss of eligibility.

A successful PRI challenge to an official rate at the draft rate stage has the same impact as a successful challenge later in the process. Thus, institutions already have sufficient opportunity to file a meaningful appeal.

Changes: None.

Perkins Loan, FFEL, and Direct Loan Program Issues

Satisfactory Repayment Arrangements (34 CFR 674.2(b), 674.9(k), 682.200(b), 685.102(b) and 685.200(d))

Comments: Two commenters expressed support for the effort to make the ''satisfactory repayment arrangements'' definitions more consistent across the Perkins Loan, FFEL, and Direct Loan programs. These commenters believed that a consistent definition of an ''on-time'' payment as a payment made within 20 days of the due date would be helpful to borrowers. However, these commenters also expressed a concern with the requirement that the payments be ''full'' payments. These commenters believe that the term ''full'' is too vague and open to interpretation. These commenters recommended replacing the term ''full'' with the term ''approved'' in the ''satisfactory repayment arrangement'' definitions. These commenters also suggested aligning the number of payments needed to regain title IV eligibility under satisfactory repayment arrangements with the number of payments needed to rehabilitate a loan. These commenters felt that allowing a borrower to obtain new title IV loans after six qualifying payments made under satisfactory repayment arrangements is not in the borrower's best interests.

Discussion: We thank the commenters for their support of the proposed changes to the Perkins Loan, FFEL, and Direct Loan program definitions of ''satisfactory repayment arrangements.'' However, we do not agree with their recommendation to require that payments made under satisfactory repayment arrangements be ''approved'' payments rather than ''full'' payments. We believe that the term ''full'' is self-explanatory when referring to a payment made on a loan. In addition, replacing the long-standing term ''full'' with the term ''approved'' might be interpreted as a change in the requirement, rather than just a change in terminology.

The number of payments required under satisfactory repayment arrangements and the number of payments required under a rehabilitation agreement are established by statute. Section 428F(a)(1)(A) of the HEA requires nine payments under a rehabilitation agreement. Section 428F(b) requires six payments to meet the requirements for satisfactory repayment arrangements. The Department does not have the authority to change these requirements.

Changes: None.

Closed School Discharge (34 CFR 674.33(g), 682.402(d), and 685.214)

Comments: One commenter commended the Department for proposing changes to the closed school discharge provisions. The commenter noted that extending the 90-day window for students who cease enrollment before a school closes to 120 days will help students avoid hardships, such as repaying loans received for programs they are unable to complete through no fault of their own. This same commenter also expressed support and thanked the Department for adding examples of exceptional circumstances under which the Department may extend the 120-day window for affected borrowers. However, this commenter also recommended that the Department provide the benefit of a closed school discharge to borrowers enrolled in a program that is discontinued at a school that continues to operate, especially in the case of a school that offers many of its programs online or through distance education.

Lastly, another commenter commended the Department for proposing changes to the closed school discharge provisions and supported the Department's position to limit the discharge to closed schools only and not to discontinued programs.

Discussion: The Department appreciates the commenters' support for its proposed changes to the closed school discharge provisions. In response

to the request that the Department provide the benefit of a closed school discharge to borrowers enrolled in a discontinued program at a school that continues to operate, we note that sections 437(c)(1) and 464(g) of the HEA require that the school must close in order for a borrower to be eligible for the discharge. The statute does not provide for a loan discharge when only a program, either traditional or distance, is discontinued. We also note that the Department does not consider a distance education program to be a separate location of a school for title IV eligibility purposes. A location is a physical site where a student can receive instruction in 50 percent or more of an eligible program. If a school offers online programs, the online programs are considered to be associated with the main campus of the school. Thus, a borrower enrolled in an online course would be eligible for a closed school discharge if the main campus of the school closes.

Changes: None.

FFEL and Direct Loan Program Issues

Forbearance for Borrowers Who Are 270 or More Days Delinquent Prior to Guaranty Agency Default Claim Payment or Transfer by the Department to Collections Status (34 CFR 682.211(d) and 685.205(a)(8))

Comments: Several commenters supported the proposed requirement that a lender that grants a forbearance based on an oral request and affirmation by a borrower who is 270 or more days delinquent must review with the borrower the terms and conditions and consequences of the forbearance and must provide the borrower with written confirmation of the terms of the forbearance agreement within 30 days of the agreement. However, the commenters expressed concern about limiting the forbearance for such borrowers to one 120-day period. The commenters believed that the current economy and pending healthcare reform could leave many borrowers underemployed or with other temporary situations that cannot be resolved within 120 days. The commenters recommended that the forbearance period be extended from 120 to 180 days.

One commenter urged the Department to revise these proposed regulations to prohibit a borrower from receiving additional forbearances unless the borrower can demonstrate a reasonable prospect of increased income in the foreseeable future. The commenter also recommended that the written notice sent to the borrower to confirm the terms of the 120-day forbearance agreement include information on other repayment options and on how the borrower can exit forbearance.

Discussion: The Department disagrees with the commenters' recommendation that the 120-day, non-serial forbearance that may be granted based on a defaulted borrower's oral request and affirmation be expanded to 180 days. We believe that the 120-day forbearance period provides sufficient time for the borrower to avoid the negative consequences of default by submitting a written forbearance request and affirmation that would result in a forbearance period of up to 12 months, documenting deferment eligibility, or changing to a different repayment plan, so the borrower can successfully manage and repay the loan.

The Department recognizes that schools are required to conduct entrance and exit counseling with their borrowers, and through that process, to educate their borrowers on the terms and conditions of the loans and the program benefits available to assist them in repaying their loans. We are aware that many schools are working to enhance and expand loan-based counseling with their students over the period of their enrollment at the school and support those efforts. The Department has also seen evidence, however, both during and following the negotiated rulemaking sessions, that some institutions are aggressively pursuing their former students to compel them to request forbearance on their loans, primarily during the cohort period when the institution is accountable for student loan defaults. As stated in the preamble to the NPRM, the limits on the 120-day forbearance based on an oral request for a borrower who is 270 days or more delinquent are intended to address potential abuse in this area and to prevent the use of serial forbearances based on oral requests.

We disagree with the commenter who suggested that a borrower receiving the 120-day, non-serial forbearance should be denied access to subsequent discretionary or mandatory forbearances unless the borrower can demonstrate increased income in the foreseeable future. Section 428(c)(3) of the HEA, which contains the eligibility criteria for discretionary and mandatory forbearances in the Direct Loan and FFEL programs, does not support the use of the borrower's demonstrated future earnings as a basis for granting forbearance. However, we agree with the commenter that the other repayment options orally reviewed with the borrower at the time the forbearance is granted should be included in the confirming notice sent to the borrower.

Changes: Sections 682.211(d)(2)(iii) and 685.205(a)(8)(ii)(B) of the FFEL and Direct Loan program regulations, respectively, have been revised to require that information on all other repayment options be included in the notice sent to the borrower to confirm the terms of the forbearance.

Forbearance Provisions for Borrowers Receiving Department of Defense Student Loan Repayment Benefits (34 CFR 682.211(h) and 685.205(a)(9))

Comments: Commenters supported the proposed change to ensure that lenders grant appropriate forbearances to borrowers who are performing eligible service to qualify for student loan repayment under authorized Department of Defense loan repayment programs.

Discussion: We appreciate the commenters' support for this regulatory change.

Changes: None.

Borrowers Who Are Delinquent When an Authorized Forbearance Is Granted (34 CFR 682.211(f) and 682.205(b)(2))

Comments: Several commenters supported the proposed change to the regulations to authorize FFEL lenders to grant administrative forbearance to a borrower who is delinquent at the beginning of an authorized period of forbearance and the corresponding change to the Direct Loan regulations. The commenters expressed concern, however, that this authority would provide the Department's loan servicers an opportunity to use forbearances to increase the percentage of Federal loans that they service. The commenters urged the Department to ensure that all delinquent borrowers are treated similarly by requiring the servicer to discuss the terms and conditions and consequences of the forbearance with the borrower and subsequently provide written confirmation of the terms and other pertinent information, as was proposed in the NPRM for borrowers who are 270 or more days delinquent.

Discussion: The additional authority for FFEL lenders and the Department in the Direct Loan Program to grant administrative forbearance to eliminate a period of delinquency that pre-dates the start of an authorized forbearance period is used only in conjunction with an authorized period of forbearance for which the borrower qualifies. The use of forbearance in this circumstance prevents a borrower from reentering repayment up to 12 months later in a delinquent status, at the end of the authorized forbearance period.

Borrowers granted authorized forbearances are provided with pertinent disclosures that also apply to the period of administrative forbearance. Therefore, we do not agree with the commenters' suggestion that we specifically require additional disclosures.

Changes: None.

Loan Rehabilitation Agreement: Reasonable and Affordable Payment Standard (34 CFR 682.405(b) and 685.211(f))

Comments: Several commenters expressed support for the proposed regulations in §§ 682.405(b)(1) and 685.211(f)(1) that would require a guaranty agency and the Department to determine a FFEL or Direct Loan program borrower's rehabilitation payment amount based on the borrower's, and if applicable the borrower's spouse's, current disposable income, family size, and reasonable and necessary expenses.

As discussed below, several commenters raised a number of objections to the process that a guaranty agency and the Department would follow to determine a borrower's reasonable and affordable rehabilitation payment.

Several commenters were critical of the proposed regulations. These commenters believed that the requirements in the proposed regulations would delay and hinder the rehabilitation process. These commenters expressed concern that requesting financial documents and information from borrowers would burden the process, create confusion, and invade the privacy of the borrower. They stated that often borrowers default because they do not complete paperwork and meet deadlines. In the view of these commenters, the proposed regulatory requirements would impede the ability of collection agencies to get borrowers to participate in the loan rehabilitation program. One of these commenters recommended that the proposed regulations not be implemented at all due to the amount of paperwork a borrower would be required to complete to enter into a loan rehabilitation agreement.

Several commenters stated that the determination of a ''reasonable and affordable'' payment amount can often be accomplished in a telephone conversation in which a borrower's overall financial circumstances are evaluated to establish an acceptable payment amount. In these discussions, the commenters asserted, the borrower's own assessment of his or her total financial circumstances and ability to pay the requested amount serves as the basis for the guaranty agency or Department's determination that the payment amount is reasonable and affordable. These commenters believed that this would be a fair conclusion, since the borrower understands his or her financial resources and constraints better than others. According to the commenters, guaranty agencies find that nearly half of borrowers seeking rehabilitation are able to obtain what the guaranty agencies term reasonable and affordable payment amounts in this manner.

Another commenter, however, argued that, since debt collectors are paid based on a share of revenue collected, Federal student loan servicers have little incentive to offer reasonable and affordable rehabilitation payments that are based on an objective analysis of the borrower's financial circumstances. Instead, the incentive is to push borrowers to make as large a payment as possible, regardless of whether the payment is either reasonable or affordable. Another commenter reiterated this point, stating that private collection agencies—including the Department's own collection contractors—use a balance-sensitive repayment approach for making an initial determination of a borrower's rehabilitation payment amount. Under a balance-sensitive repayment approach, the payment amount offered to the borrower is based on the outstanding balance of the loan, and does not take into consideration the borrower's financial circumstances. In such cases, the commenter asserted, the borrower may feel pressured to agree to a loan rehabilitation payment amount that is unaffordable, and the rehabilitation will ultimately be unsuccessful.

Several commenters raised concerns with regard to use of the Department's proposed Financial Disclosure for Reasonable and Affordable Rehabilitation Payments form for collecting financial and other information from borrowers seeking to rehabilitate their loans. These concerns can be summarized as follows:

- The commenters asserted that use of the form in all cases would be inconsistent with the Department's goal of providing an improved and more consistent loan rehabilitation process for FFEL and Direct Loan borrowers. The commenters believed that the Department can achieve the same goal by emphasizing to its own staff and collection agencies, as well as to guaranty agencies and their collection agencies, the importance of complying with all applicable statutory and regulatory requirements. In the view of these commenters, requiring the use of the form only in the absence of an agreement between the borrower and the loan holder on a reasonable and affordable repayment amount would provide targeted help to such borrowers. The commenters stated that collecting personal and financial information from every borrower who requests loan rehabilitation would be unreasonable and unwarranted.
- The commenters believed that the use of the form would work against the Department's goal of increasing borrower participation in the loan rehabilitation program. The commenters stated that many borrowers would not complete the form, and that the proposed regulations would actually decrease the percentage of borrowers attempting to rehabilitate their loans.
- The commenters expressed concerns that use of the form would infringe on the privacy of the borrowers, requiring them to provide highly sensitive information either to a guaranty agency or to the Department, even if the borrower has already agreed to a repayment amount.
- The commenters believed that the requirements in the proposed regulations would impose an additional impediment to borrowers seeking to regain Title IV eligibility while rehabilitating defaulted loans.
- The commenters were also concerned that use of the form would impose an enormous administrative burden on all parties.

Several commenters stated that they believed that the regulatory requirements that were negotiated and agreed to during the negotiated rulemaking session should only be triggered if the borrower objected to the repayment amount offered by the collection agency or the guaranty agency. They stated that this type of borrower feedback has always been a trigger event for collecting additional financial information to determine reasonable and affordable payments, and asserted that no change to this trigger event was discussed during negotiations. These commenters claimed that the process for determining reasonable and affordable rehabilitation payment amounts provided for in the consensus regulatory language and described in the NPRM was not consistent with their understanding of what was agreed to during the negotiated rulemaking sessions.

Another commenter had a different understanding of the proposed rules that had been agreed to by the negotiated rulemaking committee. This commenter stated that the consensus regulatory language would require loan

servicers, loan holders, and debt collectors to use the form collecting financial disclosure information from the borrower for every borrower who seeks to rehabilitate a loan. This commenter pointed out that the proposed regulatory language agreed to by the negotiating committee states that a borrower's reasonable and affordable repayment amount must be based ''solely'' on information provided on the form and, if requested, supporting documentation. The proposed regulations describe a process in which a borrower who objects to the payment amount determined through use of the form is then offered a rehabilitation payment amount that is calculated using the same formula used for determining payments under IBR. This commenter stated that during the rulemaking negotiations, the commenter supported the consensus regulatory language because the proposed regulations would provide a standardized process to ensure that rehabilitation amounts are determined solely by looking at a borrower's financial circumstances. This commenter recommended that the Department issue guidance to clarify that an offer of a rehabilitation payment amount must be based solely on information provided by the borrower. This commenter also noted that some negotiators had proposed during the negotiations that the initial rehabilitation payment amount offered should be determined using the IBR formula. This commenter recommended that, if the borrower is unable to complete the form, the loan holder should continue the rehabilitation process by determining the payment amount using this approach.

Another commenter expressed concerns about the complexity of the proposed form, and suggested that if the payment calculated using the IBR formula was the initial offer to a borrower, the form would only be needed for borrowers who object to that initial payment amount. The commenter stated that a payment amount calculated using this approach would be acceptable to most borrowers, and would therefore significantly reduce the number of borrowers who would need to use the financial disclosure form.

Discussion: In response to the numerous comments we received expressing concerns about the amount of personal financial information a borrower requesting loan rehabilitation would have to provide under the proposed regulations, we have modified the final regulations to provide that as the first step in the loan rehabilitation process, the lender, loan servicer or the Department will calculate a loan rehabilitation payment amount by using the IBR payment formula that provides for a monthly payment equal to 15 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline amount applicable to the borrower's State and family size, divided by 12. Throughout the remainder of this preamble, we refer to this as the ''15 percent formula.'' To ensure consistent treatment of all defaulted borrowers, the initial loan rehabilitation payment amount will be calculated in all cases using the 15 percent formula, as described earlier. For new borrowers on or after July 1, 2014, who are repaying non-defaulted Direct Loans under the IBR plan, the IBR plan payment amount is equal to 10 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline amount applicable to the borrower's State and family size. However, this 10 percent IBR formula will not be used in the initial determination of a reasonable and affordable loan rehabilitation payment amount on a defaulted loan.

It is important to note that loan rehabilitation payments calculated by using the 15 percent formula are not payments that are made under the IBR plan. This means, for example, that such payments do not count toward IBR plan loan forgiveness, nor do they count as qualifying payments for purposes of public service loan forgiveness in the Direct Loan Program.

Under these final regulations, a loan rehabilitation payment amount based on the information collected on the Financial Disclosure for Reasonable and Affordable Payments form will only be calculated if the borrower objects to the payment amount based on the 15 percent formula. If the borrower does object to the payment amount calculated based on this formula and requests that a rehabilitation payment amount be calculated based on information on the form, the borrower can choose which payment amount to accept. We expect that the payment amount based on the 15 percent formula will in most cases be less than the payment amount under a standard 10-year repayment plan, and will be acceptable to most borrowers. Therefore, this approach should significantly reduce the number of borrowers who will be required to complete the financial disclosure form. We believe that this change will address concerns raised by consumer advocates, student groups, guaranty agencies, and collection agencies alike that the financial disclosure information required under the proposed regulations would be overly burdensome for borrowers requesting loan rehabilitation.

Specifically, with regard to commenters' concerns that the proposed regulations would create confusion, add burden to the process, or invade the privacy of the borrower, we believe the revised process in the final regulations is clear and understandable. The revised process significantly reduces burden by limiting the use of the form, and appropriately balances the borrower's privacy with the need to verify information. The final regulations assist with privacy concerns by limiting the information borrowers are required to provide—only requiring the use of the Financial Disclosure for Reasonable and Affordable Payments for those borrowers who object to the monthly payment amount determined based on the 15 percent formula.

Commenters were concerned that the paperwork burden associated with the use of the financial disclosure form would impede the ability of collection agencies to get borrowers to participate in the loan rehabilitation program. Our revisions to the proposed regulations significantly reduce the paperwork burden on borrowers because, again, they will only need to provide the Financial Disclosure for Reasonable and Affordable Payments form if they object to the payment amount based on the 15 percent formula.

Some commenters stated that reliance on the oral statements of the borrower should be sufficient to determine the ''reasonable and affordable'' payment amount, and that there should be no need for further documentation or verification. Other commenters had the opposite opinion, sharing concern that loan servicers may push borrowers to agree to payments that are not reasonable and affordable. We believe our approach balances applicable equities, burden, verification that payment is reasonable and affordable, and privacy concerns.

With regard to the comments about the agreements reached at the negotiated rulemaking sessions, we believe the NPRM was consistent with the consensus reached through negotiated rulemaking. Commenters did seem to have different understandings of what the NPRM language meant; we believe our revised regulations provide a clear, understandable process.

With regard to comments about a ''trigger event,'' we believe that it would defeat the purpose of the proposed regulations if the regulations only applied in cases when a borrower and loan holder are unable to agree to a loan rehabilitation payment amount. The intent of the regulations is to

standardize the process for determining rehabilitation payment amounts. The commenter states that loan holders and borrowers are able to agree to loan rehabilitation payment amounts 50 percent of the time. If this figure is accurate, and the trigger for the rehabilitation payment amount regulations was the failure of the borrower and loan holder to come to an agreement, the loan rehabilitation regulations would only apply to half of the borrowers who apply for rehabilitation.

We note that nothing in these regulations precludes a defaulted borrower from resolving the default by repaying the loan in full. A qualified defaulted borrower may also, under certain conditions, repay a defaulted loan through a new Direct Consolidation Loan. Some defaulted borrowers may also qualify for a loan discharge. The regulations do not prohibit the Secretary, his designee, or a guaranty agency from discussing these other payment arrangements with the borrower outside of the context of the loan rehabilitation program and its associated requirements.

Changes: We have revised §§ 682.405(b)(1)(iii) and 685.211(f)(1)(i) to specify that the initial loan rehabilitation payment amount determined by a guaranty agency or the Secretary equals 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12, except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5.

We have revised §§ 682.405(b)(1)(vii) and 685.211(f)(3) to specify that if the borrower objects to the initial payment amount, a second loan rehabilitation payment amount is determined by recalculating the payment amount based solely on the information provided on the *Financial Disclosure for Reasonable and Affordable Payments* form and, if requested, supporting documentation from the borrower and other sources.

Comments: In the NPRM, the Department identified several categories of expenses in proposed §§ 682.405(b)(1)(i)(C) and 685.211(f)(1)(i)(C) that the guaranty agencies and the Department would use to evaluate a borrower's monthly ''reasonable and necessary expenses.'' Although the proposed regulations did not stipulate standardized amounts that a borrower might claim in each of these categories, the Secretary invited comment on whether the regulations should specify standardized amounts, such as those used in the IRS National Standards. Commenters representing both guaranty agencies and consumer groups opposed this idea.

Several commenters noted that the topic of standardization was discussed at length during the negotiations, and noted that an overly rigid framework for making these determinations would likely eliminate the rehabilitation opportunity for those whose financial circumstances do not exactly fit within the framework. They pointed out that, as the Secretary noted in the preamble to the NPRM, preserving appropriate flexibility in the methodology is important to enable guaranty agencies and the Department to ensure that a reasonable and affordable payment is available to all borrowers. These commenters contended that allowing flexibility in this regard strengthens the effectiveness of the regulations in determining reasonable and affordable payment amounts. These commenters stated that the negotiated rulemaking committee decided not to propose a standardized methodology. These commenters reiterated that position in response to the Secretary's invitation to comment.

In a separate comment, another commenter recommended that the Department not use standardized national standards for expense amounts. This commenter stated that, to the extent that the consensus regulatory language reflected an agreement that a combination of standardized and tailored payment options would best meet the needs of borrowers, standardizing the more tailored approach would be a step in the wrong direction.

Discussion: We thank the commenters for responding to the invitation to comment on this proposal in the NPRM. We agree with their view that the final regulations should preserve the flexibility to determine reasonable and affordable rehabilitation payment amounts based on the borrower's financial information, which the proposed regulations provided.

Changes: None.

Comments: One commenter expressed concern about proposed § 682.405(b)(1)(v) and § 685.211(f)(1)(iii), which would provide borrowers with an opportunity to object to an offer of a reasonable and affordable payment amount that is presented to the borrower in a written rehabilitation agreement. The commenter stated that many borrowers will be offered payment amounts orally, and believed that these borrowers should be able to object to the offered payment amount at that point. This commenter noted that requiring borrowers to wait until they receive a written offer will only delay or deter the borrowers from rehabilitating their loans.

Discussion: We agree that a loan servicer may make a first offer of the rehabilitation payment amount based on the 15 percent IBR formula to a borrower orally. If the borrower agrees to the payment amount, the borrower would have to follow up on the conversation by providing the loan holder with the documentation required to calculate a payment amount under that formula. Consistent with §§ 682.405(b)(1)(iii) and 685.211(f)(3), the borrower may object to the initial offer at the time it is made.

Changes: We have revised § 682.405(b)(1)(iv) and § 685.211(f)(1)(ii) to specify that a guaranty agency or the Department may calculate a payment amount based on information provided orally by the borrower, and may provide the borrower with a rehabilitation agreement using that amount. We have also specified in revised §§ 682.405(b)(1)(iv) and 685.211(f)(1)(ii) that if the borrower does not provide the guaranty agency or the Department with the documentation required to calculate the payment amount using the 15 percent formula or to confirm the information provided orally on which the Secretary or the guaranty agency calculated the payment amount, the rehabilitation agreement entered into for that amount is null and void.

Comments: We received several comments on §§ 682.405(b)(1)(v) and 685.211(f)(1)(iii). Section 682.405(b)(1)(v) of the proposed regulations stated that a guaranty agency ''may not impose any other conditions unrelated to the amount or timing of the rehabilitation payments'' in a rehabilitation agreement. Section 685.211(f)(1)(iii) of the proposed regulations provided that the Secretary would not impose such conditions in rehabilitation agreements for Direct Loans. Several commenters stated that some guaranty agencies currently require a borrower's written acknowledgement of the borrower's understanding of the terms and conditions of rehabilitation, which these commenters stated is a prudent practice when establishing a new repayment agreement with a borrower. In such cases, the borrower may be required to sign and return the agreement or provide a separate, signed authorization statement acknowledging, at a minimum, that collection costs will be added to the loan balance at the time the rehabilitated loan is purchased by an eligible lender. These commenters

believed that this requirement for the borrower to review and acknowledge the information provided in the rehabilitation agreement underscores the importance of rehabilitation as a one-time opportunity to remove loans from default status. It also reduces the possibility of misunderstandings about the terms of the loan rehabilitation and related risks for guaranty agencies in the event of a dispute concerning the applicable repayment terms and conditions, costs, and benefits of loan rehabilitation.

Commenters noted that guaranty agencies may also currently require a borrower to provide updated references and contact information to facilitate the loan rehabilitation process. The commenters stated that this provides a purchasing lender with important default prevention information, if needed, since the borrower's contact information may be incomplete or outdated and the references provided in the promissory note may no longer be valid. This enhances a guaranty agency's ability to sell the borrower's rehabilitation-eligible loans. These commenters requested confirmation from the Department that the proposed regulations would not preclude guaranty agencies from continuing these practices.

Discussion: The limitation in the proposed rule that would preclude a guaranty agency from imposing any additional conditions on loan rehabilitation unrelated to the amount or timing of rehabilitation payments was not intended to prohibit the agency from requiring borrowers to acknowledge the terms and conditions of the rehabilitation in writing, or from requiring borrowers to provide updated contact information when the loan rehabilitation agreement is signed. Requiring the borrower to acknowledge such disclosure information, or to provide such contact information, would be helpful to the borrower. It would help to ensure that the borrower understands the rehabilitation agreement, and, where necessary, facilitate the sale of the loan to a FFEL loan holder.

Changes: None.

Comments: There were several comments on proposed §§ 682.405(b)(1)(vi) and 685.211(f)(3) in the proposed regulations. These commenters stated that the terms ''IBR formula'' or ''IBR calculation'' should not be used in connection with describing the method used to determine a reasonable and affordable rehabilitation payment amount. These commenters believed that using these terms would cause significant confusion for borrowers, since payments made towards loan rehabilitation do not count as IBR payments. These commenters recommended using the term ''alternative payment amount'' or ''APA'' to refer to this formula.

These commenters also noted that proposed §§ 682.405(b)(1)(vi) and 685.211(f)(5) include a cross-reference to the IBR regulations at § 682.215(b)(1), § 685.221(b)(1), and § 685.221(b)(2). Those regulations include other requirements in addition to the IBR payment amount formula. These commenters believed that using the broad cross reference could be interpreted as incorporating these other provisions not specifically related to the formula as applying to the rehabilitation requirements as well.

These commenters recommended that the Department include the ''alternative payment amount'' formula directly in the loan rehabilitation regulations, rather than cross-referencing the IBR regulations.

Discussion: As discussed earlier in this preamble, in the final regulations we have switched the order in which the rehabilitation payment amounts are determined and offered to borrowers. Under the final regulations, the payment amount based on the 15 percent formula will be the first offer to the borrower, and the payment amount based on information provided on the financial disclosure form will be the second offer. The borrower may choose which payment amount to accept. Since the 15 percent formula payment will be the first payment amount offered during rehabilitation discussions, it would not be accurate to refer to it as the ''alternative payment amount.''

We agree with the commenters that we do not intend the extensive and detailed requirements in §§ 682.215(b)(1), 685.221(b)(1), and 685.221(b)(2) of the IBR regulations to apply to determining a loan rehabilitation payment amount. Replacing the cross-references with the 15 percent formula will make the loan rehabilitation regulations simpler and clearer. In addition, eliminating the cross-references may reduce the potential for borrowers to confuse rehabilitation payments based on the 15 percent formula with payments made by a non-defaulted borrower under the IBR plan. Eliminating the cross-references also clarifies that the initial rehabilitation payment amount for a ''new borrower'' as defined in § 685.221(a)(4) of the IBR plan regulations would not be calculated using the 10 percent IBR formula as described in § 685.221(b)(1) of the IBR plan regulations. Regardless of how a loan rehabilitation payment amount is determined, a rehabilitation payment does not qualify as an IBR plan payment and does not count toward IBR plan loan forgiveness or for any other purposes for which a qualifying payment made under the IBR plan on a non-defaulted loan might count, such as for public service loan forgiveness in the Direct Loan Program.

Changes: We have replaced the cross-references in §§ 682.405(b)(1)(iii) and 685.211(f)(1)(i) with the 15 percent formula.

Comments: In the NPRM, the Secretary invited comment on proposed §§ 682.405(b)(1)(vii) and 685.211(f)(5), which would provide that a loan rehabilitation does not go forward if the borrower fails to provide the documentation required for the payment amount to be calculated. The Secretary asked if it would be appropriate to make a change in the final regulations to require a borrower to submit information needed to recalculate the borrower's reasonable and affordable rehabilitation payment amount only if new information is required beyond what the borrower provided when he or she initially requested loan rehabilitation. Several commenters responded to this invitation for comment, and all supported making this change in the final regulations. One commenter requested that the Department's final regulations be flexible enough to cover the following scenarios:

- Some information or documentation originally submitted by the borrower is illegible or difficult to understand, and needs to be requested again or explained.
- Significant time passes between the borrower's initial request for rehabilitation and the borrower's subsequent request for a recalculated payment amount, so a verification of critical information may be needed to determine an appropriate payment amount.
- The borrower realizes after submitting the original information/documentation that the submission was incomplete or inaccurate, and that additional information or documentation is needed by the loan holder to determine an appropriate payment amount.

Discussion: As discussed earlier in this preamble, we have switched the order in which rehabilitation payment amounts are offered to borrowers. Under the final regulations, a payment amount calculated using the 15 percent formula will be the basis for the first offer. If the borrower objects to that amount, the guaranty agency or the Department will

calculate a payment amount based on detailed financial information provided by the borrower, and the borrower may then choose between the two payment amounts. Except when the loan is being collected by AWG, it is extremely unlikely that the loan holder will already have the detailed financial information requested on the form. Therefore, there is no need to make the requested change.

Changes: None.

Comments: One commenter expressed support for the provision in proposed § 682.405(b)(1)(x) that would limit guaranty agency contact with a borrower during the rehabilitation period to collection activities required by law and communications with the borrower that support the rehabilitation.

Discussion: We appreciate the commenter's support. We also note that this provision, in §§ 682.405(b)(1)(xi) and § 685.211(f)(7), does not prohibit guaranty agencies or the Secretary from contacting borrowers to remind them when the next payment is due or, in appropriate circumstances, to inquire about any missed payments. The intent of such calls is to ensure that the borrower maintains the consecutive monthly payment stream required to successfully rehabilitate a loan. Contacts of this type between a guaranty agency or the Secretary and a borrower are ''communications that support the rehabilitation.''

Changes: None.

Loan Rehabilitation Agreement: Treatment of Borrowers Subject to Administrative Wage Garnishment (34 CFR 682.405(a) and 685.211(f))

Comments: Three commenters expressed support for the proposed regulations in §§ 682.405(a)(3) and 685.211(f)(12)(i) that would suspend payments made through administrative wage garnishment (AWG) for borrowers who make five qualifying payments under a loan rehabilitation agreement. These commenters felt that this step would be a reward and an incentive for borrowers and would encourage defaulted borrowers to rehabilitate their loans.

Several commenters stated that proposed § 682.405(a)(3) appears to assume that a guaranty agency would not be required to suspend the borrower's current garnishment order for another reason prior to receipt of the borrower's fifth loan rehabilitation payment. However, these commenters noted that this may not always be the case under the current and proposed AWG regulations in § 682.410(b)(9). For instance, if a borrower does not request a hearing prior to the initiation of AWG, but does so shortly after AWG commences, the AWG hearing process would occur during the period of the borrower's first five payments under a loan rehabilitation agreement and could result in a required suspension of the garnishment order during that time. These commenters recommended that § 682.405(a)(3) be modified to include a reference to § 682.410(b)(9) to clarify that a guaranty agency may suspend a garnishment order for a borrower pursuing loan rehabilitation prior to receipt of the borrower's fifth rehabilitation payment, if required to do so for another reason in accordance with § 682.410(b)(9).

Discussion: We agree with the commenters. The proposed regulations governing suspension of AWG payments after a borrower makes five qualifying rehabilitation payments were not intended to preclude guaranty agencies or the Department from suspending AWG collection for reasons unrelated to the loan rehabilitation before the borrower makes a fifth qualifying loan rehabilitation payment. As the commenters noted, a guaranty agency may receive a notice to suspend AWG due to other reasons, as specified in § 682.410(b)(9) of the AWG regulations.

Changes: We have revised § 682.405(a)(3)(i) to specify that the requirement that a guaranty agency continue collecting a loan by AWG until the borrower makes five qualifying monthly rehabilitation payments does not apply if the guaranty agency is precluded from collecting through AWG under § 682.410(b)(9)(i), and have made a comparable change in § 685.211(f)(11)(i) of the Direct Loan regulations.

Modification of the FFEL Program and Direct Loan Program Regulations: Counseling Borrowers (34 CFR 682.604(a) and 685.304(b))

Comments: One commenter expressed support for the proposed changes to the exit counseling regulations that would allow a school to send written counseling materials to a student borrower by email when the student has withdrawn without notice to the school or failed to complete required exit counseling. However, the commenter believed that the wording of proposed §§ 682.604(a)(1) and 685.304(b)(3) could be misinterpreted, as it could be read to mean either that a student must provide an email address to the school within 30 days after the school learns that the student has withdrawn, or that the school must provide the written counseling materials to the student by email within 30 days after learning of the student's withdrawal. The commenter assumed that the second interpretation is what was intended, and recommended that the regulatory language be revised to make this clear.

The same commenter also noted that in the preamble to the NPRM, the Department indicated that the proposed changes in §§ 682.604(a)(1) and 685.304(b)(3) allowing schools to send written counseling materials to an email address provided by the student borrower in certain cases reflected existing guidance included in the Department's Federal Student Aid Handbook. The commenter pointed out that the guidance in the Federal Student Loan Handbook clarifies that if a school sends exit counseling materials to a student by email, the school must use the student's ''home (not school) email address,'' if the school has that address. The commenter recommended that the Department include in the regulations this prohibition on sending the counseling materials to the student borrower's school email address, but stated that there should be no reason to limit schools to sending exit counseling materials only to a student's ''home'' email address. The commenter stated that as long as the school does not send the counseling materials to an email address associated with its own institution, it should be able to send the materials to the student's home or work email address, or even to an email address for the student at another institution where the student is in attendance.

Discussion: The Department appreciates the commenter's support of the changes to the exit counseling regulations. With regard to the intent of the wording of proposed §§ 682.604(a)(1) and 685.304(b)(3), the commenter's understanding is correct. The school must send the counseling materials within 30 days after learning that the student borrower has withdrawn or failed to complete the required exit counseling.

The Department agrees with the recommendation to incorporate into the regulations the statement in the Federal Student Aid Handbook clarifying that written counseling materials may not be sent to a student borrower's email address at the same school that is sending the materials. We also agree that schools should not be limited to sending the counseling materials to the student's ''home'' email address. However, we note that the proposed regulations did not include this limitation. The proposed regulations stated that the written counseling materials could be sent to ''an email address provided by the borrower.''

Changes: We have revised §§ 682.604(a)(1) and 685.304(b)(3) to clarify that the school must send the counseling materials within 30 days after learning that the student borrower has withdrawn or failed to complete the required exit counseling, and that the counseling materials may not be sent to a student's email address at the same school that is sending the materials.

FFEL Program Issues

FFEL Lender Repayment Disclosures to Borrowers Who Are 60 Days Delinquent or Who Are Having Difficulty Making Payments (34 CFR 682.205(a)(4))

Comments: One commenter agreed with the proposed change to provide lenders with five business days rather than the five calendar days specified in current regulations to send the required disclosure to a borrower who is 60 days delinquent. The commenter also supported the proposed change to provide that a lender does not have to send the required disclosure when a borrower is having difficulty making payments if the borrower's difficulty had already been resolved based on an earlier communication between the lender and the borrower. The commenter agreed that multiple disclosures would confuse the borrower.

Discussion: The Secretary appreciates the commenter's support.

Changes: None.

Administrative Wage Garnishment of the Disposable Pay of Defaulted FFEL Program Borrowers (34 CFR 682.410(b)) Borrower Hearing Opportunities on the Enforceability of the Debt and a Borrower's Claim of Financial Hardship (34 CFR 682.410(b)(9)(i))

Comments: One commenter noted support for the changes made to the FFEL administrative wage garnishment regulations in the NPRM.

Discussion: The Department appreciates the commenter's support for the revised regulatory language.

Changes: None.

Comments: Under proposed § 682.410(b)(9)(i)(F)(*2*)(*iv*), if a hearing official upholds a borrower's objection to the amount or rate of withholding, a guaranty agency ''may'' order a lesser rate or amount that would allow the borrower to meet basic living expenses. On pages 45641 and 45642 of the NPRM, we pointed out that this provision differs from the rules governing AWG for Department-held loans at 34 CFR part 34, and that, in the latter regulations, the word ''must'' is used instead. We invited comments on whether it was preferable to use ''must'' rather than ''may''. One commenter supported the consensus language in the NPRM without further explanation. Another commenter agreed with the Department's suggestion that ''must'' was a preferable term because a hearing official's financial hardship determination and decision regarding the amount or rate of withholding should be binding on the guaranty agency issuing a withholding order, and because the regulatory language for guaranty agencies and the Department should be consistent.

Discussion: We agree with the commenter who expressed support for changing the term ''may'' to ''must.'' Not only is it important to ensure that substantive provisions of the FFEL Program AWG regulations are consistent, to the extent practicable, with the rules governing AWG for Department-held loans, use of the term ''must'' would provide more equitable treatment for borrowers who are subject to AWG. Furthermore, use of the term ''must'' would ensure that borrowers who receive an opportunity for an independent determination of a financial hardship objection will have that determination followed by the guaranty agency issuing a withholding order. The decision of the hearing official binds the guaranty agency or the Secretary as to the maximum amount that may be ordered withheld from the borrower's wages and neither has discretion to order that a greater amount be withheld.

Changes: We have changed ''may'' to ''must'' in § 682.410(b)(9)(i)(F)(*2*)(*iv*).

Comments: On page 45641 of the NPRM, when discussing the determination of whether a withholding amount would cause a financial hardship to a borrower, we invited comments on whether the term ''National Standards'' used in the proposed rules should be changed to ''Collection Financial Standards'' in the final rules to conform to the term used by the IRS to refer to such standards. One commenter expressed support for making this change in the final rule, stating that the term ''Collection Financial Standards'' more accurately reflects all living expense category standards used in determining whether a withholding amount would cause a financial hardship for the borrower.

Discussion: We agree with the commenter's reasons for changing the term to ''Collection Financial Standards.'' The IRS, which promulgates the standards, uses the term to include both what the IRS calls the ''National Standards'' (food, etc.) as well as the regionalized Housing and Utilities Standards and Transportation Standards. The latter include average amounts spent for housing, utilities, and transportation, which represent a significant portion of borrowers' living expenses. The term ''Collection Financial Standards'' is the correct title of the IRS Standards that hearing officials must use when determining the financial hardship for borrowers.

Changes: We have changed the three uses of the term ''National Standards'' to ''Collection Financial Standards'' in § 682.410(b)(9)(i)(F)(*2*)(*ii*) and (*iii*).

Comments: A commenter noted that proposed § 682.410(b)(9)(i) does not address a situation in which a guaranty agency may be required to suspend a withholding order. Under proposed § 682.405(a)(3), a borrower who makes five qualifying payments under a rehabilitation agreement can request that the agency suspend a withholding order. The commenter suggested including a cross-reference in the AWG regulations to § 682.405(a)(3) and a brief description of a borrower's right to request suspension under that provision.

Discussion: We agree with the commenter's suggestion and believe that including such a reference in § 682.410(b)(9)(i) would be beneficial. All AWG regulatory provisions are located or referenced in § 682.410(b)(9) to minimize confusion.

Changes: We have added a new § 682.410(b)(9)(i)(V) to include a cross-reference to § 682.405(a)(3) and describe the possible suspension of the withholding order.

Comments: A commenter noted that in proposed § 682.410(b)(9)(ii)(G), the Department defines a withholding order as the order a guaranty agency sends to an employer directing the employer to withhold the pay of the employed borrower. However, the commenter also noted that the Department states that such an order may also be referred to as a ''wage garnishment order'' or ''garnishment order.'' The commenter suggested that only one of these terms be used to avoid confusion with other communications sent by the agency.

Discussion: In the proposed regulations, the Department distinguished between an ''order,'' which is the term for the mandate issued to the employer requiring the employer to withhold from the borrower's wages, and a ''notice,'' which refers to the warning sent to the borrower to alert the borrower that the agency is preparing to enforce the loan by garnishment of the borrower's wages. Because these two communications are readily distinguished by the use of the term ''order'' to refer to the legally-binding mandate and ''notice'' to refer to correspondence sent to the borrower,

we do not believe that alternative use of the term ''garnishment'' or ''withholding'' prior to ''order'' will cause any confusion.

Changes: None.

Comments: A commenter stated that the proposed rule would allow borrowers two new bases on which they may object to AWG in the FFEL program: Enforceability of the debt and financial hardship. The commenter further asserted that the HEA does not specifically name these as permissible objections, but acknowledges that borrowers have been permitted to use these objections. The commenter further expressed concern that AWG hearing officials are unqualified to make legal determinations of loan enforceability. The commenter therefore requested a standardized appeal process if a hearing official makes an enforceability determination that the guaranty agency believes is erroneous.

Discussion: First, we note that the commenter is incorrect in asserting that section 488A of the HEA does not provide borrowers with the right to object to AWG on the basis of claims that the debt is not enforceable or on the basis of financial hardship. We address these issues in turn.

Second, Section 488A(a)(5) provides borrowers the opportunity for a hearing concerning ''the existence or the amount of the debt.'' 20 U.S.C. 1095a(a)(5). It is not clear which objections the commenter considers the HEA to permit the borrower to raise in the hearing, but the statute is clear that if the borrower objects to the existence or amount of the debt claimed by the loan holder, the hearing official must determine whether the debt in question is enforceable, and if so, what amount is enforceable. In the context of section 488A of the HEA, determining whether a debt ''exists'' entails more than a bookkeeping test of assuring that all amounts disbursed and payments received have been correctly totaled. To reduce the hearing process to a bookkeeping exercise is to suggest that section 488A of the HEA empowers a guarantor to issue a legally-binding order that an individual's wages be withheld to collect a claim that applicable law would bar the guarantor from enforcing in any other proceeding, such as a suit on the debt. Section 488A of the HEA authorizes collection by non-judicial wage garnishment ''notwithstanding any provision of State law.'' 20 U.S.C. 1095a. That provision does no more than preempt those State laws that would require a creditor to obtain a judicial writ in order to garnish wages. Nothing in the language of section 488A of the HEA suggests that the statute preempts other applicable, non-preempted State law (e.g., forgery or prior compromise) or Federal law (e.g., discharge in bankruptcy) that would bar enforcement of the claim against the individual.

For this reason, it is the responsibility of guaranty agencies to ensure that AWG hearing officials are qualified to make reasoned determinations regarding the enforceability of Federal student loan debts. Furthermore, prior to an AWG hearing, a guaranty agency should have already made a determination on the enforceability of the debt. Section 682.406(a) requires an agency to carefully evaluate that all due diligence requirements were met and that the debt is legally enforceable before requesting a reinsurance payment on a loan.

In addition, promptly after paying the default claim, the guarantor must give the borrower notice of its intent to collect the loan and report the default to credit bureaus, and to provide ''an opportunity for an administrative review of the legal enforceability or past-due status of the loan.'' 34 CFR 682.410(b)(5)(ii)(D) and (b)(5)(vi)(I). Prior to an AWG hearing, the agency should have therefore made its own reasoned determination of the enforceability of the debt and have sufficient evidence supporting that determination. The new language added to the wage garnishment provisions is not a new consideration not already existing explicitly in these provisions and implicitly in the mandate to provide a hearing on the ''existence'' of the debt.

Third, section 488A(a)(5) of the HEA provides borrowers with an opportunity for a hearing ''on the terms of the repayment schedule'' if that schedule is set by order and not by an agreement with the borrower, as provided in section 488A(a)(4) of the HEA. The only interpretation of this provision that implements the objective of the statute is that the basis for such objection must be a claim that withholding the full 15 percent would cause financial hardship. The Department has consistently interpreted that phrase, and the identical language in 5 U.S.C. 5514, which authorizes Federal Salary Offset and from which this provision appears to have originated, to so provide. See, e.g., 68 FR 8142, 8151 (Feb. 19, 2003) and 67 FR 18072, 18073 (April 12, 2002). In establishing the terms of the repayment schedule, a determination must be made as to whether the proposed withholding order would be excessive in light of the borrower's reasonable and necessary living expenses.

Finally, with regard to the comment that the Department should establish an administrative appeal procedure to be available for review of hearing official decisions that the guarantor believes to be erroneous, the Department notes first that in some instances, State law applicable to the administrative proceedings of State agencies may provide such an appellate review procedure, and those laws may provide an opportunity for borrowers or guarantors to challenge decisions of hearing officials. Those guarantors that are not State agencies subject to this kind of administrative appeal regime are in no different posture than the Department itself, which has no opportunity to appeal adverse rulings by independent hearing officials with regard to proposed salary offsets to collect from Federal employees under 5 U.S.C. 5415. Federal employees who dispute the hearing official's ruling may sue the Department under the Federal Administrative Procedure Act to challenge that ruling. See, e.g., *Sibley* v. *U.S. Department of Education,* 913 F. Supp. 1181 (N.D. Ill. 1995), aff'd, 111 F.3d 133 (7th Cir. 1997). Applicable law gives the Department no corresponding right to challenge and obtain a judicial review of an adverse ruling by a hearing official. The Department has not established any administrative appeal procedure for challenges to AWG hearing decisions made by Department staff, and has no resources sufficient to establish a Federal review process for AWG hearing decisions for loans held by guarantors. Moreover, regardless of the party that might decide such an appeal, fundamental fairness dictates that any administrative appeal process be available for borrowers as well as guarantors.

Therefore, the proposed regulations at § 682.410(b)(9) do not create new borrower objections; instead, the proposed changes would make the FFEL Program regulations consistent with existing Departmental regulations.

Changes: None.

Comments: A commenter noted that proposed § 682.410(b)(9)(i)(I) includes rules governing ex parte communications (communications where one or more parties to the hearing are not present) in AWG hearings and that the provision precludes ex parte communications on non-procedural matters. The commenter expressed concern that, as drafted, the proposed rule would unnecessarily impede the administration of the hearing process. The commenter also requested clarification that substantive ex parte communications during a hearing are permissible if the absent party has been given proper notice of the hearing.

Discussion: We agree with the commenter's suggestions. The intention of the proposed provision was to ensure that both parties to the hearing are present and able to participate. However, we recognize that borrowers would not be disadvantaged by allowing certain administrative matters to be handled ex parte in addition to matters involving the time, place, and manner of the hearing as would be permitted under the proposed rule.

We also agree that the hearing process should not be unnecessarily delayed due to the unexcused absence of one of the parties when proper notice of the hearing has been given to the absent party. Under the proposed rules, a guaranty agency is required to suspend a withholding order on the 61st day after a hearing request was received. Therefore, without allowing an ex parte hearing to proceed in such contexts, it would be possible for a party to effectively enforce the suspension of an AWG order by failing to appear for properly scheduled and noticed hearings, because such hearings could not proceed in the absence of one of the parties.

Changes: We have revised § 682.410(b)(9)(i)(I) to more generally convey the intent that communications on administrative matters not related to the substance of the AWG hearings may be conducted on an ex parte basis. We have also revised this section to allow an ex parte hearing to proceed if the parties have agreed on the time, place, and manner of the hearing and the borrower has been given proper notice of the same but does not appear for the hearing.

Comments: A commenter stated that proposed § 682.410(b)(9)(i)(F)(*1*)(*ii*) and (b)(9)(i)(J) permit a borrower to raise new objections and provide additional evidence before the hearing is completed. The commenter further noted that while the hearing official may grant an extension of the 60-day decision deadline so the borrower may present additional evidence, the regulations do not allow extension of the deadline to raise objections. The commenter requested a clarification on whether the 60 day decision deadline could be extended for the latter purpose.

Discussion: We agree with the commenter's suggestion. If a borrower has not raised an objection to the AWG order but wishes to do so, the hearing official may grant an extension of the 60-day deadline at his or her discretion.

Changes: We have revised § 682.410(b)(9)(i)(J)(*1*) to state that the borrower may request an extension of the 60-day deadline for purposes of raising an objection not previously raised.

Comments: A commenter noted that proposed § 682.410(b)(9)(i)(J) permits a hearing official to grant extensions of the 60-day deadline for a decision to be rendered. The commenter further noted that while this deadline may be extended by the hearing official, there is no associated extension of the requirement under proposed § 682.410(b)(9)(i)(H) that suspension of the withholding order occur if a decision is not rendered by the 61st day. The commenter requested that the regulations be modified to require that the suspension of the withholding order be delayed past the 61st day for a period equal to the number of days that the hearing deadline is delayed.

Discussion: The purpose of suspending the withholding order beginning on the 61st day is to create an incentive for ensuring that the AWG hearing is completed and a decision issued on a timely basis. While the commenter is correct that § 682.410(b)(9)(i)(J)(*1*) *permits* the hearing official to grant extensions of the 60-day deadline at the request of the borrower, § 682.410(b)(9)(i)(J)(*2*) *requires* the hearing official to grant an extension made at the request of a guaranty agency. Changing the regulations to be consistent with the commenter's suggestion would create a scenario where a guaranty agency could request extensions that a hearing official would be compelled to grant, resulting in failure to suspend a withholding order long past the 61-day deadline required under the proposed regulations. Such a regulatory framework would eliminate the guaranty agency's incentive to ensure a timely hearing.

Changes: None.

Comments: A commenter requested that the AWG regulations be modified to allow a borrower to request that AWG continue during the hearing process. The commenter noted that the proposed regulations governing loan rehabilitation provide for suspension of a garnishment order for a borrower pursuing loan rehabilitation, but allow the borrower to affirmatively request to remain in AWG while completing the loan rehabilitation process. The commenter stated that these two situations are comparable and that rather than automatically suspending a withholding order on the 61st day after the borrower's hearing request, a borrower should be able to request that the order not be suspended.

Discussion: We believe there are significant distinctions between the two situations the commenter describes. In many cases, the borrower seeking loan rehabilitation intends to pay the balance of his or her loan, and continuation of AWG in that context is one plausible mechanism by which a borrower would seek a reduced principal balance upon successful rehabilitation of the loan. However, a borrower objecting to the amount or existence of the debt or the rate of withholding would not, by definition, be interested in the continuation of AWG at the existing rate. In addition, we are concerned that providing the borrower the option to continue AWG may make the borrower feel pressured to accept the offer, or cause the borrower to fail to understand he or she has the option to decline it.

Changes: None.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action will have an annual effect on the economy of more than $100 million. It is estimated to reduce annual paperwork burden on entities participating in the Federal student loan programs by approximately $109 million. Therefore, this final regulatory action is economically significant and subject to review by OMB under section 3(f)(1) of Executive Order 12866.

We have also reviewed these regulations pursuant to Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing

regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with attaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Executive Order 13563 requires agencies ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs within OMB emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final regulations only upon a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis below, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action will not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered. Elsewhere in this section under *Paperwork Reduction Act of 1995,* we identify and explain burdens specifically associated with information collection requirements.

The Need for Regulatory Action

As detailed in the Notice of Proposed Rulemaking (NPRM) published July 29, 2013, the Department is issuing these final regulations to clarify a number of issues related to the administration of the Federal student loan programs, to make the Direct Loan regulations comprehensive, to eliminate regulations in the FFEL Program that are no longer needed because origination of new FFEL loans ceased with the passage of the SAFRA Act, to reflect changes made to interest rates in the Direct Loan Program by the Bipartisan Student Loan Certainty Act of 2013, and to clarify the loan rehabilitation process for borrowers with defaulted student loans.

The Secretary is revising the Direct Loan regulations to incorporate provisions from the FFEL regulations that were only cross-referenced. By incorporating the substantive provisions in the Direct Loan regulations instead of simply cross-referencing to the FFEL regulations, the Direct Loan regulations will be comprehensive. This is appropriate since the Direct Loan Program is now the primary Federal student loan program. The elimination of new loan originations in the FFEL Program means that many of the current FFEL Program regulations are no longer necessary. In addition, the final regulations improve consistency across the FFEL, Direct Loan and Perkins Loan programs. Previously, the different title IV loan programs were regulated and administered differently in areas where they could be consistent. The final regulations eliminate these differences where appropriate.

The final regulations provide clarity and transparency to the administration of the loans programs. Over the years there have been consistent concerns that borrowers are unable to properly manage their Federal student loans because of confusion over their rights and options. This is particularly true for borrowers who are delinquent on their loans and borrowers who experience personal hardship. The final regulations clarify the rules for borrowers and help them gain a better understanding of their rights and responsibilities. Also, the final regulations provide better guidance to lenders and guaranty agencies about their roles and responsibilities in servicing Federal student loans.

One area in which concerns have been raised about the consistent and appropriate treatment of borrowers is in the rehabilitation of defaulted loans. The Department wants to ensure that borrowers who wish to rehabilitate their defaulted loans are properly informed about their rights to ''reasonable and affordable'' payments and how a reasonable and affordable payment is determined.

Prior regulations allowed a borrower with defaulted student loans to rehabilitate those loans by making nine full, on-time payments (within 20 days of the due date) over a 10-month period in an amount agreed to by the borrower and the loan holder (the Department for a defaulted Direct Loan, a guaranty agency or the Department for a defaulted FFEL Program loan). These regulations provided that the payment amount required by the guaranty agency or the Secretary must be reasonable and affordable. However, as described in the NPRM published July 29, 2013, there have been complaints that guaranty agencies, the Department, and the debt collection agencies that collect Federal student loans require payments that exceed this standard.

The Secretary believes that providing borrowers with an improved process to rehabilitate a defaulted loan is in the best interests of the taxpayers and the borrower. Defaulted borrowers continue to accrue interest on the debt and are charged collection costs. In addition, the default harms their credit scores, and the borrowers may have trouble purchasing homes or obtaining auto loans or other types of consumer credit. By improving the opportunities for defaulted borrowers to rehabilitate their student loans, the Department will not only improve the chances for collection of the full amount of the debt but also help some defaulted borrowers return to full economic participation.

Some defaulted borrowers who may be interested in rehabilitating their defaulted loans are also subject to administrative wage garnishment (AWG). Those borrowers may be discouraged from trying to fully rehabilitate their loans because they fear that they will not be able to make loan payments in addition to the amount garnished. Through these final regulations, the Department aims to add clarity to the AWG process so that affected borrowers will understand what is required for AWG to be suspended.

Discussion of Costs, Benefits, and Transfers

Adding clarity to the loan rehabilitation process offers many benefits. The Department believes that rehabilitation offers benefits for students, the Department, and the Nation. Defaulted borrowers may be

more willing to complete the rehabilitation process. Defaulted borrowers may see significant improvements in their credit scores and purchasing power. As these borrowers become bigger participants in the economy, an improved loan rehabilitation process should support positive growth.

Improved loan rehabilitation rates will also allow the Department and collection agencies to concentrate their collection efforts on non-paying borrowers. In general, the more student loan accounts that are active and current, the better for the programs. The Department believes these regulatory changes will help ensure that the Federal student loan programs remain strong and support maximum access to higher education for American students.

As detailed in the NPRM, loan rehabilitations have steadily increased over the past decade, from just over $223 million in defaulted Federal student loan debt in FY 2001 to $5 billion in FY 2011. Loan rehabilitations as a share of collections rose from approximately 4.4 percent in FY 2001 to 43.0 percent in FY 2011. Part of the increase in loan rehabilitation can be linked to growing enrollment, rising tuition, and two economic slowdowns, all of which led to more student loan borrowing. However, the higher percentage of total collections that comes from loan rehabilitation shows that the Department and guaranty agencies are working with borrowers to help them take advantage of the opportunity for loan rehabilitation.

Even though these final regulations could possibly result in lower payment amounts for borrowers while they are rehabilitating their defaulted loans, the borrowers would still be responsible for paying their entire debt. Furthermore, even if loan rehabilitation payments are lowered on average across the board, the Department believes that the overall benefits of having more borrowers current in their debt payments will outweigh any short-term cost of reduced payments.

Overall, the true monetary effect of these final regulations will depend heavily on various factors. The Department has implemented changes to its income-driven repayment options and expects these changes to help slow a rising default rate by offering improved payment management options to borrowers. Also, as the economy continues to improve, the default rate may drop as more borrowers find employment.

Outside of loan rehabilitation, the regulations would provide many additional benefits to borrowers and promote a more efficient and transparent Federal student loan program.

By expanding from 90 to 120 days the window during which a borrower may qualify for a closed school loan discharge after withdrawing from a school that eventually closes, the number of borrowers who qualify for the discharge may increase. However, school closures are a relatively rare occurrence. In 2007, 43 schools participating in the title IV programs closed. This number dropped to 30 in 2008 and to 18 in 2011. While the extended window may mean that more borrowers qualify for a closed school discharge, we do not believe the extension will result in a significant increased cost. In 2011, 214 borrowers received closed school loan discharges for loans valued at approximately $870,000. This was an increase from the 2010 numbers of 50 borrowers with a loan value of $467,000, but still represents a very small portion of outstanding federal student loans.

The expansion of circumstances in which lenders may grant administrative forbearance gives the Department and FFEL lenders more flexibility in dealing with defaulted borrowers. These revisions also clarify the eligibility criteria for forbearances and promote a more transparent loan program.

Borrowers will see other benefits under these final regulations as well. The changes to the AWG hearing process will help borrowers gain a better understanding of their rights and responsibilities in that process and ensure that borrowers are treated consistently by guaranty agencies and the Department. Additionally, the revisions to § 685.301 will allow students who transfer from one school into non-term or certain standard non-term programs at a different school during the middle of an academic year to initially be eligible for a Direct Loan to cover the remainder of the academic year that began at the prior school (up to their remaining eligibility under the annual loan limits), regardless of whether the new school accepts credits from the prior school.

The final regulations also reflect changes made to interest rates in the Direct Loan Program by the Bipartisan Student Loan Certainty Act of 2013 (Pub. L. 113–28). As detailed in § 685.202, under this Act interest rates will be determined each June for new loans being made for the upcoming award year, which runs from July 1 to the following June 30. Each loan will have a fixed interest rate for the life of the loan based on rates for specific Treasury bills or bonds, an add-on determined by a combination of loan type and undergraduate or graduate student status, and an interest rate cap. For example, the interest rate for Direct Subsidized and Unsubsidized Loans made to undergraduates with a first disbursement date on or after July 1, 2013, and before July 1, 2014, is 3.86 percent, based on the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 2.05 percentage points. The interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans made to undergraduate students is capped at 8.25 percent. Under this policy, borrowers can benefit from lower interest rates while having the certainty of a fixed rate and a cap on the maximum interest rate as Federal borrowing costs vary in the future. If Federal borrowing costs rise in the future, borrowers with loans in later cohorts may have interest rates greater than would have been the case if the interest rates prior to the enactment of the Bipartisan Student Loan Certainty Act of 2013, had remained in effect, so the inclusion of the caps for various loan types limits future borrowers' exposure to interest rate increases.

Overall, these final regulations strengthen the Federal student loan programs and help support the American postsecondary education system. As more and more students now depend on student loans to pay for their college education, it is essential that borrowers fully understand the rights and responsibilities that are a part of their student loan obligations. It is also essential that the student loan programs operate as efficiently as possible. These revisions are part of the Department's commitment to running efficient loan programs that support more than ten million students per year. This number will grow as the country pursues the President's 2020 goal of leading the world in college degree attainment. Keeping a strong higher education system will be essential to America maintaining its economic advantage in the world.

Regulatory Alternatives Considered and Analysis of Significant Comments

We discussed the regulatory alternatives we considered in the NPRM (78 FR 45668). Further, as discussed in the Analysis of Comments and Changes section of this preamble, 25 comments were received in the comment period following publication of the NPRM that ended August 28, 2013. These comments covered a range of issues, including suggestions for technical changes to the FFEL and Direct Loan regulations. The process for determining

a reasonable and affordable payment amount in loan rehabilitation received the most comment.

In particular, several commenters suggested switching the order of the two methods for determining the reasonable and affordable payment amount for loan rehabilitation so that the 15 percent formula would be used first, and only borrowers who object to the amount calculated under this formula would need to provide detailed financial information. Consumer advocates and commenters representing collection agencies agreed that the amount of information required by the proposed financial information form could deter borrowers from pursuing loan rehabilitation. The primary use of the 15 percent formula will allow the borrower and the collection agency to determine a reasonable and affordable payment over the phone based on the borrower's income and family size, subject to later confirmation once the borrower provides required documentation. We agreed with these comments and adopted this approach in the final rule.

In addition to the comments proposing using the 15 percent formula first, we considered the suggestion that an agency should be able to negotiate a reasonable and affordable payment with the borrower on the phone so that the loan rehabilitation process could be initiated when they have the first discussion about rehabilitation with a borrower. The Department agrees that it is important to be able to offer a borrower a reasonable and affordable payment amount during the initial discussion of loan rehabilitation but believes that use of the 15 percent formula, with documentation to follow, as the first option allows this possibility while ensuring consistent treatment of borrowers seeking loan rehabilitation.

Net Budget Impacts

As detailed in the NPRM, the final regulations are estimated to have a net budget impact of $2.8 to $3.4 million over ten years from 2013–2022 driven by the expansion of the time period for eligibility for a closed school discharge. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. A cohort reflects all loans originated in a given fiscal year.

In general, these estimates were developed using the Office of Management and Budget's (OMB's) credit subsidy calculator. The calculator takes projected future cash flows from the Department's student loan cost estimation model and produces discounted subsidy rates reflecting the net present value of all future Federal costs associated with awards made in a given fiscal year. Values are calculated using a ''basket of zeros'' methodology under which each cash flow is discounted using the interest rate of a zero-coupon Treasury bond with the same maturity as that cash flow. To ensure comparability across programs, this methodology is incorporated into the calculator and used Government wide to develop estimates of the Federal cost of credit programs. Accordingly, the Department believes it is the appropriate methodology to use in developing estimates for these regulations. That said, in developing the following Accounting Statement, the Department consulted with OMB on how to integrate our discounting methodology with the discounting methodology traditionally used in developing regulatory impact analyses.

Absent evidence of the effect of these regulations on student behavior, budget cost estimates were based on behavior as reflected in various Department data sets and longitudinal surveys listed under *Assumptions, Limitations, and Data Sources.* Student loan cost estimates are developed across five risk categories: Students at less than four-year for-profit institutions, students at less than four-year public and non-profit institutions, freshmen/sophomores at four-year institutions, juniors/seniors at four-year institutions, and graduate students. Risk categories have separate assumptions based on the historical pattern of behavior—for example, the likelihood of default or the likelihood to use statutory deferment or discharge benefits—of borrowers in each category.

Closed School Discharge

The primary budget impact of the final regulations relates to the extension of the time period for a closed school discharge. The final regulations extend the previous 90-day period for a closed school discharge to a 120-day period and provide examples of what qualifies as an exceptional circumstance under which the Secretary may provide a further extension. We estimate these changes to have a cost of approximately $3.1 million over 10 years as the pool of borrowers eligible for discharge will increase. The costs are limited by the small number of closed schools, the availability of teach-outs, and the assignment of recoveries to the Department. In the NPRM, the Department estimated that extending the window to 120 days would result in an additional 100 students receiving closed school discharges totaling approximately $400,000 annually. The Department requested comments about the assumptions and estimates for this provision. We did not receive any comments and did not make any changes to the closed school discharge regulations.

Loan Rehabilitation

Two areas related to loan rehabilitation affected by the final regulations are the determination of the reasonable and affordable payment for loan rehabilitation and the limitations on the use of AWG while a borrower is attempting to rehabilitate a defaulted loan. While the regulatory changes in both areas would change the period of time and sources of payments the Department receives, the Department does not estimate that the regulations would have any significant budget impact.

The final regulations refine the process for determining the reasonable and affordable payment for loan rehabilitation to improve consistency across the title IV loan programs. The prior regulations for the FFEL Program require guaranty agencies to negotiate a reasonable and affordable payment for loan rehabilitation with the borrower that takes into account all of the borrower's financial circumstances. The Direct Loan Program did not have similar provisions, but the program does have a similar process for receiving income and expense information and negotiating a payment with the borrower. Over the past months, the Department developed a tool incorporating the 15 percent formula in determining reasonable and affordable payments that has helped increase loan rehabilitations. As discussed in the *Regulatory Alternatives Considered and Analysis of Comments and Changes* sections of this preamble, the Department has agreed to reverse the order of the methods for determining a reasonable and affordable payment so that the 15 percent formula comes first.

With approximately $1.72 billion in defaulted loan balances rehabilitated by the Department in FY 2012, loan rehabilitation is a valuable collections tool that also allows borrowers to improve their credit history and regain eligibility for title IV, HEA Federal student aid. The Department and guaranty agencies have emphasized keeping the loan rehabilitation payment amount close to the payment the borrower will have to make following rehabilitation to avoid significant increases in the required payment. The availability of income-driven repayment plans after rehabilitation of the loan expands the range of payments possible

during rehabilitation that would be in line with post-rehabilitation payments (although payments made under a loan rehabilitation agreement that are based on the 15 percent formula do not count toward IBR plan loan forgiveness if a borrower who has successfully rehabilitated a defaulted loan chooses to repay under the IBR plan post-rehabilitation). This new standard may also help decrease the number of borrowers who re-default, as the required loan rehabilitation plan payment amount should be very similar to the payment amount they make when they return to regular repayment. The final regulations use the 15 percent formula for initial determination of a reasonable and affordable loan rehabilitation payment, and allow borrowers to object to that payment through use of a standardized form that accounts for the borrower's income and expenses to obtain an alternative amount. A borrower may choose between the two proposed payment amounts.

For individual borrowers, the payment offered as a rehabilitation amount calculated using the 15 percent formula might be less than what the Department would determine to be appropriate based on an assessment of the borrower's income and expenses or through negotiation with the borrower without use of a formula. If this is the case, the Department would collect less money during the months the borrower attempts loan rehabilitation, but the borrower would still owe the remaining balance after rehabilitation. In addition, to the extent lower payments encourage borrowers to complete loan rehabilitation and continue payments they otherwise would not make, the final regulations may increase total payments over the life of the loan for some borrowers. The likelihood of borrowers paying less, the same, or more over the life of a loan over time as a result of the changes in defining a reasonable and affordable payment is uncertain, but the Department does not expect it to have an appreciable budget impact.

Perkins Loans Provisions

The final regulations also address a few areas related to the Perkins Loan Program including: Revising cancellation progression rates; modifying the treatment of health-related breaks in service for certain loan cancellations; making the eligibility for a graduate fellowship deferment consistent with FFEL and Direct Loan program criteria; making a technical correction to eliminate the debt-to-income economic hardship deferment category for borrowers working less than full-time; defining ''on-time'' for rehabilitation payments; and allowing assignment to the Department of Perkins Loans made before September 13, 1982, without the borrower's Social Security Number (SSN). No changes were made to these provisions as a result of comments on the NPRM. The Department does not estimate a significant budget impact from these provisions. No appropriations have been made to support the Perkins Loan Program since 2008, and institutions make loans from payments made on their portfolios of existing loans. The effect on the Federal budget of increased costs in the Perkins Loan Program is a possible reduction of Federal Perkins Loan assets available to be recalled in future years.

The slight changes in timing associated with defining the on-time payment standard at 20 days is not expected to change the number of borrowers successfully rehabilitating their Perkins loans or the ultimate amount collected from those borrowers, so no budget impact is expected. The ability to assign loans to the Department without the borrower's SSN may facilitate some institutions leaving the program and, if the Department is able to collect on those loans, result in some small additional revenues.

These final regulations change the Department's longstanding policy that a borrower who switches jobs which qualify for loan cancellation under the Perkins Loan Program results in the borrower returning to the first-year cancellation rate. Instead, the final regulations allow borrowers who switch between cancellation categories with the same rate of progression to continue the progression from the last year under the prior category; however, the borrower returns to the first-year cancellation rate if the borrower switches to a category with a different progression rate. While some borrowers may be able to accelerate cancellation of their loans or achieve full cancellation, the nature of the categories affected by the policy change limits the likelihood of borrowers switching between them. To the extent a small number of borrowers do switch and maintain their progression rate instead of falling back to year one, the primary effect is on the timing of cancellation received, not the amount.

Additionally, the final regulations change the current Perkins Loan treatment of a break in teaching service for pregnancy or illness. Previously, to receive credit for a year of teaching service the borrower had to complete the first half of the academic year, begin the second half, and have the employer agree that the teacher fulfilled that year of the contract. In the FFEL and Direct Loan programs, the regulations provide that if a borrower was unable to complete the second half of the year of teaching for reasons covered by the FMLA, the service could count towards cancellation if the employer agreed the contract has been fulfilled for the year.

The final regulations apply the FMLA-related break-in-service exception to all Perkins Loan cancellation categories, not just teachers. As Perkins loan cancellation does not require consecutive service, the Department expects this provision may allow some borrowers to receive credit for a year that would not otherwise have counted as service and speed up the ultimate cancellation of the loan, but it will not significantly expand the number of borrowers who achieve loan cancellation as their next year of service could qualify instead. These cancellation provisions may affect the timing of when borrowers achieve cancellation, but the Department does not estimate that they will significantly increase the overall amount cancelled.

Additional Provisions

Many of the final regulations have no impact on the Federal budget as they reflect statutory changes already incorporated into the budget baseline or clarify existing practices. These final regulations reflect changes made to interest rates in the Direct Loan Program by the Bipartisan Student Loan Certainty Act of 2013. These final regulations eliminate many regulations relating to the origination and administration of FFEL Program loans. Those regulations became irrelevant when new FFEL Program loan originations ended as of July 1, 2010. Any costs or savings resulting from the end of FFEL Program loan originations were attributed to the SAFRA Act, so there is no estimated budget impact from these provisions. The budget impact of these changes was already incorporated into the budget baseline.

Updates were also made to the Direct Loan regulations to incorporate specific provisions that previously were included in the Direct Loan regulations by cross-reference to the FFEL regulations. The restructuring of the Direct Loan regulations to remove references to the FFEL Program regulations or to reflect current practices is not estimated to have a budget impact.

Assumptions, Limitations, and Data Sources

In developing these estimates, a wide range of data sources was used, including data from the National Student Loan Data System; operational and financial data from Department of Education systems, including especially the Fiscal Operations Report and Application to Participate (FISAP); and data from a range of surveys conducted by the National Center for Education Statistics, such as the 2008 National Postsecondary Student Aid Survey and the 2004 Beginning Postsecondary Student Survey. Data from other sources, such as the U.S. Census Bureau, were also used.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in Table 1, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these regulations. This table provides our best estimate of the changes in Federal student aid payments as a result of these regulations. Expenditures are classified as transfers from the Federal Government to student loan borrowers. The transfers with respect to the change in interest rate policy use the annualized outlays as estimated by the Congressional Budget Office (CBO) and discounted to 2013 at 7 percent and 3 percent. While the Department generally does not use estimated outlays from CBO in evaluating regulations, the interest rate policy changes included in these final regulations are statutory and the Department determined that this approach would be appropriate in this instance.

TABLE 1—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Benefits	
	7%	3%
Greater consistency between the title IV loan programs	Not Quantified	
Category	**Costs**	
	7%	3%
Costs of compliance with paperwork requirements	−$109.1	−$109.8
Category	**Transfers**	
	7%	3%
Reduced payments to Federal Government from additional borrowers receiving closed school discharges	$0.40	$0.40
Statutory changes to the Direct Loan interest rates: Difference in transfer payments from borrowers to the Federal government against a baseline prior to the enactment of the Bipartisan Student Loan Certainty Act of 2013	$1,168	$467

See the Paperwork Reduction Act of 1995 section of this document for further information on the $109.1 million reduction in costs of compliance with paperwork requirements.

Final Regulatory Flexibility Analysis

These regulations affect institutions that participate in the title IV, HEA programs, including alternative certification programs not housed at institutions, and individual borrowers. The U.S. Small Business Administration (SBA) Size Standards define for-profit institutions as ''small businesses'' if they are independently owned and operated and not dominant in their field of operation with total annual revenue below $7,000,000. The SBA Size Standards define nonprofit institutions as small organizations if they are independently owned and operated and not dominant in their field of operation, or as small entities if they are institutions controlled by governmental entities with populations below 50,000. The revenues involved in the sector affected by these regulations, and the concentration of ownership of institutions by private owners or public systems means that the number of title IV, HEA eligible institutions that are small entities would be limited but for the fact that the nonprofit entities fit within the definition of a small organization regardless of revenue. Given the definitions above, several of the entities subject to the proposed regulations are small, leading to the preparation of this analysis.

Description of the Reasons That Action by the Agency Is Being Considered

With these regulations, the Department removes certain regulations governing the FFEL Program that are no longer needed and revises Direct Loan Program regulations to ensure that they are comprehensive and to add consistency and clarity to all regulations governing student loans by revising where applicable. Through these regulations, the Department also provides clarity to the loan rehabilitation process for borrowers with defaulted student loans.

Succinct Statement of the Objectives of, and Legal Basis for, the Regulations

The final regulations amend the FFEL and Direct Loan program regulations to: reflect changes made to the HEA by the SAFRA Act; incorporate other statutory changes in the Direct Loan Program regulations; update, strengthen, and clarify various areas of the Student Assistance General Provisions, Perkins Loan, FFEL, and Direct Loan program regulations; and provide for greater consistency in the regulations governing title IV, HEA student loan programs.

In addition, on January 21, 2011, President Obama issued Executive Order 13563, ''Improving Regulation and Regulatory Review'' (76 FR 3821). The order requires all Federal agencies to ''consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Accordingly, on August 22, 2011, the Department issued its Plan for Retrospective Analysis of Existing

Regulations. (See *ed.gov/policy/gen/reg/retrospective-analysis/index.html*).

Our plan identified a number of regulatory initiatives for retrospective review and analysis. One of those initiatives was transitioning from the FFEL Program, under which new loans ceased on July 1, 2010, to the Direct Loan Program. These final regulations remove obsolete FFEL Program regulations.

Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Will Apply

The final regulations affect several categories of entities involved in the administration and servicing of Federal student loans. Many of the regulations relate to notifications, servicing, or collection activities done by loan servicers or entities acting for the Federal government. The Department does not expect these entities to meet the applicable definition of ''small entity.'' The final regulations related to Perkins Loans will affect the institutions that participate in the program, some of which would be classified as small entities. As discussed above, private non-profit institutions that do not dominate in their field are defined as small entities and a few other institutions that participate in the Perkins Loan Program do not have revenues above $7 million and are also categorized as small entities. Table 2 summarizes AY 2010–11 Perkins loan disbursements by institutions that qualify as small entities. Based on the definition of non-profit institutions as small entities, approximately 59 percent of institutions that disbursed Perkins loans in AY2010–11 were small entities.

TABLE 2—AY2010–11 PERKINS LOAN DISBURSEMENT SUMMARY

AY2010–11	Public	Non-profit	For-profit	Total
Perkins Loan Institutions with disbursements	545	874	107	1526
Small entities with Perkins disbursements	2	874	25	901
% of small entities by control	0.4%	100.0%	23.4%	59.0%
Overall Disbursements	387,694,908	448,589,990	20,332,961	856,617,859
% by control	45.26%	52.37%	2.37%	100%
Amounts at Small Entities	53,467	448,589,990	1,012,596	2,808,851

In the NPRM, the Secretary invited comments from small entities as to whether they believe the proposed changes would have a significant economic impact on them. We did not receive any comments.

Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Regulations, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The various provisions in the final regulations will modify or increase the paperwork burden on entities participating in the FFEL, Direct Loan, or Perkins Loan programs, as described in the *Paperwork Reduction Act* section. Much of this burden is associated with borrowers or the Department and its agents and therefore does not affect small entities. Table 3 summarizes the estimated burden on small entities, primarily institutions and guaranty agencies, from the paperwork requirements associated with the final regulations. As discussed in the Paperwork Reduction Act section of this preamble, several of the provisions reduce the estimated burden on institutions, lenders, and guaranty agencies from the elimination of regulatory provisions or changes to requirements and this is reflected by the negative numbers in the table.

TABLE 3—SUMMARY OF PAPERWORK REQUIREMENTS FOR SMALL ENTITIES

Description	OMB Control No.	Small entity hours	Cost ($)	Cost per small entity
FFEL forbearance	1845–0020	264	6,497	650
Reasonable and Affordable loan rehab	1845–0020	69,161	1,702,052	154,732
Suspension of AWG for rehab borrowers	1845–0020	1,257	30,935	2,812
School Enrollment Status Reporting	1845–0019	24,342	599,068	54,461
Deferment of repayment—Federal Perkins Loans—definition of eligible graduate fellowship programs	1845–0019	175	4,316	22
AWG 3rd party contractors; hearing requests, and hearing administration	1845–0020	57,568	1,416,748	128,795
Lender disclosure	1845–0020	(20,461)	(503,556)	(50,356)
Due diligence in making a loan	1845–0020	(40,923)	(1,007,112)	(100,711)
Equal credit—removal of provision	1845–0020	(40,923)	(1,007,112)	(100,711)
Eligibility for interest benefits	1845–0020	(40,923)	(1,007,112)	(100,711)
Basic program agreement	1845–0020	(11,174)	(274,982)	(27,498)
Records, reports, inspection requirements for GA programs	1845–0020	(5,587)	(137,495)	(12,500)
Prohibited use of Operating Fund when it contains Federal Fund assets—removal of provision	1845–0020	(111,739)	(2,749,889)	(249,990)
Funds transferred to Operating Fund by a GA—removal of provision	1845–0020	(111,739)	(2,749,889)	(249,990)
FISL loan related—removal of provisions	1845–0020	(163,692)	(4,028,450)	(884.40)
School as lender—removal of provision	1845–0020	(206,534)	(5,082,791)	(1,115.87)
Exit counseling	1845–0020	(134,247)	(3,303,819)	(725.32)

TABLE 3—SUMMARY OF PAPERWORK REQUIREMENTS FOR SMALL ENTITIES—Continued

Description	OMB Control No.	Small entity hours	Cost ($)	Cost per small entity
Disqualification review of limitation, suspension, and termination actions taken by GA against a school—removal of provision	1845–0020	(111,739)	(2,749,889)	(249,990)

Identification, to the Extent Practicable, of All Relevant Federal Regulations That May Duplicate, Overlap or Conflict With the Proposed Regulation

The proposed regulations are unlikely to conflict with or duplicate existing Federal regulations.

Alternatives Considered

As described above, the Department participated in negotiated rulemaking in developing the proposed regulations, reviewed comments received in response to the NPRM published July 29, 2013, and considered a number of options for some of the provisions. In particular, the Department reversed the order of the use of the 15 percent formula and the standard form in determining a reasonable and affordable payment for loan rehabilitation, but that is not expected to affect small entities. No alternatives were aimed specifically at small entities.

Paperwork Reduction Act of 1995

Sections 674.19, 674.33, 674.34, 682.102, 682.200, 682.205, 682.206, 682.208, 682.209, 682.210, 682.211, 682.212, 682.214, 682.216, 682.301, 682.305, 682.401, 682.402, 682.404, 682.405, 682.406, 682.409, 682.410, 682.411, 682.412, 682.414, 682.417, 682.418, 682.421, 682.507, 682.508, 682.511, 682.515, 682.602, 682.603, 682.604, 682.605, 682.610, 682.711, 682.712, 682.713, 685.205, 685.211, 685.214, contain information collection requirements. Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections, related forms, and Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) for its review.

The OMB Control numbers associated with the final regulations and related forms are 1845–0015, 1845–0019, 1845–0020, and 1845–0119 (identified as 1845—NEW2 in the NPRM).

In the NPRM, the Department included a draft version of the Financial Disclosure for Reasonable and Affordable Payments form (1845–0120, identified as 1845—NEW1 in the NPRM) and calculated estimated burden for the completion and review of that version. The Department received extensive and detailed comments from the public on the draft form, including all aspects of the form and its intended use. We will require significant time to properly analyze these comments and, if appropriate, rework the form to address them. To allow the time to carefully consider public comment and take necessary action, we will address comments and burden relating to the Financial Disclosure for Reasonable and Affordable Payments form in a separate **Federal Register** notice that will be published after these final regulations.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

Sections 682.211 and 685.205—Forbearance

The final regulations amend the current FFEL Program regulations to authorize a lender, prior to resolving a default claim payment, to grant forbearance to a borrower or endorser who is in default on a loan based on the borrower's or endorser's oral request. The current regulations require borrowers to submit a written request for forbearance. The burden calculations address only the added burden created by accepting oral requests for forbearance. These final regulations provide that a forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser (as required under the current regulations), or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt. The final regulations define ''affirmation'' for this purpose to be an acknowledgment of the loan by the borrower or endorser in a legally binding manner that can take the form of: (1) A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt (as under current regulations); (2) an oral acknowledgment and agreement to repay the debt that is documented by the lender in the borrower's or endorser's file and confirmed by the lender in a notice to the borrower; or (3) a payment made on the loan by the borrower or endorser. The final regulations also specify that if a forbearance in this situation is based on the borrower's or endorser's oral request and affirmation, the lender must orally review with the borrower the terms and conditions of the forbearance. The lender must also send the borrower or endorser a notice that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to make the first payment under the forbearance agreement within 30 days after entering into that agreement. The final regulations require the lender to retain a record of the terms and conditions of the forbearance and affirmation in the borrower's or endorser's file.

For the 2011 calendar year, the last year for which data are available, we estimate that 172,915 FFEL borrowers requested forbearance after defaulting on a loan. Of that number, 49,350 borrowers have FFEL program loans held by lenders. Of those borrowers, we estimate that 25 percent (12,338 borrowers) will exercise the option in these final regulations to orally acknowledge the debt and agree to repay the debt. The remaining 123,565 loans for which we estimate borrowers will request forbearance after defaulting will be held by the Department. We estimate that 25 percent of those borrowers (30,891 borrowers) who request forbearance from the Department will exercise the option to orally acknowledge the debt and agree to repay the debt, as would be authorized under these final regulations. Because OMB requires Federal agencies to account for burden imposed on non-Federal entities separately by type, i.e. public, not-for-profit, and for-profit, the following analysis of the burden imposed on lenders other than the Department is broken down by the types of entities. Note that State guaranty agencies are covered under the ''public'' type of entities.

Of the FFEL Program loans held by lenders, we estimate that public holders (State guaranty agencies) will have two FFEL borrowers who seek to orally acknowledge a defaulted FFEL Program

loan. On average, we estimate that it will take the lender 0.17 hours (10 minutes) per oral acknowledgment to orally review with the borrower the terms and conditions of the forbearance and document the conversation and place that documentation in the borrower's or endorser's file. For public holders, we estimate that burden will increase by 0.34 hours (two borrowers multiplied by 0.17 hours per oral forbearance request).

Of the FFEL Program loans, we estimate that not-for-profit holders will have 1,551 FFEL borrowers who seek an oral forbearance on a defaulted FFEL program loan. On average, we estimate that it will take the lender 0.17 hours (10 minutes) per oral acknowledgment to orally review with the borrower the terms and conditions of the forbearance and document the conversation and place that documentation in the borrower's or endorser's file. For not-for-profit holders, we estimate that burden will increase by 264 hours (1,551 borrowers multiplied by 0.17 hours per oral forbearance request).

Of the FFEL Program loans, we estimate that for-profit holders will have 10,785 FFEL borrowers who seek an oral forbearance on a defaulted FFEL Program loan. On average, we estimate that it will take the lender 0.17 hours (10 minutes) per oral acknowledgment to orally review with the borrower the terms and conditions of the forbearance and document the conversation and place that documentation in the borrower's or endorser's file. We estimate that burden will increase by 1,833 hours (10,785 borrowers multiplied by 0.17 hours per oral forbearance request) at for-profit holders.

We estimate there will be an equal amount of burden on the borrower engaged in the oral acknowledgement and agreement to repay the debt request with the lender. The oral acknowledgment process will increase burden by 7,349 hours for all FFEL borrowers (12,338 held by lenders and 30,891 Department-held = 43,229 borrowers multiplied by 0.17 hours per oral forbearance request). Since there is no FFEL general forbearance form approved by OMB, the final regulations will impose new burden.

Collectively, we estimate that these final FFEL forbearance regulations will increase burden by 9,446 hours under OMB Control Number 1845–0020.

The final regulations will amend the current Direct Loan Program regulations to authorize the Secretary, prior to the loan being transferred to the Department's default collections office, to grant forbearance to a borrower or endorser who is in default on a loan based on the borrower's or endorser's oral request. The final regulations provide that a forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser (as required under the current regulations), or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt. The final regulations define ''affirmation'' for this purpose to be an acknowledgment of the loan by the borrower or endorser in a legally binding manner that can take the form of: (1) A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt (as under current regulations); (2) an oral acknowledgment and agreement to repay the debt that is documented by the Secretary in the borrower's or endorser's file and confirmed by the Secretary in a notice to the borrower; or (3) a payment made on the loan by the borrower or endorser. The final regulations also specify that if a forbearance in this situation is based on the borrower's or endorser's oral request and affirmation, the Secretary must orally review with the borrower the terms and conditions of the forbearance, and that the Secretary must send the borrower or endorser a notice that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to make the first payment under the agreement within 30 days after entering into that agreement. The final regulations require the Secretary to retain a record of the terms and conditions of the forbearance and affirmation in the borrower's or endorser's file.

For the 2011 calendar year, 62,905 Direct Loan borrowers requested forbearance after defaulting on a loan. Of that number, we estimate that 25 percent (15,726 borrowers) will have exercised an option to orally acknowledge the debt and agree to repay the debt. On average, we estimate that it would take a borrower 0.17 hours (10 minutes) per oral acknowledgment to listen to the list of terms and conditions of the forbearance as they are reviewed with the borrower. The burden associated with the completion of the General Forbearance Request form, OMB 1845–0031, is estimated to average 0.2 hours (12 minutes). Therefore, the net reduction in burden to provide an oral acknowledgement rather than complete the form is the difference of the two or 0.03 hours (0.20 hours minus 0.17 hours or 2 minutes) per oral forbearance.

We estimate that burden will decrease by 472 hours (15,726 borrowers multiplied by 0.03 hours per oral forbearance) under OMB Control Number 1845–0119.

Sections 682.405(b) and 685.211(f)—Reasonable and Affordable Loan Rehabilitation Agreement

The final regulations will add new §§ 682.405(b)(1)(iii) and 685.211(f)(1)(i), requiring a guaranty agency and the Secretary, respectively, to first offer a reasonable and affordable loan rehabilitation payment amount on a defaulted loan as determined using the 15 percent formula (i.e., the amount equal to 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12), except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5. If the borrower does not provide the documentation required to confirm the calculated monthly payment under this formula to the guaranty agency or the Secretary, the rehabilitation agreement would be null and void.

In calendar year 2011, there were approximately 299,159 FFEL borrowers (192,029 borrowers whose FFEL program loans are held by lenders and 107,130 FFEL program borrowers whose loans are held by the Department) who requested and received a loan rehabilitation agreement for their defaulted loans. We estimate that of the 192,029 FFEL loans held by lenders, 66,283 loans are held by state guaranty agencies and 125,746 loans are held by not-for-profit guaranty agencies, with the remaining 107,130 loans (299,159 minus 192,029) held by the Department. In calendar year 2011, there were approximately 92,870 Direct Loan borrowers that requested and received a loan rehabilitation agreement for their defaulted loans.

Under these final regulations, we estimate that the 66,283 FFEL borrowers whose loans are held by state guaranty agencies will request rehabilitation of their defaulted loans using the 15 percent formula and submit the required documentation. We estimate that on average each borrower will take 0.33 hours (20 minutes) to gather, copy and submit the required documentation. We estimate that burden will increase by 21,873 hours (66,283 borrowers submitting documentation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that the 125,746 FFEL borrowers whose loans are held by not-for-profit guaranty agencies will request

rehabilitation of their defaulted loans using the 15 percent formula and submitting the required documentation to confirm the monthly repayment amount. We estimate that on average each borrower will take 0.33 hours (20 minutes) to gather, copy and submit the required documentation. We estimate that burden will increase by 41,496 hours (125,746 borrowers submitting documentation verifying IBR calculation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that the 107,130 FFEL borrowers whose loans are held by the Department will request rehabilitation of their defaulted loans using the 15 percent formula and submitting the required documentation to confirm the monthly repayment amount. We estimate that on average each borrower will take 0.33 hours (20 minutes) to gather, copy and submit the required documentation. We estimate that burden will increase by 35,353 hours (107,130 borrowers submitting documentation verifying the calculation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that the 92,870 Direct Loan borrowers whose loans are held by the Department will request rehabilitation of their defaulted loans using the 15 percent formula and submitting the required documentation to confirm the monthly repayment amount. We estimate that on average each borrower will take 0.33 hours (20 minutes) to collect, copy and submit the required documentation. We estimate that burden will increase by 30,647 hours (92,870 borrowers submitting documentation verifying the 15 percent formula calculation multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0119.

We estimate that to review the supporting documentation submitted, it would take the guaranty agency on average 0.17 hours (10 minutes) to review the supporting documentation from the borrower. Under these final regulations, we estimate that burden will increase by 23,645 hours (192,029 borrowers requesting loan rehabilitation multiplied by 0.17 hours per document review) under OMB Control Number 1845–0020.

Sections 682.405(b)(1)(vii) and 685.211(f)(3) will require a guaranty agency and the Secretary to recalculate the borrower's rehabilitation payment amount if the borrower objects to the payment amount contained in the written repayment agreement that the guaranty agency or the Secretary sent to the borrower based on the 15 percent formula calculation.

Of the 299,159 FFEL borrowers in calendar year 2011 who requested rehabilitation of their defaulted loans, we estimate that 12 percent or 35,899 borrowers will raise an objection to the initial determination of the reasonable and affordable monthly payment amount by the guaranty agency or the Secretary. We estimate that each objection will entail a phone conversation or email that would span on average 0.17 hours (10 minutes). This will increase burden to the borrowers for a total of 6,103 hours (35,899 borrowers objecting to the initial determination of the reasonable and affordable payment amount multiplied by 0.17 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Of the 92,870 Direct Loan borrowers in calendar year 2011 who requested loan rehabilitation of their defaulted loans, we estimate that 11,144 Direct Loan borrowers will raise an objection to the initial determination of the reasonable and affordable monthly payment amount. We estimate that each objection will entail a phone conversation or email that would span on average 0.17 hours (10 minutes). This would increase burden to the borrowers for a total of 1,894 hours (11,144 borrowers objecting to the initial determination of the reasonable and affordable payment amount multiplied by 0.17 hours per loan rehabilitation request) under OMB Control Number 1845–0119.

Sections 682.405(b)(1)(vii) and 685.211(f)(5) will require a borrower who objects to the monthly repayment amount contained in the written repayment agreement based on the 15 percent formula to provide the guaranty agency or the Secretary the information needed to calculate a monthly payment amount by completing the reasonable and affordable rehabilitation payment form. If the borrower does not provide this information to the guaranty agency or the Secretary, no rehabilitation agreement would exist with the borrower, and the guaranty agency or the Secretary will not proceed with the rehabilitation.

Sections 682.405(b)(1)(x) and 685.211(f)(6) will require the Secretary or the guaranty agency, upon the borrower's request, to adjust the borrower's monthly rehabilitation payment due to a change in the borrower's financial circumstances. The borrower will be required to provide documentation supporting the request.

We estimate that 10 percent of the 299,159 FFEL borrowers who requested rehabilitation of their defaulted loans (29,916 FFEL borrowers, 19,203 of whom have FFEL program loans that are held by lenders and 10,713 of whom have FFEL program loans that are held by the Department) will have a change in their financial circumstances in the initial year the proposed regulation is implemented. We estimate that on average each borrower will take 0.33 hours (20 minutes) to collect, copy, and submit the required documentation. We estimate that burden will increase by 9,872 hours (29,916 borrowers with changes in financial circumstances multiplied by 0.33 hours per loan rehabilitation request) under OMB Control Number 1845–0020.

Of the 19,203 borrowers with FFEL loans held by lenders, 6,628 are held by public guaranty agencies and 12,575 are held by not-for-profit guaranty agencies. Under these final regulations, we estimate 6,628 FFEL borrowers whose loans are held by public guaranty agencies will have a change in their financial circumstances in the initial year the proposed regulation is implemented. We estimate that for each request submitted it will take on average 0.5 hours (30 minutes) for the guaranty agency to review and process the request. Under these final regulations, we estimate that burden will increase by 3,314 hours (6,628 borrowers requesting loan rehabilitation multiplied 0.5 hours per loan rehabilitation request equals 3,314 hours) under OMB Control Number 1845–0020.

Under these final regulations, we estimate that 12,575 FFEL borrowers whose loans are held by not-for-profit guaranty agencies will request a change in their reasonable and affordable payment amount due to changed financial circumstances in the initial year the final regulation is implemented. We estimate that for each request submitted it will take on average 0.5 hours (30 minutes) for the guaranty agency to review and process the request for a change in the payment amount. Under these final regulations, we estimate that burden will increase by 6,288 hours (12,575 borrowers requesting a change in the loan rehabilitation payment amount multiplied by 0.5 hours per request) under OMB Control Number 1845–0020.

We estimate that 10 percent of Direct Loan borrowers who are rehabilitating their defaulted loans (9,287 Direct Loan borrowers) will request a change in the reasonable and affordable payment amount due to a change in their financial circumstances in the initial year the final regulation is

implemented. We estimate that on average each borrower will take 0.33 hours (20 minutes) to collect, copy, and submit the required documentation. We estimate that burden will increase by 3,065 hours (9,287 borrowers requesting a change in the reasonable and affordable payment amount multiplied by 0.33 hours per payment change request equals 3,065 hours) under OMB Control Number 1845–0119.

Sections 682.405(a) and 685.211(f)—Suspension of Administrative Wage Garnishment for Borrowers Rehabilitating Defaulted Loans

The final regulations will add new §§ 682.405(a)(3)(i) and 685.211(f)(12)(i) to the FFEL and Direct Loan program regulations requiring a guaranty agency or the Secretary, respectively, to suspend collecting on a defaulted loan through Administrative Wage Garnishment (AWG) after the borrower makes five qualifying payments under a loan rehabilitation agreement. The guaranty agency or the Secretary will not be permitted to suspend AWG prior to the fifth payment (unless otherwise required to do so), and, after the fifth payment, the borrower will have the option to request that the guaranty agency or the Secretary continue collecting on the loan through AWG while the borrower makes voluntary payments under the rehabilitation agreement.

Under § 682.405(a)(3)(ii), we estimate that state guaranty agencies will have 663 FFEL borrowers from whom they will be collecting payments through AWG while the borrower is also making voluntary repayments to rehabilitate the loan. After the borrower has made five qualifying voluntary loan payments (in addition to the AWG payments) the holder would suspend AWG. We estimate that on average each suspension of AWG would take one hour (60 minutes). We estimate that burden would increase by 663 hours (663 borrower requests multiplied by one hour per AWG suspension equals 663 hours) under OMB Control Number 1845–0020.

Under § 682.405(a)(3)(ii), we estimate that not-for-profit guaranty agencies will have 1,257 FFEL borrowers from whom they will be collecting payments using AWG while the borrower is also making voluntary repayments to rehabilitate the loan. After the borrower has made five qualifying voluntary loan payments (in addition to the AWG payments) the holder would suspend AWG. We estimate that on average each suspension of AWG would take one hour (60 minutes). We estimate that burden would increase by 1,257 hours (1,257 borrower requests multiplied by one hour per AWG suspension equals 1,257 hours) under OMB Control Number 1845–0020.

Any burden under § 685.211(f)(12)(i) is attributable to the Department and therefore not a part of this burden assessment of affected entities.

Collectively, the changes in § 682.405(a) and (b) will increase burden by 149,864 hours in OMB Control Number 1845–0020.

Collectively, the changes in § 685.211(f) will increase burden by 35,606 hours in OMB Control Number 1845–0119.

Sections 674.33(g), 682.402(d), and 685.214—Closed School Discharge

The final regulations at §§ 674.33(a)(4)(i)(B), 682.402(d)(1), and 685.214(c)(1)(iii) will extend, for purposes of the closed school discharge, the current 90-day period to 120-days for students who leave before a school closes and add examples of the types of exceptional circumstances under which the Department may extend the 120-day window.

During the 2011 calendar year, no Perkins Loan borrowers received closed school loan discharges. We estimate that 15 Perkins Loan borrowers submitted applications for closed school discharges. We estimate that the average burden per response is 0.5 hours (30 minutes) for each loan discharge application and that by expanding the period from 90 days to 120 days prior to school closure for students who had withdrawn to apply for a closed school loan discharge will increase the number of applicants by 20 percent. As a result there will be an estimated 18 applications under the final regulation for a total increase in burden of 2 hours (18 borrowers applying for loan discharge multiplied by 0.5 hours per application minus 15 borrowers applying for loan discharge under current regulations multiplied by 0.5 hours per application) under OMB Control Number 1845–0015.

During the 2011 calendar year, 163 FFEL borrowers received closed school loan discharges. We estimate that 230 FFEL borrowers submitted applications for discharge. We estimate that the average burden per response is 0.5 hours (30 minutes) for each loan discharge application and that by expanding the period from 90 days to 120 days prior to school closure for students who had withdrawn to apply for a closed school loan discharge will increase the number of applicants by 20 percent. As a result there will be 276 applications under the final regulation for a total increase in burden of 23 hours (276 borrowers applying for loan discharge multiplied by 0.5 hours per application minus 230 borrowers applying for loan discharge under current regulations multiplied by 0.5 hours per application) under OMB Control Number 1845–0015.

During the 2011 calendar year, 128 Direct Loan borrowers received closed school loan discharges. We estimate that 295 Direct Loan borrowers submitted applications for discharge. We estimate that the average burden per response is 0.5 hours (30 minutes) for each loan discharge application and that by expanding the period from 90 days to 120 days prior to school closure for students who had withdrawn to apply for a closed school loan discharge will increase the number of applicants by 20 percent, thus totaling 354 applications under the final regulation for a total increase in burden of 29 hours (354 borrowers applying for loan discharge multiplied by 0.5 hours per application minus 295 borrowers applying for loan discharge under current regulations multiplied by 0.5 hours per application) under OMB Control Number 1845–0015.

Collectively, the total increase in burden is 54 hours under OMB Control Number 1845–0015. The changes associated with the elongation of the period prior to school closure from 90 days to 120 days for students who had withdrawn to apply for a closed school loan discharge is non-substantive and as such, we will submit a Form 83–C to OMB to make this change.

Sections 674.19, 682.610, and 685.309—School Enrollment Status Reporting Requirements

For the Federal Perkins Loan program, the final regulations would add a new § 674.19(f) with the heading ''enrollment reporting process.'' Section 674.19(f)(1) will provide that, upon receipt of an enrollment report from the Secretary, an institution must update all information included in the report and return the report to the Secretary in the manner and format prescribed by the Secretary and within the timeframe prescribed by the Secretary. Section 674.19(f)(2) will provide that, unless it expects to submit its subsequent updated enrollment report to the Secretary within the next 60 days, an institution must notify the Secretary within 30 days after: (1) The date the school discovers that a loan under title IV of the HEA was made to a student who was enrolled or accepted for enrollment at the institution, and the student has ceased to be enrolled on at least a half-time basis, or has failed to enroll on at least a half-time basis for the period for which the loan was

intended; or (2) the date the school discovers that a student who is enrolled at the institution and who received a loan under title IV of the HEA has changed his or her permanent address. Because the Secretary already receives enrollment information on Federal Perkins Loan borrowers who also have a FFEL loan or a Direct Loan, the additional burden associated with sending enrollment reports to institutions for the Federal Perkins Loan Program is only associated with those Federal Perkins Loan borrowers whose only loan received under title IV of the HEA is a Federal Perkins Loan and who are enrolled on at least a half-time basis or who had recently changed enrollment status.

In the 2011 calendar year, there were 2,070,514 Federal Perkins Loan borrowers. Of the 2,070,514 Federal Perkins Loan borrowers, 240,959 borrowers have a Federal Perkins Loan as the only loan received under title IV of the HEA. Of the 240,959 borrowers, 53 percent (127,708 borrowers) were enrolled at least half-time or had recently changed enrollment status. The Secretary will be sending enrollment reports to each of the institutions approximately every 60 days or 6 reports per year. We estimate that on average the completion and submission of an enrollment report will take 0.05 hours (3 minutes) per borrower. Burden will increase by 38,312 hours (127,708 borrowers multiplied by 0.05 hours per borrower multiplied by 6 reports per year) under OMB Control Number 1845–0019.

For the 2011 calendar year 51 percent of the Federal Perkins loan borrowers or 65,131 affected borrowers were at public institutions, therefore we estimate that burden will increase for public institutions by 19,539 hours (38,312 hours multiplied by 0.51) under OMB 1845–0019.

For the 2011 calendar year 45 percent of the Federal Perkins loan borrowers or 57,469 affected borrowers were at private not-for-profit institutions, therefore we estimate that burden will increase for private not-for-profit institutions by 17,240 hours (38,312 hours multiplied by 0.45) under OMB 1845–0019.

For the 2011 calendar year 4 percent of the Federal Perkins loan borrowers or 5,108 affected borrowers were at proprietary institutions, therefore we estimate that burden will increase for proprietary institutions by 1,533 hours (38,312 hours multiplied by 0.04) under OMB 1845–0019.

Collectively, the final regulatory changes to § 674.19 will increase burden by 38,312 hours for 127,708 affected borrowers under OMB 1845–0019.

For the FFEL Program, the final regulations will replace the term ''student status confirmation reports'' in § 682.610(c) with the term ''enrollment reporting process,'' and will revise § 682.610(c)(1) to provide that upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary in the manner and format prescribed by the Secretary and within the timeframe specified by the Secretary. Institutions currently participating in the FFEL or Direct Loan programs will continue to report enrollment to the Secretary and the lender. Because the only change regarding the FFEL Program reporting is in the definition of the reporting requirement, there is no change in burden for institutions participating in the FFEL and Direct Loan programs.

Section 674.34—Deferment of Repayment—Federal Perkins Loans

The final regulations in § 674.34(f)(1) will require schools that participate in the Perkins Loan Program to use the same eligibility criteria to define an eligible graduate fellowship program and to establish the eligibility of a borrower for a graduate fellowship deferment that lenders and the Department use in the FFEL and Direct Loan programs, respectively. The final regulations will require that a borrower provide the institution with a statement from an authorized official of the borrower's graduate fellowship program certifying: (1) That the borrower holds at least a bachelor's degree; and (2) the borrower's anticipated completion date of the program. In calendar year 2011 there were 1,104 Perkins borrowers who applied for a graduate fellowship deferment. We estimate that on average it will take the borrower 0.25 hours (15 minutes) to obtain the certification from an authorized official of the graduate fellowship program and to complete and submit the Perkins Loan deferment form multiplied by an estimated 1,104 deferment applications equals 276 hours of increased burden to borrowers under OMB Control Number 1845–0019.

For the 2011 calendar year 51 percent of the Federal Perkins Loan borrowers or 563 affected borrowers were at public institutions, therefore we estimate that burden will increase for authorizing officials at public institutions by 141 hours (1,104 applications multiplied by 0.51 multiplied by 0.25 hours per certification) under OMB 1845–0019.

For the 2011 calendar year 45 percent of the Federal Perkins Loan borrowers or 497 affected borrowers were at private not-for-profit institutions, therefore we estimate that burden will increase authorizing officials at for private not-for-profit institutions by 124 hours (1,104 applications multiplied by 0.45 multiplied by 0.25 hours per certification) under OMB 1845–0019.

For the 2011 calendar year 4 percent of the Federal Perkins Loan borrowers or 44 affected borrowers were at proprietary institutions, therefore we estimate that burden will increase for private not-for-profit institutions by 11 hours (1,104 applications multiplied by 0.04 multiplied by 0.25 hours per certification) under OMB 1845–0019.

Collectively, the final regulatory changes to § 674.34 will increase burden by 552 hours under OMB 1845–0019.

Section 682.410(b)(9)(i)(T)(2)—Administrative Wage Garnishment (AWG)—Use of Third-Party Contractors

The final regulations will also add a new § 682.410(b)(9)(i)(T) to the regulations, which specifies the functions that may be performed by a third-party servicer or collection contractor employed by the guaranty agency for services needed in the AWG process. The final regulations make clear that the guaranty agency may not delegate to any third party the decision to order withholding of an individual borrower's wages, and must create and retain records to demonstrate that each order issued has been individually authorized by an appropriate official of the guaranty agency. The final regulations also specify the manner by which a withholding order may be sent to employers and the permissible activities that may be performed by a third-party servicer or collection contractor employed by the guaranty agency with respect to withholding orders. Only an authorized official of the guaranty agency may determine that an individual withholding order is to be issued. The guarantor must record the official's determination for each order it issues by either including the official's signature on the order, or by retaining in the agency's records the identity of the approving official, the date of the approval, the amount or rate of the order, the name and address of the employer to whom the order was issued, and the debt for which the order was issued.

In calendar year 2011, we estimate there were 84,293 FFEL Program borrowers whose loans were held by state guaranty agencies and for which the guaranty agency had initiated AWG. We estimate that on average the guaranty agency will take 0.25 hours (15 minutes) to meet the recordkeeping requirements specified above. Total

burden hours will increase by 21,073 hours (84,293 multiplied by 0.25 hours) under OMB 1845–0020.

In calendar year 2011, we estimate there were 159,912 FFEL borrowers whose loans were held by not-for-profit guaranty agencies and for which the guaranty agency had initiated AWG. We estimate that on average the guaranty agency will take 0.25 hours (15 minutes) to meet the recordkeeping requirements specified above. Total burden hours will increase by 39,978 hours (159,912 multiplied by 0.25 hours) under OMB 1845–0020.

The final changes in § 682.410(b)(9)(i)(T)(*2*) will increase burden by 61,051 hours under OMB Control Number 1845–0020.

Section 682.410(b)(9)(i)(H)—Administrative Wage Garnishment (AWG)—Borrower Hearing Requests

The final regulations will also replace § 682.410(b)(9)(i)(L) of the FFEL Program regulations with § 682.410(b)(9)(i)(H) to provide that if a borrower's written request for a hearing is received by the guaranty agency after the 30th day following the date of the garnishment notice and a decision is not rendered within 60 days following receipt of the borrower's written request for a hearing, the guaranty agency must suspend the order beginning on the 61st day after the hearing request was received until a hearing is provided and a decision is rendered.

If a borrower does not request a hearing within the 30-day time limit, the guaranty agency must go forward with the AWG. However, if a borrower does eventually request a hearing, a guaranty agency would still be required to provide one in sufficient time to have a decision issued within 60 days of the request. The Department added a provision specifying that if this hearing is not provided and a decision issued within 60 days, then the agency must suspend the AWG order beginning on the 61st day until a decision is issued.

In calendar year 2011, we estimate there were 84,293 FFEL borrowers whose loans were held by state guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (8,429) will request a hearing and that in 10 percent of those cases (843) a decision will not be rendered until after 60 days following the receipt of the borrower's request. On average, we estimate that it will take one hour (60 minutes) to suspend an administrative wage garnishment order. The total increase in burden will be 843 hours (843 FFEL borrowers undergoing AWG who requested a hearing where a decision was not rendered until after 60 days following the receipt of the borrower's request multiplied by one hour per suspension) under OMB 1845–0020.

In calendar year 2011, we estimate there were 159,912 FFEL borrowers whose loans where held by not-for-profit guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (15,991) will request a hearing and that in 10 percent of those cases (1,599) a decision will not be rendered until after 60 days following the receipt of the borrower's request. On average, we estimate that it will take one hour (60 minutes) to suspend an administrative wage garnishment order. The total increase in burden will be 1,599 hours (1,599 FFEL borrowers undergoing AWG who requested a hearing where a decision was not rendered until after 60 days following the receipt of the borrower's request multiplied by one hour per suspension) under OMB 1845–0020.

Collectively, the final changes in § 682.410(b)(9)(i)(H) will increase burden by 2,442 hours in OMB Control Number 1845–0020.

Section 682.410(b)(9)(i)(J)—Administrative Wage Garnishment (AWG)—Hearing Administration

The final regulations will add new paragraph (b)(9)(i)(J) and will provide for the manner by which the hearing is administered and certain provisions relating to bringing forth additional evidence and continuances. Specifically, the final regulations will require that the hearing be conducted as an informal proceeding, require witnesses in an oral hearing to testify under oath or affirmation, and require maintenance of a summary record of the hearing. The final regulations will also allow the borrower to request a continuance to submit additional evidence.

In calendar year 2011, we estimate there were 84,293 FFEL borrowers whose loans where held by state guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (8,429) will request a hearing. We estimate that on average each summary record will take one hour (60 minutes). The total burden increase for this recordkeeping will be 8,429 hours (8,429 hearings multiplied by one hour per hearing) under OMB 1845–0020.

In calendar year 2011, we estimate there were 159,912 FFEL borrowers whose loans where held by not-for-profit guaranty agencies and for which the agencies had initiated AWG. We estimate that 10 percent of these borrowers (15,991) will request a hearing. We estimate that on average each summary record will take one hour (60 minutes). The total burden increase for this recordkeeping will be 15,991 hours (15,991 hearings multiplied by one hour per hearing) under OMB 1845–0020.

Collectively, the changes in § 682.410(b)(9)(i)(J) will increase burden by 24,420 hours in OMB Control Number 1845–0020.

Section 682.410(b)(9)(i)(Q)—Administrative Wage Garnishment (AWG)—Recent Reemployment After Involuntary Unemployment

Section 682.410(b)(9)(i)(Q) will clarify that a borrower who wishes to object to AWG on the basis that he or she is not subject to garnishment because of recent reemployment after involuntary separation, bears the burden of raising and proving that claim.

In calendar year 2011, we estimate that there were 84,293 FFEL borrowers whose loans where held by state guaranty agencies and for which the agencies had initiated AWG. Of that number, we estimate that 8 percent (6,743) became unemployed involuntarily. Furthermore, we estimate that a sub-group of those who became unemployed involuntarily, 5 percent (337), gained subsequent reemployment. We estimate that the average amount of time for each borrower subject to AWG in this sub-group to provide documentation that supports their claim to not be subject to AWG due to their recent reemployment to be 0.5 hours. The increased burden to provide documentation that will support the borrower's claim that he not be subject to AWG due to recent reemployment is 169 hours (337 borrowers whose student loans were being collected by AWG, who became unemployed involuntarily, but subsequently gained reemployment multiplied by 0.5 hours per claim) under OMB 1845–0020.

In calendar year 2011, we estimate that there were 159,912 FFEL borrowers whose loans where held by not-for-profit guaranty agencies and for which the agencies had initiated AWG. Of that number, we estimate that 8 percent (12,793) became unemployed involuntarily. Furthermore, we estimate that a sub-group of those who became unemployed involuntarily, 5 percent (640), gained subsequent reemployment. We estimate that the average amount of time for each borrower subject to AWG in this sub-group to provide documentation that supports their claim to not be subject to AWG due to their recent reemployment to be 0.5 hours. The total amount of increased burden to

provide documentation that will support the borrower's claim that he not be subject to AWG due to recent reemployment is 320 hours (640 borrowers whose loans were being collected by AWG, who became employed involuntarily, but subsequently gained reemployment multiplied by 0.5 hours per claim) under OMB 1845–0020.

The final changes in § 682.410(b)(9)(i)(Q) will collectively increase burden by 489 hours in OMB Control Number 1845–0020.

Collectively, the final changes in all subparagraphs of § 682.410(b)(9) will increase burden by 88,402 hours in OMB Control Number 1845–0020.

Repeal of Unnecessary FFEL Program Regulations

The language in these final regulations removes provisions from 34 CFR part 682 that are no longer required as a result of the SAFRA Act included in the Health Care and Reconciliation Act of 2010. One of the provisions of the SAFRA Act was the termination, as of July 1, 2010, of the authority for lenders to make new loans under the FFEL Program. These final regulations will remove the FFEL provisions that are now unnecessary in light of this change and would also make technical and conforming changes. A number of the final technical and conforming changes in 34 CFR Part 682 are for clarity, others are due to the elimination of cross-references.

Typically, the results of negotiated rulemaking produce some regulatory changes that correspond to reporting or recordkeeping burden on affected entities such as borrowers, lenders, or guaranty agencies. The primary information collection associated with 34 CFR Part 682 is the currently approved OMB 1845–0020. Unlike other newly proposed regulations where the resultant final regulation would either increase or decrease burden as a result of the change in a regulation, this expansive effort to eliminate unneeded regulations includes more wholesale changes being made to 34 CFR Part 682. As a result, the entire history of burden associated with OMB 1845–0020 was examined. While the burden assessments for OMB 1845–0020 stretch back over 13 years, the necessary level of detail does not exist to disaggregate the amount of the currently approved amount of burden in this collection into its corresponding subsections of 34 CFR Part 682.

Therefore, a new methodology to calculate burden is required. We are able to establish that there are 38 subsections of 34 CFR Part 682 that have burden under OMB 1845–0020. We divided the total of the currently approved burden hours of 12,352,197 hours by the 38 affected subsections which on average yields 325,058 hours per affected subsection.

Each of the subsections listed below will use this number of burden hours as a starting point. The final changes as provided below explain the burden impact.

The specific number of respondents from the affected entities is similarly unavailable, so we have established a percentage based on the number of borrowers per loan type to distribute the number of respondents across the affected entities.

Section 682.102—Repaying a Loan

The final regulations will amend the section heading, remove § 682.102(a) through (d), which describe the application process for Stafford, PLUS, and Consolidation loans, and redesignate the paragraphs in current § 682.102(e), which describes the loan repayment process, as § 682.102(a)–(g).

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.200—Definitions—Lender

The final regulations will remove the provisions of current § 682.601(a)(3), (a)(5), and (a)(7), and place these provisions into paragraph (8) of the definition of ''Lender'' in § 682.200(b).

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.205—Disclosure Requirements for Lenders

The final regulations will remove § 682.205(a) (the initial disclosure statement), (b) (statement of borrower rights and responsibilities), (g) (plain language disclosure), and (i) (separate disclosure for Consolidation loans) from the FFEL Program regulations and renumber the remaining provisions. The remaining provisions include providing repayment information, providing required disclosures during the repayment period, and providing required disclosures for borrowers having difficulty making payments.

The final changes will decrease the required burden by 162,529 hours, and therefore the current burden hours will decrease from 325,058 hours to 162,529 hours under OMB Control Number 1845–0020.

Section 682.206—Due Diligence in Making a Loan

The final regulations will remove § 682.206 from the FFEL regulations. The SAFRA Act eliminated the authority to make new FFEL Program loans, including FFEL Consolidation loans. As a result, the requirements governing the making of new FFEL Program loans are no longer needed and the previous burden associated with the making of a loan by a lender will be removed.

The final change will remove all of the prior assessment of 325,058 hours of burden associated under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours.

Section 682.208—Due Diligence in Servicing a Loan

The final regulations will replace the term ''national credit bureau(s)'' with ''nationwide consumer reporting agency(ies)'' to more accurately reflect the reporting requirements.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.209—Repayment of a Loan

The final regulations will amend § 682.209(a)(3)(i) by adding a new paragraph that specifies that borrowers with fixed interest rates on their Stafford loans enter repayment on those loans the day after six months following the date the borrower was no longer enrolled on at least a half-time basis. The final regulations will remove current § 682.209(e) through (g) and (j) from the regulations and re-designate the remaining paragraphs as paragraphs (e)-(g). Redesignated § 682.209(e) (current paragraph (h)) will be amended to specify that a FFEL Consolidation loan borrower repaying under the IBR plan may make a scheduled monthly payment of less than the interest that accrues on the loan.

The final changes will decrease the burden by 65,012 hours, and therefore the current burden assessment will decrease from 325,058 to 260,046 hours under OMB Control Number 1845–0020.

Section 682.210—Deferment

The final regulations will amend § 682.210(a)(4) of the regulations to provide that a borrower's representative may request a military service deferment on behalf of the borrower. In § 682.210(b), the introductory language in paragraphs (b)(1) through (6) of § 682.210 was revised to identify the cohort of borrowers to which each paragraph applies. Throughout

§ 682.210(b) cross-references were added to the eligibility criteria that are applicable to deferments available to these borrowers. The final regulations also amend § 682.210(s)(2) by removing the exception clause at the end of the provision, and amend § 682.210(u)(5) by replacing the words ''military active'' with ''post-active''.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.211—Forbearance

Substantive changes in this section have been identified earlier which added 9,446 hours of burden to OMB Control Number 1845–0020. There were no further changes to this section that will alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Collectively, the final changes will increase the burden assessment from 325,058 by 9,446 hours (as identified earlier) for a total of 334,504 hours under OMB Control Number 1845–0020.

Section 682.212—Prohibited Transactions

There is no change to the current language in this section of the regulations, however the current burden referenced in OMB Control Number 1845–0020 is incorrectly calculated.

This section primarily defines ''prohibited transactions,'' but does not impose recordkeeping or reporting requirements upon entities and thus does not impose burden. Therefore, these final regulations remove the 325,058 hours of burden that was previously incorrectly attributed to this section of the regulations. While subsection 34 CFR 682.212(h) provides that an institution, at its option, may make available a list of recommended or suggested lenders, the burden associated with that reporting is accounted for in §§ 601.10 and 668.14.

We removed the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours.

Section 682.214—Compliance With Equal Credit Opportunity Requirements

The final regulations will remove § 682.214 from the FFEL regulations. The SAFRA Act ended the making of new FFEL loans and therefore these requirements can be eliminated from the FFEL regulations.

The change in the final regulation will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours.

Section 682.216—Teacher Loan Forgiveness Program

The final regulations provide for minor language changes.

These changes in the final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.301—Eligibility of Borrowers for Interest Benefits on Stafford and Consolidation Loans

The final regulations will remove § 682.301(c) from the regulations. The SAFRA Act ended the making of new FFEL Program loans and this provision related to determining borrower eligibility for the interest subsidy on new loans would be eliminated.

The change in the final regulations will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden would decrease by 325,058 hours for a total of 0 hours under this section.

Section 682.305—Procedures for Payment of Interest Benefits and Special Allowance and Collection of Origination and Loan Fees

Section 682.305(c)(1)(ii) specifies that, regardless of the dollar volume of loans originated or held, a school lender or an eligible lender serving as trustee for a school or school-affiliated organization originating FFEL Program loans as a lender must submit an independent compliance audit to the Department each year. The final regulations will remove the reference to FFEL lenders originating loans. The final regulations will also remove the language specifying that a school and lender serving as a trustee for a school must submit an independent compliance audit to the Department each year.

The number of school lenders or lenders serving as a trustee on behalf of a school or a school affiliated organization whose purpose is to originate loans for which the final regulations will provide relief is so small as to not be substantive. As a result, these final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.401—Basic Program Agreement

The final regulations will remove from § 682.401 language that addresses new loan originations, the process supporting loan origination, and a guaranty agency's efforts to secure new loan volume. These provisions can be eliminated from the FFEL Program regulations because no new FFEL loans are being made. The remaining provisions proposed for elimination relate to school eligibility to participate in a guaranty agency's program and the authority of an agency to limit, suspend, or terminate a school from its program. For purposes of new loans, schools now participate only in the Direct Loan Program. Any future actions to limit, suspend, or terminate a school's participation in the student loan programs would be undertaken by the Department under 34 CFR part 668, subpart G. Therefore, § 682.401(b)(6) can also be eliminated from the FFEL Program regulations.

The final changes will decrease the burden related to FFEL processes by 32,506 hours, and therefore the current burden hours will decrease from 325,058 hours by 32,506 hours to 292,552 hours under OMB Control Number 1845–0020.

Section 682.402—Death, Disability, Closed School, False Certification, Unpaid Refunds, and Bankruptcy Payments

Substantive changes in this section have been identified earlier under OMB 1845–0015. There were no further changes to this section that impacted the burden under OMB 1845–0020.

As a result, the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020 will not be altered.

Section 682.404—Federal rEinsurance Agreement

The final regulations will make conforming language changes required due to the elimination of previous cross-references or obsolete requirements.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.405—Loan Rehabilitation Agreement

Substantive changes in this section have been identified earlier. There were no further changes to this section.

The substantive changes would be in addition to the previous burden assessment of 325,058 hours under OMB Control Number 1845–0020 and the earlier assessment increases burden by 135,359 hours in OMB 1845–0020 for a total burden of 460,417 hours.

Section 682.406—Conditions for Claim Payments From the Federal Fund and for Reinsurance Coverage

The final regulations will make a minor wording change due to the elimination of previous cross-references and add an ending date coinciding with the implementation of the SAFRA Act, which ended the making of new FFEL Program loans.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.409—Mandatory Assignment by Guaranty Agencies of Defaulted Loans to the Secretary

The final regulations will make no changes to this section of the regulations.

These final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.410—Fiscal, Administrative, and Enforcement Requirements

Apart from the earlier discussion of the changes made to the administrative wage garnishment provisions in this section of the regulations, the final regulations will only make minor wording changes to correct cross-references and delete obsolete references.

Substantive changes in this section have been identified earlier. There are no further changes to this section. These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020 and the earlier assessment that increased burden by 88,402 hours in OMB 1845–0020 for a total of 413,460 hours.

Section 682.411—Lender Due Diligence in Collecting Guaranty Agency Loans

The final regulations will make a minor wording change.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.412—Consequences of the Failure of a Borrower or Student To Establish Eligibility

The final regulations will make a minor wording change.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.414—Records, Reports, and Inspection Requirements for Guaranty Agency Programs

The final regulations will make minor wording changes. One of the minor wording changes will eliminate a reporting category from annual guaranty agency reporting requirement. Under § 682.414, annually, for each State in which it operates, a guaranty agency report of the total guaranteed loan volume, default volume, and default rate does not have to be categorized by schools for all loans guaranteed after December 31, 1980. We estimate that this reduction in reporting categories will decrease the previous burden assessment by 16,253 hours, and therefore the current burden of 325,058 would decrease to 308,805 hours under OMB Control Number 1845–0020.

Section 682.417—Determination of Federal Funds or Assets To Be Returned

The final regulations make no changes to this section of the regulations. These changes in the final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.418—Prohibited Uses of the Assets of the Operating Fund During Periods in Which the Operating Fund Contains Transferred Funds Owed to the Federal Fund

The final regulations will remove § 682.418 from the FFEL regulations. The final change will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will be decreased by 325,058 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

Section 682.421—Funds Transferred From the Federal Fund to the Operating Fund by a Guaranty Agency

The final regulations will remove § 682.421 from the FFEL regulations. The final change will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

Section 682.507—Due Diligence in Collecting a Loan

Section 682.508—Assignment of a Loan

Section 682.511—Procedures for Filing a Claim

Section 682.515—Records, Reports, and Inspection Requirements for Federal GSL Program Lenders

The final regulations will remove all of the regulations under Part 682, subpart E (§§ 682.500 through 682.515) and reserve the subpart. The final regulations will also remove FISL-related Appendix C to part 682 from the regulations.

The change in the final regulations will remove the prior burden assessment of 1,300,232 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for each of these four sections and decrease burden by 1,300,232 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

Section 682.602—Rules for a School or School-Affiliated Organization That Makes or Originates Loans Through an Eligible Lender Trustee

The final regulations will remove § 682.602 from the FFEL regulations. The final change will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, and therefore burden will decrease by 325,058 hours for a total of 0 hours based on the elimination of the prior FFEL requirements.

Section 682.603—Certification by a School That Participated in Connection With a Loan Application

The final regulations will make conforming language changes required due to the elimination of a cross-reference and reorganization due to a deletion of previous requirements.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.604—Processing the Borrower's Loan Proceeds and Counseling Borrowers (Required Exit Counseling for Borrowers)

The final regulations will change the heading of § 682.604, remove current paragraph (a), remove and reserve paragraph (b), and remove paragraphs (c) through (f) and (h). The final regulations will also redesignate current paragraph (g) as paragraph (a). Newly redesignated § 682.604(a)(1) will be amended to include another option for providing exit counseling to a student

borrower who withdraws without the school's knowledge or fails to complete required exit counseling. In addition to the existing options described under ''Current Regulations,'' a school could also send written counseling materials to an email address provided by the student borrower. Newly redesignated § 682.604(a)(2) will be amended by replacing cross-references to current paragraph (a), which we are removing, with the substantive information contained in the cross-referenced provision that must be included in the counseling. A new paragraph (a)(5) will also be added to newly redesignated § 682.604(a) to clarify that: (1) A school's compliance with the Direct Loan Program exit counseling requirements in 34 CFR 685.304(b) satisfies the FFEL exit counseling requirements for student borrowers who received both FFEL and Direct Loan program loans for attendance at the school if the school provides the information required by § 682.604(a)(2)(i) and (a)(2)(ii); and (2) a student's completion of interactive exit counseling offered by the Secretary meets both the FFEL exit counseling requirements and the Direct Loan exit counseling requirements in 34 CFR 685.304(b).

The changes in the final regulations will decrease the previous burden assessment of 325,058 hours by 211,288 hours, and therefore the current burden of 325,058 hours will decrease to 113,770 hours under OMB Control Number 1845–0020 because the burden associated with new FFEL Program loans will be eliminated.

Section 682.605—Determining the Date of a Student's Withdrawal

The final regulations will not make any changes to this section. These final regulations will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.610—Administrative and Fiscal Requirements for Schools That Participated

Apart from the earlier discussion of the changes made to this section, the final regulations will only make minor wording changes.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.711—Reinstatement After Termination

The final regulations will remove the language regarding the loss of a school lender's participation upon the loss of the school's eligibility to participate in the Title IV, Federal student financial aid programs.

These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.712—Disqualification Review of Limitation, Suspension, and Termination Actions Taken by Guarantee Agencies Against Lenders

The final regulations will remove a cross-reference to a section proposed for deletion. These final changes will not alter the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020.

Section 682.713—Disqualification Review of Limitation, Suspension, and Termination Actions Taken by Guaranty Agencies Against a School

The final regulations will remove § 682.713 from the FFEL Program regulations. The change in the final regulations will remove the prior burden assessment of 325,058 hours under OMB Control Number 1845–0020, therefore burden will decrease by 325,058 hours for a total of 0 hours based upon the elimination of the prior FFEL requirements.

Consistent with the discussion above, the following chart describes the sections of the final regulations involving information collections, the information being collected, and the collections that the Department will submit to the Office of Management and Budget for approval and public comment under the Paperwork Reduction Act, and the estimated costs associated with the information collections. The monetized net savings from of the reduced burden on lender/guaranty agencies, institutions, and borrowers using wage data developed using BLS data, available at *http://www.bls.gov/ncs/ect/sp/ecsuphst.pdf,* is −$108,767,761 as shown in the chart below. This cost was based on an hourly rate of $24.61.

COLLECTION OF INFORMATION

Regulatory section	Information collection	OMB Control No. and estimated change in burden	Estimated costs
§ 682.211 Forbearance	These final regulations amend the current FFEL regulations to authorize a lender to grant forbearance to a borrower who is in default on a loan, but prior to a default claim payment based on the borrower's oral request. The lender must orally review with the borrower the terms and conditions of the forbearance and send a notice confirming the terms within 30 days of the oral agreement.	OMB 1845–0020 The Department estimates that the burden will increase by 9,446 hours.	$232,466.
§ 685.205 Forbearance	These final regulations amend the current Direct Loan regulations to authorize the Secretary to grant forbearance to a borrower who is in default on a loan, but prior to a default claim payment based on the borrower's oral request. The Secretary must orally review with the borrower the terms and conditions of the forbearance and send a notice confirming the terms within 30 days of the oral agreement.	OMB 1845–0119 The Department estimates that the burden will decrease by 472 hours.	−$11,616.

COLLECTION OF INFORMATION—Continued

Regulatory section	Information collection	OMB Control No. and estimated change in burden	Estimated costs
§ 682.405(b) Loan rehabilitation agreement.	The final regulations require the guaranty agency to base determinations of reasonable and affordable rehabilitation payment amounts of defaulted loans on information provided on an OMB-approved form, and if requested, supporting documentation.	OMB 1845–0020 ..... The Department estimates that the burden will increase by 149,864 hours.	$3,688,153.
§ 685.211(f) Loan rehabilitation agreement.	The final regulations require the Secretary to base determinations of reasonable and affordable rehabilitation payment amounts of defaulted loans on information provided on an OMB-approved form, and if requested, supporting documentation.	OMB 1845–0119 ..... The Department estimates that the burden will increase by 35,606 hours.	$876,264.
§ 674.33, § 682.402, § 685.214 Closed school discharge form.	The final regulations extend the current 90-day window to 120-days for students who leave before a school closes may apply for a discharge of a title IV, HEA loan.	OMB 1845–0015 ..... The Department estimates that the burden will increase by 54 hours.	$1,329.
§ 674.19 School enrollment status reporting.	The final regulations add a new section requiring institutions that participate in the Federal Perkins Loan program to, upon receipt of an enrollment report from the Secretary, update all information included in the report, and return it to the Secretary in the manner and format and within the timeframe prescribed by the Secretary.	OMB 1845–0019 ..... The Department estimates that the burden will increase by 38,312 hours.	$942,858.
§ 674.34 Deferment of repayment—Federal Perkins Loans.	The final regulations require schools that participate in the Perkins Loan Program to use the same eligibility criteria that FFEL lenders and the Department use to define an eligible graduate fellowship program and to establish the eligibility of a Perkins Loan borrower for a graduate fellowship deferment.	OMB 1845–0019 ..... The Department estimates that the burden will increase by 276 hours.	$13,585.
§ 682.410 Fiscal, administrative and enforcement requirements.	The final regulations: • Add a new section to specify the functions that may be performed by a third-party servicer or collection contractor employed by a guaranty agency (GA) for administrative wage garnishment (AWG) purposes; • Replace a section of the regulations with a new section to provide that if a borrower's written request for a hearing is received by the GA after the 30th day following the date of the garnishment notice and a decision is not rendered within 60 days following receipt of a borrower's written request the GA must suspend the AWG order beginning on the 61st day after the request was received until the hearing is provided and a decision rendered; • Provide for the manner by which the hearing is administered and certain provisions relating to bringing forth additional evidence and continuances; and • Clarify that a borrower who wishes to object that they are not subject to garnishment because of recent reemployment after involuntary separation bears the burden of raising and proving the claim.	OMB 1845–0020 ..... The Department estimates that the burden will increase by 88,402 hours.	$2,175,573.

COLLECTION OF INFORMATION—Continued

Regulatory section	Information collection	OMB Control No. and estimated change in burden	Estimated costs
§ 682.102 Obtaining and repaying a loan.	The final regulations: • Amend the section heading; • Remove the section of the regulations that describes the application process for FFEL loans; and • Re-designates the paragraphs describing the loan repayment process.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No Change.
§ 682.200 Definitions—Lender	The final regulations make a conforming change to the definition of "Lender" due to the elimination of § 682.601.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.205 Disclosure Requirements for Lenders.	The final regulations remove regulations governing required lender disclosures to borrowers that are provided when new loans are made. The remaining provisions include providing repayment information, providing required disclosures during the repayment period, and providing required disclosures for borrowers having difficulty making payments.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 162,529 hours to 162,529 hours.	−$3,999,839.
§ 682.206 Due Diligence in making a loan.	The final regulations remove § 682.206 from the FFEL regulations. The SAFRA Act eliminated the authority to make new FFEL Program loans, including FFEL consolidation loans.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−$7,999,677.
§ 682.208 Due diligence in servicing a loan.	The final regulations replace the term "national credit bureau(s)" with "nationwide consumer reporting agency(ies)" to more accurately reflect the appropriate legal terms.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.209 Repayment of a loan	The final regulations amend § 682.209(a)(3)(i) by adding a new paragraph which specifies that borrowers with fixed interest rates on their Stafford loans enter repayment on those loans the day after six months following the date the borrower was no longer enrolled on at least a half-time basis. The final regulations remove current §§ 682.209(e)–(g) and (j) from the regulations and re-designate the remaining paragraphs as paragraphs (e)–(g). Re-designated § 682.209(e) (current paragraph (h)) is amended to specify that a FFEL Consolidation loan borrower repaying under the income-based repayment plan may make a scheduled monthly payment of less than the interest that accrues on the loan.	OMB 1845–0020 ..... The Department estimates that the burden will decrease from 325,058 by 65,012 hours to 260,046 hours.	−$1,599,945.
§ 682.210 Deferment	The final regulations amend the deferment regulations to provide that a borrower's representative may request a military service deferment on behalf of the borrower. In § 682.210(b), the introductory language is revised to identify the cohort of borrowers to which each paragraph applies. Throughout § 682.210(b) cross-references are added to the eligibility criteria that are applicable to deferments available to these borrowers. The final regulations remove the exception clause at the end of the provision, and replace the words "military active" with the word "post-active".	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.

COLLECTION OF INFORMATION—Continued

Regulatory section	Information collection	OMB Control No. and estimated change in burden	Estimated costs
§ 682.211 Forbearance	Substantive changes in this section have been identified earlier. The additional amendments to the regulations allow a lender to grant forbearance to a borrower who is delinquent at the beginning of a period of non-mandatory authorized forbearance.	OMB 1845–0020 The Department estimates that the burden will remain 325,058 hours. (NOTE: Other earlier changes increased burden by 9,446 hours for a total of 334,504 hours.)	No change.
§ 682.212 Prohibited transactions	There is no change to the current language in this section of the regulations. However the current burden referenced in OMB Control Number 1845–0020 is incorrect.	OMB 1845–0020 The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.214 Compliance with equal credit opportunity requirements.	The final regulations remove § 682.214 from the FFEL regulations. The SAFRA Act ended the making of new FFEL loans and therefore these requirements can be eliminated from the FFEL regulations.	OMB 1845–0020 The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.216 Teacher loan forgiveness program.	The final regulations provide for minor language changes.	OMB 1845–0020 The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.301 Eligibility of borrowers for interest benefits on Stafford and Consolidation Loans.	The final regulations remove § 682.301(c) from the regulations. The SAFRA Act ended the making of new FFEL loans and this provision related to determining borrower eligibility for the interest subsidy on new loans will be eliminated.	OMB 1845–0020 The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.305 Procedures for payment of interest benefits and special allowance and collection of origination and loan fees.	Section 682.305(c)(1)(ii) specifies that, regardless of the dollar volume of loans originated or held, a school lender or an eligible lender serving as trustee for a school or school-affiliated organization originating FFEL loans as a lender must submit an independent compliance audit to the Department each year. The final regulations will remove the reference to FFEL lenders originating loans.	OMB 1845–0020 The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.401 Basic Program Agreement	The final regulations remove from § 682.401 language addressing new loan originations, the process for loan origination, and a guaranty agency's efforts to secure new loan volume. These provisions can be eliminated from the FFEL regulations because no new FFEL loans are being made. The remaining provisions that are eliminated relate to school eligibility to participate in a guaranty agency's program and the authority of an agency to limit, suspend, or terminate a school from its program. For purposes of new loans, schools now participate only in the Direct Loan Program. Any future actions to limit, suspend, or terminate a school's participation in the student loan programs will be undertaken by the Department under 34 CFR part 668, subpart G.	OMB 1845–0020 The Department estimates that the burden of 325,058 hours will decrease by 32,506 to 292,552 hours.	−799,973.
§ 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.	Substantive changes in this section have been identified earlier. There are no further changes to this section.	OMB 1845–0020 The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.404 Federal reinsurance agreement.	The final regulations make conforming language changes required due to the elimination of previous cross references or obsolete requirements.	OMB 1845–0020 The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.405 Loan rehabilitation agreement.	Substantive changes in this section have been identified earlier. There were no further changes to this section.	OMB 1845–0020 The Department estimates that the burden will remain 325,058 hours.	No change.

COLLECTION OF INFORMATION—Continued

Regulatory section	Information collection	OMB Control No. and estimated change in burden	Estimated costs
§ 682.406 Conditions for claim payments from the Federal Fund and for reinsurance coverage.	The final regulations make a minor wording change due to the elimination of previous cross-references and add an ending date coinciding with the implementation of the SAFRA Act, which ended the making of new FFEL loans.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.409 Mandatory assignment by guaranty agencies of defaulted loans to the Secretary.	The final regulations make no changes to this section of the regulations.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.410 Fiscal, administrative, and enforcement requirements.	Apart from the earlier discussion of the changes made to the administrative wage garnishment provisions of this section of the regulations, the final regulations would only make minor wording changes to conform to cross reference changes and delete obsolete references.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours. (NOTE: Other earlier changes to the Administrative Wage Garnishment regulations increase burden by 88,402 hours for a total of 413,460 hours.)	No change.
§ 682.411 Lender due diligence in collecting guaranty agency loans.	The final regulations make a minor wording change.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.412 Consequences of the failure of a borrower or student to establish eligibility.	The final regulations make a minor wording change.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.414 Records, reports, and inspection requirements for guaranty agency programs.	The final regulations make a minor wording change.	OMB 1845–0020 ..... The Department estimates that the burden will decrease from 325,058 hours by 16,253 hours for a total of 308,805 hours.	−$399,986.
§ 682.417 Determination of Federal funds or assets to be returned.	The final regulations make a minor wording change.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.418 Prohibited uses of the assets of the Operating Fund during periods in which the Operating Fund contains transferred funds owed to the Federal Fund.	The final regulations remove § 682.418 from the FFEL regulations.	The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden..	−$7,999,677.
§ 682.421 Funds transferred from the Federal Fund to the Operating Fund by a guaranty agency.	The final regulations remove § 682.421 from the FFEL regulations.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.507 Due diligence in collecting a loan.	The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.508 Assignment of a loan	The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.511 Procedures for filing a claim	The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.515 Records, reports, and inspection requirements for Federal GSL program lenders.	The final regulations remove all of the regulations under subpart E (§§ 682.500 through 682.515) and reserve the subpart.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.602 Rules for a school or school-affiliated organization that makes or originates loans through an eligible lender trustee.	The final regulations remove § 682.602 from the FFEL regulations.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.
§ 682.603 Certification by a school that participated in connection with a loan application.	The final regulations make conforming language changes required due to the elimination of a cross reference and reorganization due to a deletion of previous requirements.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.

COLLECTION OF INFORMATION—Continued

Regulatory section	Information collection	OMB Control No. and estimated change in burden	Estimated costs
§ 682.604 Processing the borrower's loan proceeds and counseling borrowers (Required exit counseling for borrowers).	The final regulations remove, reserve, and redesignate paragraphs to illustrate the counseling requirements, specifically the exit counseling requirements.	OMB 1845–0020 ..... OMB 1845–0020 The Department estimates that the burden will decrease from 325,058 by 211,288 hours for a total of 113,770 hours.	−$5,199,798.
§ 682.605 Determining the date of a student's withdrawal.	The Secretary is not changing the language in this section.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.610 Administrative and fiscal requirements for schools that participated.	The final regulations only make minor wording changes.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.711 Reinstatement after termination.	The final regulations remove the language regarding the loss of a school lender's participation upon the loss of the school's eligibility to participate in the Title IV, Federal student financial assistance programs.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.712 Disqualification review of limitation, suspension, and termination actions taken by guaranty agencies against lenders.	The final regulations remove a cross-reference to a section proposed for deletion.	OMB 1845–0020 ..... The Department estimates that the burden will remain 325,058 hours.	No change.
§ 682.713 Disqualification review of limitation, suspension, and termination actions taken by guaranty agencies against a school.	The final regulations remove § 682.713 from the FFEL regulations.	OMB 1845–0020 ..... The Department estimates that the burden will decrease by 325,058 hours to 0 hours of burden.	−7,999,677.

The total burden hours and change in burden hours associated with each OMB Control number affected by these final regulations follows:

Control No.	Total burden hours	Change in burden hours
1845–0015	14,828	+54
1845–0019	6,247,152	+38,864
1845–0020	8,211,632	−4,169,582
1845–0119	35,606	+36,078
Total	14,509,690	−4,094,586

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department. (Catalog of Federal Domestic Assistance Numbers: 84.032 Federal Family Education Loan Program; 84.038 Federal Perkins Loan Program; 84.268 William D. Ford Federal Direct Loan Program)

List of Subjects in 34 CFR Parts 668, 674, 682, and 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: October 23, 2013.

Arne Duncan,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends parts 668, 674, 682, and 685 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1070, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

§ 668.204 [Amended]

■ 2. Section 668.204(c)(1)(i) is amended by removing the figure ''0.06015'' and adding, in its place, the figure ''0.0832''.

§ 668.214 [Amended]

■ 3. Section 668.214 is amended by:

■ A. In paragraph (a)(1), removing the figure ''0.06015'' and adding, in its place, the figure ''0.0832''.

■ B. In paragraph (d)(2), removing the words ''0.06015 or 0.0625'' and adding, in their place, the words ''0.0832 or 0.0625, as applicable''.

PART 674—FEDERAL PERKINS LOAN PROGRAM

■ 4. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1070g, 1087aa–1087hh, unless otherwise noted.

■ 5. Section 674.2(b) is amended by revising the definition of ''Satisfactory repayment arrangement'' to read as follows:

§ 674.2 Definitions.

* * * * *

(b) * * *

Satisfactory repayment arrangement: (1) For purposes of regaining eligibility for grant, loan, or work assistance under title IV of the HEA, to the extent that the borrower is otherwise eligible, the making of six on-time, consecutive, voluntary, full monthly payments on a defaulted loan. ''On-time'' means a payment made within 20 days of the scheduled due date. A borrower may obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) Voluntary payments are payments made directly by the borrower, and do not include payments obtained by income tax offset, garnishment, or income or asset execution.

(3) A borrower has not used the one opportunity to renew eligibility for title IV assistance if the borrower makes six consecutive, on-time, voluntary, full monthly payments under an agreement to rehabilitate a defaulted loan, but does not receive additional title IV assistance prior to defaulting on that loan again.

* * * * *

■ 6. Section 674.9 is amended by:

■ A. In paragraph (j)(1), removing the word ''those''.

■ B. Redesignating paragraph (k) as paragraph (l).

■ C. Adding a new paragraph (k).

The addition reads as follows:

§ 674.9 Student eligibility.

* * * * *

(k) In the case of a borrower who is in default on an FFEL Program or a Direct Loan Program loan, makes satisfactory repayment arrangements as defined in 34 CFR 682.200(b) or 685.102(b) on the defaulted loan, as determined by the loan holder; and

* * * * *

■ 7. Section 674.19 is amended by adding a new paragraph (f) to read as follows:

§ 674.19 Fiscal procedures and records.

* * * * *

(f) *Enrollment reporting process.* (1) Upon receipt of an enrollment report from the Secretary, an institution must update all information included in the report and return the report to the Secretary—

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe specified by the Secretary.

(2) Unless it expects to submit its next updated enrollment report to the Secretary within the next 60 days, an institution must notify the Secretary within 30 days after the date the school discovers that—

(i) A loan under title IV of the HEA was made to a student who was enrolled or accepted for enrollment at the institution, and the student has ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(ii) A student who is enrolled at the institution and who received a loan under title IV of the HEA has changed his or her permanent address.

* * * * *

■ 8. Section 674.33 is amended by:

■ A. Revising paragraph (g)(4)(i)(B).

■ B. In paragraph (g)(8)(i), removing the figure ''90'' and adding, in its place, the figure ''120''.

The revision reads as follows:

§ 674.33 Repayment.

* * * * *

(g) * * *

(4) * * *

(i) * * *

(B) Did not complete the program of study at that school because the school closed while the student was enrolled, or the student withdrew from the school not more than 120 days before the school closed. The Secretary may extend the 120-day period if the Secretary determines that exceptional circumstances related to the school's closing justify an extension. Exceptional circumstances for this purpose may include, but are not limited to: the school's loss of accreditation; The school's discontinuation of the majority of its academic programs; action by the State to revoke the school's license to operate or award academic credentials in the State; or a finding by a State or Federal government agency that the school violated State or Federal law; and

* * * * *

■ 9. Section 674.34 is amended by:

■ A. In the introductory text of paragraph (e), removing the reference ''(e)(5)'' and adding, in its place, the reference ''(e)(4)'', each time it appears.

■ B. Removing paragraph (e)(4).

■ C. Redesignating paragraph (e)(5) as paragraph (e)(4).

■ D. Removing paragraph (e)(6).

■ E. Redesignating paragraphs (e)(7) and (e)(8) as paragraphs (e)(5) and (e)(6), respectively.

■ F. In newly redesignated paragraph (e)(5), removing the words ''paragraphs (e)(3) and (e)(4)'' and adding, in their place, the words ''paragraph (e)(3)''.

■ G. Removing paragraph (e)(9).

■ H. Revising paragraph (f) to read as follows:

§ 674.34 Deferment of repayment—Federal Perkins loans, NDSLs and Defense loans.

* * * * *

(f)(1) To qualify for a deferment for study as part of a graduate fellowship program pursuant to paragraph (b)(1)(ii) of this section, a borrower must provide the institution with a statement from an authorized official of the borrower's graduate fellowship program certifying—

(i) That the borrower holds at least a baccalaureate degree conferred by an institution of higher education;

(ii) That the borrower has been accepted or recommended by an institution of higher education for acceptance on a full-time basis into an eligible graduate fellowship program; and

(iii) The borrower's anticipated completion date in the program.

(2) For purposes of paragraph (b)(1)(ii) of this section, an eligible graduate fellowship program is a fellowship program that—

(i) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;

(ii) Requires a written statement from each applicant explaining the applicant's objectives before the award of that financial support;

(iii) Requires a graduate fellow to submit periodic reports, projects, or evidence of the fellow's progress; and

(iv) In the case of a course of study at a foreign university, accepts the course of study for completion of the fellowship program.

* * * * *

■ 10. Section 674.39 is amended by revising paragraph (a)(2) to read as follows:

§ 674.39 Loan rehabilitation.

(a) * * *

(2) A loan is rehabilitated if the borrower—

(i) Requests rehabilitation; and

(ii) Makes a full monthly payment—as determined by the institution—within 20 days of the due date, each month for 9 consecutive months.

* * * * *

§ 674.50 [Amended]

■ 11. Section 674.50(e)(1) is amended by removing the words ''is submitted for assignment under 674.8(d)(3)'' and adding, in their place, the words ''was made before September 13, 1982''.

■ 12. Section 674.52 is amended by:

■ A. Removing paragraph (b)(2).
■ B. Redesignating paragraph (b)(1)(i) as paragraph (b)(1).
■ C. Redesignating paragraph (b)(1)(ii) as paragraph (b)(2).
■ D. Redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively.
■ E. Adding a new paragraph (c).
■ F. Adding a new paragraph (g).
The additions read as follows:

§ 674.52 Cancellation procedures.

* * * * *

(c) *Break in service.* (1) If the borrower is unable to complete an academic year of eligible teaching service due to a condition that is covered under the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2601, *et seq.*), the borrower still qualifies for the cancellation if—

(i) The borrower completes one half of the academic year; and

(ii) The borrower's employer considers the borrower to have fulfilled his or her contract requirements for the academic year for purposes of salary increases, tenure, and retirement.

(2) If the borrower is unable to complete a year of eligible service under §§ 674.56, 674.57, 674.59, or 674.60 due to a condition that is covered under the FMLA, the borrower still qualifies for the cancellation if the borrower completes at least six consecutive months of eligible service.

* * * * *

(g) *Switching cancellation categories.* A borrower who qualifies for a cancellation under one of the cancellation categories in §§ 674.53, 674.56, 674.57, or 674.59 receives cancellation of 15 percent of the original principal for the first and second years of qualifying service, 20 percent of the original principal for the third and fourth years of qualifying service, and 30 percent of the original principal for the fifth year of qualifying service. If, after the first, second, third, or fourth complete year of qualifying service—

(1) The borrower switches to a position that qualifies the borrower for cancellation under a different cancellation category under §§ 674.53, 674.56, 674.57, or 674.59, the borrower's cancellation rate progression continues from the last year the borrower received a cancellation under the former cancellation category; or

(2) The borrower switches to a position that qualifies the borrower for cancellation under a different cancellation category under §§ 674.58 or 674.60, the borrower's cancellation rate progression under the new cancellation category begins at the year one cancellation rates specified in §§ 674.58(b) or 674.60(b), respectively.

* * * * *

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 13. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

■ 14. Section 682.100 is amended by:
■ A. Revising the introductory text of paragraph (a).
■ B. In paragraph (a)(1), removing the word ''encourages'' and adding, in its place, the word ''encouraged''.
■ C. In the first sentence of paragraph (a)(3), removing the word ''encourages'' and adding, in its place, the word ''encouraged''.
■ D. Revising the last sentence of paragraph (a)(3).
■ E. In paragraph (a)(4), removing the word ''encourages'' and adding, in its place, the word ''encouraged''.
■ F. In paragraph (a)(4), adding the words ''and prior to July 1, 2010'' in the last sentence between the date ''November 13, 1997'' and the punctuation ''.''.
■ G. Revising paragraph (b)(2)(iii).
The revisions read as follows:

§ 682.100 The Federal Family Education Loan programs.

(a) This part governs the following four programs collectively referred to in these regulations as ''the Federal Family Education Loan (FFEL) programs,'' in which lenders used their own funds prior to July 1, 2010, to make loans to enable a student or his or her parents to pay the costs of the student's attendance at postsecondary schools.

* * * * *

(3) * * * The PLUS Program also provided for making loans to graduate and professional students on or after July 1, 2006 and prior to July 1, 2010.

* * * * *

(b) * * *
(2) * * *
(iii) The Federal GSL programs were authorized to operate in States not served by a guaranty agency program. In addition, the FISL and Federal SLS (as in effect for periods of enrollment that began prior to July 1, 1994) programs were authorized, under limited circumstances, to operate in States in which a guaranty agency program did not serve all eligible students.

* * * * *

■ 15. Section 682.101 is amended by:
■ A. Adding introductory text to this section.
■ B. In paragraph (a), removing the words ''may make loans.'' and adding, in their place, the words ''made loans prior to July 1, 2010.''
■ C. In paragraph (b), removing the words ''may participate'' and adding, in their place, the word ''participated''.
■ D. Revising paragraph (c).
The addition and revision read as follows:

§ 682.101 Participation in the FFEL programs.

The following entities and persons participate in the FFEL programs:

* * * * *

(c) Students who met certain requirements, including enrollment at a participating school, borrowed under the Stafford Loan Program prior to July 1, 2010 and, for periods of enrollment that began prior to July 1, 1994, the SLS program. Parents of eligible dependent undergraduate students borrowed under the PLUS Program prior to July 1, 2010. Borrowers with outstanding Stafford, SLS, FISL, Perkins, HPSL, HEAL, ALAS, PLUS, or Nursing Student Loan Program loans borrowed under the Consolidation Loan Program prior to July 1, 2010. The PLUS Program also provided for making loans to graduate and professional students on or after July 1, 2006 and prior to July 1, 2010.

* * * * *

■ 16. Section 682.102 is amended by:
■ A. Revising the section heading.
■ B. Removing paragraphs (a), (c), and (d).
■ C. In the introductory text of paragraph (e), removing the paragraph heading.
■ D. Redesignating paragraphs (e)(1) through (e)(7) as paragraphs (a) through (g), respectively.
■ E. In newly redesignated paragraph (a), revising the last sentence.
■ F. In newly redesignated paragraph (b), removing the words ''on a Stafford Loan''.
The revisions read as follows:

§ 682.102 Repaying a loan.

(a) * * * The obligation to repay all or a portion of a loan may be forgiven for Stafford Loan borrowers who enter certain areas of the teaching profession.

* * * * *

§ 682.103 [Amended]

■ 17. Section 682.103(c) is amended by removing the letter and the punctuation ''E,''.

■ 18. Section 682.200 is amended by:
■ A. In paragraph (a)(1) introductory text, removing the words ''subpart A of''.
■ B. In paragraph (a)(1), removing from the list, the terms *Academic Competitiveness Grant (ACG) Program,*

Graduate and professional student, Leveraging Educational Assistance Partnership (LEAP) Program, National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program, Supplemental Educational Opportunity Grant (SEOG) Program, and *Supplemental Loans for Students (SLS) Program.*

■ C. In paragraph (a)(1), adding to the list, in alphabetical order, the terms *Federal Supplemental Educational Opportunity Grant (SEOG) Program, Federal Supplemental Loans for Students (SLS) Program,* and *Graduate or professional student.*

■ D. In paragraph (b), in the definition of *Authority,* removing the words ''making or purchasing'' and adding, in their place, the word ''purchase''.

■ E. In paragraph (b), in the definition of *Borrower,* removing the word ''is'' and adding, in its place, the word ''was''.

■ F. In paragraph (b), in the definition of *Estimated financial assistance,* in paragraph (1)(vi), removing the words ''Academic Competitiveness Grant, National SMART Grant,''.

■ G. In paragraph (b), in the definition of *Lender,* revising paragraph (5)(i)(A)(*10*).

■ H. In paragraph (b), in the definition of *Lender,* revising paragraph (8).

■ I. In paragraph (b), revising the definition of *Nationwide consumer reporting agency.*

■ J. In paragraph (b), revising the definition of *Satisfactory repayment arrangement.*

The revisions read as follows:

§ 682.200 Definitions.

* * * * *

(b) * * *

Lender

* * * * *

(5) * * *

(i) * * *

(A) * * *

(*10*) Performance of, or payment to another third party to perform, any school function required under title IV, except that the lender may perform entrance counseling and, as provided in § 682.604(a), exit counseling, and may provide services to participating foreign schools at the direction of the Secretary, as a third-party servicer; and

* * * * *

(8) As of January 1, 2007, and for loans first disbursed on or after that date under a trustee arrangement, an eligible lender operating as a trustee under a contract entered into on or before September 30, 2006, and which continues in effect with a school or a school-affiliated organization—

(i) Must not—

(A) Make a loan to any undergraduate student;

(B) Make a loan other than a Federal Stafford loan to a graduate or professional student; or

(C) Make a loan to a borrower who is not enrolled at that school;

(ii) Must offer loans that carry an origination fee or an interest rate, or both, that are less than the fee or rate authorized under the provisions of the Act; and

(iii) Must, for any fiscal year beginning on or after July 1, 2006 in which the school engages in activities as an eligible lender, submit an annual compliance audit that satisfies the following requirements:

(A) With regard to a school that is a governmental entity or a nonprofit organization, the audit must be conducted in accordance with § 682.305(c)(2)(v) and chapter 75 of title 31, United States Code, and in addition, during years when the student financial aid cluster (as defined in Office of Management and Budget Circular A–133, Appendix B, Compliance Supplement) is not audited as a ''major program'' (as defined under 31 U.S.C. 7501) must, without regard to the amount of loans made, include in such audit the school's lending activities as a major program.

(B) With regard to a school that is not a governmental entity or a nonprofit organization, the audit must be conducted annually in accordance with § 682.305(c)(2)(i) through (iii).

(C) With regard to any school, the audit must include a determination that—

(*1*) The school used all payments and proceeds (i.e., special allowance and interest payments from borrowers, interest subsidy payments, proceeds from the sale or other disposition of loans) from the loans for need-based grant programs;

(*2*) Those need-based grants supplemented, rather than supplanted, the institution's use of non-Federal funds for such grants; and

(*3*) The school used no more than a reasonable portion of payments and proceeds from the loans for direct administrative expenses.

* * * * *

Nationwide consumer reporting agency. A consumer reporting agency that compiles and maintains files on consumers on a nationwide basis and as defined in 15 U.S.C. 1681a(p).

* * * * *

Satisfactory repayment arrangement. (1) For purposes of regaining eligibility under the title IV student financial assistance programs, the making of six consecutive, on-time, voluntary full monthly payments on a defaulted loan. A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) The required full monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. Voluntary payments are payments made directly by the borrower, and do not include payments obtained by income tax off-set, garnishment, or income or asset execution. ''On-time'' means a payment received by the Secretary or a guaranty agency or its agent within 20 days of the scheduled due date.

(3) A borrower has not used the one opportunity to renew eligibility for title IV assistance if the borrower makes six consecutive, on-time, voluntary, full monthly payments under an agreement to rehabilitate a defaulted loan but does not receive additional title IV assistance prior to defaulting on that loan again.

* * * * *

§ 682.201 [Amended]

■ 19. Section 682.201 is amended by:

■ A. In paragraph (a) introductory text, removing the words ''made under § 682.209(e) or (f)''.

■ B. In paragraph (a)(4)(ii) introductory text, adding the words ''paragraph (a)(4) of'' between the words ''of'' and ''this''.

■ C. In paragraph (a)(6) introductory text, removing the word ''student'' and adding, in its place, the word ''borrower''.

■ D. In paragraph (c)(2)(i), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ 20. Section 682.202 is amended by:

■ A. Revising paragraphs (a)(1)(i), (a)(1)(ii) introductory text, (a)(1)(iii), (a)(1)(iv), (a)(1)(v), and (a)(1)(vi) introductory text.

■ B. In paragraph (a)(1)(vii) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ C. In paragraph (a)(1)(viii) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ D. In paragraph (a)(1)(ix), removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ E. In paragraph (a)(1)(x) introductory text, removing the word ''is'' and adding, in its place, the word ''was''.

■ F. Removing paragraphs (a)(1)(x)(D) and (a)(1)(x)(E).

■ G. In paragraph (a)(2)(ii) introductory text, removing the words ''loan made

under § 682.209(e) or (f)'' and adding, in their place, the words ''refinanced PLUS loan''.

■ H. In paragraph (a)(2)(iv) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ I. In paragraph (a)(2)(v) introductory text, removing the first occurrence of the word ''is'' and adding, in its place, the word ''was''.

■ J. In paragraph (a)(3)(ii) introductory text, removing the words ''loan made under § 682.209(e) or (f)'' and adding, in their place, the words ''refinanced SLS loan''.

■ K. In paragraph (a)(4)(iv) introductory text, adding the words ''and prior to July 1, 2010'' after the date ''1998'' and before the punctuation '',''.

■ L. In paragraph (a)(4)(v), adding the words ''and prior to July 1, 2010'' after the date ''1997'' and before the punctuation '',''.

■ M. In paragraph (a)(7)(iii)(A), removing the citation ''(a)(6)(ii)'' and adding, in its place, the citation ''(a)(7)(i)''.

■ N. In paragraph (b)(1), adding the words ''or Federal default fees'' between the words ''premiums'' and ''to''.

■ O. Removing paragraph (c)(1)(vi).

■ P. Redesignating paragraph (c)(1)(vii) as paragraph (c)(1)(vi).

■ Q. In paragraphs (c)(5), (c)(6), and the introductory text of paragraph (c)(7), removing the word ''Shall'' and adding, in its place, the words ''A lender must''.

■ R. In paragraph (c)(7)(iv), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.

■ S. In paragraph (d)(2), removing the words '', other than an SLS or PLUS loan refinanced under § 682.209(e) or (f)'' and adding, in their place, the words ''and prior to July 1, 2010''.

■ T. Removing paragraph (e).

■ U. Redesignating paragraphs (f) through (h) as paragraphs (e) through (g), respectively.

■ V. In newly redesignated paragraph (e)(1), removing the citation ''(f)(2)'' and adding, in its place, the citation ''(e)(2)''.

■ W. In newly redesignated paragraph (f)(1)(i), removing ''Attorney's'' and adding, in its place, ''Attorney''.

■ X. In newly redesignated paragraph (f)(2), removing the citation ''(g)(1)'' and adding, in its place, the citation ''(f)(1)''.

The revisions read as follows:

§ 682.202 Permissible charges by lenders to borrowers.

* * * * *

(a) * * *

(1) * * *

(i) For loans made prior to July 1, 1994, if the borrower, on the date the promissory note evidencing the loan was signed, had an outstanding balance of principal or interest on a previous Stafford loan, the interest rate is the applicable interest rate on that previous Stafford loan.

(ii) If the borrower, on the date the promissory note evidencing the loan was signed, had no outstanding balance on any FFEL Program loan, and the first disbursement was made—

* * * * *

(iii) For a Stafford loan for which the first disbursement was made before October 1, 1992—

(A) If the borrower, on the date the promissory note was signed, had no outstanding balance on a Stafford loan but had an outstanding balance of principal or interest on a PLUS or SLS loan made for a period of enrollment beginning before July 1, 1988, or on a Consolidation loan that repaid a loan made for a period of enrollment beginning before July 1, 1988, the interest rate is 8 percent; or

(B) If the borrower, on the date the promissory note evidencing the loan was signed, had an outstanding balance of principal or interest on a PLUS or SLS loan made for a period of enrollment beginning on or after July 1, 1988, or on a Consolidation loan that repaid a loan made for a period of enrollment beginning on or after July 1, 1988, the interest rate is 8 percent until 48 months elapse after the repayment period begins, and 10 percent thereafter.

(iv) For a Stafford loan for which the first disbursement was made on or after October 1, 1992, but before December 20, 1993, if the borrower, on the date the promissory note evidencing the loan was signed, had no outstanding balance on a Stafford loan but had an outstanding balance of principal or interest on a PLUS, SLS, or Consolidation loan, the interest rate is 8 percent.

(v) For a Stafford loan for which the first disbursement was made on or after December 20, 1993 and prior to July 1, 1994, if the borrower, on the date the promissory note was signed, had no outstanding balance on a Stafford loan but had an outstanding balance of principal or interest on a PLUS, SLS, or Consolidation loan, the interest rate is the rate provided in paragraph (a)(1)(ii)(B) of this section.

(vi) For a Stafford loan for which the first disbursement was made on or after July 1, 1994 and prior to July 1, 1995, for a period of enrollment that included or began on or after July 1, 1994, the interest rate is a variable rate, applicable to each July 1–June 30 period, that equals the lesser of—

* * * * *

■ 21. Section 682.204 is amended by:

■ A. In paragraph (a) introductory text, removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ B. In paragraphs (a)(1)(i) and (a)(1)(ii), removing the words ''$2,625, or, for a loan disbursed on or after July 1, 2007, $3,500,'' and adding, in their place, the figure ''$3,500''.

■ C. Revising paragraph (a)(1)(iii).

■ D. In paragraph (a)(2) introductory text, removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ E. In paragraphs (a)(2)(i) and (a)(2)(ii), removing the words ''$3,500, or, for a loan disbursed on or after July 1, 2007, $4,500,'' and adding, in their place, the figure ''$4,500''.

■ F. In paragraph (a)(3) introductory text, removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ G. Revising paragraph (a)(5).

■ H. In paragraph (a)(6) introductory text and paragraph (a)(7), removing the words ''Federal Direct Stafford/Ford'' and adding, in their place, the words ''Direct Subsidized''.

■ I. In paragraph (b) introductory text, removing the words ''Federal Direct Stafford/Ford'', and adding, in their place, the words ''Direct Subsidized''.

■ J. Revising paragraph (c)(1).

■ K. Revising paragraph (c)(2).

■ L. In paragraph (d) introductory text, removing the word ''additional'' that appears after the word ''borrow''.

■ M. In paragraph (d) introductory text, removing the words ''Federal Direct Unsubsidized Stafford/Ford'' and adding, in their place, the words ''Direct Unsubsidized''.

■ N. In paragraphs (d)(1)(i), (d)(1)(ii), (d)(2)(i), and (d)(2)(ii), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ O. Revising paragraph (d)(1)(iii).

■ P. In paragraphs (d)(3)(i) and (d)(3)(ii), removing the words ''$5,000, or, for a loan first disbursed on or after July 1, 2008, $7,000,'' and adding, in their place, the figure ''$7,000''.

■ Q. In paragraph (d)(5), removing the words ''$10,000, or, for a loan disbursed on or after July 1, 2007,''.

■ R. In paragraph (d)(6)(i), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ S. In paragraph (d)(6)(ii), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007, $7,000,'' and

adding, in their place, the figure ''$7,000''.

■ T. In paragraph (d)(6)(iii), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007,''.

■ U. Revising paragraph (e).

■ V. Removing paragraph (f).

■ W. Redesignating paragraphs (g) through (m) as paragraphs (f) through (l), respectively.

■ X. In newly redesignated paragraph (l), removing the citation ''(d), (e), and (f)'' and adding, in its place, the citation ''(d), and (e)''.

The revisions read as follows:

§ 682.204 Maximum loan amounts.

(a) * * *

(1) * * *

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to $3,500 as the lesser of the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

* * * * *

(5) In the case of a graduate or professional student, the total amount the student may borrow for loans made prior to July 1, 2010 for any academic year of study under the Stafford Loan Program, in combination with any amount borrowed under the Direct Subsidized Loan Program, may not exceed $8,500.

* * * * *

(c) * * *

(1) Except for a dependent undergraduate student who qualifies for additional Unsubsidized Stafford Loan funds because the student's parents are unable to borrow under the PLUS Loan Program, as described in paragraph (d) of this section, the total amount the dependent undergraduate student may borrow for any academic year under the Unsubsidized Stafford Loan Program in combination with the Direct Unsubsidized Loan Program is the same amount determined under paragraph (a) of this section, less any amount received under the Stafford Loan Program or the Direct Subsidized Loan program, plus—

(i) $2,000, for a program of study of at least a full academic year in length.

(ii) For a program of study that is at least one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to $2,000 as the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to $2,000 as the lesser of the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

(2) In the case of an independent undergraduate student, a graduate or professional student, or certain dependent undergraduate students under the conditions specified in § 682.201(a)(3), the total amount the student may borrow for any period of enrollment under the Unsubsidized Stafford Loan and Direct Unsubsidized Loan programs may not exceed the amounts determined under paragraph (a) of this section less any amount received under the Federal Stafford Loan Program or the Direct Subsidized Loan Program, in combination with the amounts determined under paragraph (d) of this section.

(d) * * *

(1) * * *

(iii) For a program of study that is less than a full academic year in length, an amount that is the same ratio to $6,000 as the lesser of—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

* * * * *

(e) *Combined Federal Stafford, SLS and Federal Unsubsidized Stafford Loan Program aggregate limits.* The aggregate unpaid principal amount of Stafford Loans, Direct Subsidized Loans, Unsubsidized Stafford Loans, Direct Unsubsidized Loans and SLS Loans, but excluding the amount of capitalized interest, may not exceed the following:

(1) $31,000 for a dependent undergraduate student.

(2) $57,500 for an independent undergraduate student or a dependent undergraduate student under the conditions specified in § 682.201(a)(3).

(3) $138,500 for a graduate or professional student.

* * * * *

■ 22. Section 682.205 is amended by:

■ A. Removing paragraphs (a), (b), (g), and (i).

■ B. Redesignating paragraphs (c), (d), (e), (f), (h), and (j) as paragraphs (a), (b), (c), (d), (e), and (f), respectively.

■ C. In newly redesignated paragraph (a)(1), removing the citation ''(c)(2)'' and adding, in its place, the citation ''(a)(2)''.

■ D. In newly redesignated paragraph (a)(3) introductory text, removing the citation ''(c)(1)'' and adding, in its place, the citation ''(a)(1)''.

■ E. Revising newly redesignated paragraph (a)(4).

■ F. In newly redesignated paragraph (a)(5)(ii), adding the word ''business'' after the word ''five''.

■ G. In newly redesignated paragraph (b), removing the citation ''(c)(2)(viii)'' and adding, in its place, the citation ''(a)(2)(viii)''.

■ H. In newly redesignated paragraph (e)(2), removing the citation ''(h)(1)'' and adding, in its place, the citation ''(e)(1)''.

The revision reads as follows:

§ 682.205 Disclosure requirements for lenders.

(a) * * *

(4) *Required disclosures for borrowers having difficulty making payments.* (i) Except as provided in paragraph (a)(4)(ii) of this section, the lender must

provide a borrower who has notified the lender that he or she is having difficulty making payments with—

(A) A description of the repayment plans available to the borrower, and how the borrower may request a change in repayment plan;

(B) A description of the requirements for obtaining forbearance on the loan and any costs associated with forbearance; and

(C) A description of the options available to the borrower to avoid default and any fees or costs associated with those options.

(ii) A disclosure under paragraph (a)(4)(i) of this section is not required if the borrower's difficulty has been resolved through contact with the borrower resulting from an earlier disclosure or other communication between the lender and the borrower.

* * * * *

§ 682.206 [Removed and Reserved]

■ 23. Section 682.206 is removed and reserved.

§ 682.207 [Removed and Reserved]

■ 24. Section 682.207 is removed and reserved.

§ 682.208 [Amended]

■ 25. Section 682.208 is amended by:

■ A. In paragraph (a), removing the words ''national credit bureaus'' and adding, in their place, the words ''nationwide consumer reporting agencies''.

■ B. In paragraph (b)(1) introductory text, removing the words ''at least one national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.

■ C. In paragraph (b)(2), removing the words ''at least one national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.

■ D. In paragraph (b)(3) introductory text, removing both occurrences of the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ E. In paragraph (b)(3)(i)(A), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ F. In paragraph (e)(3), removing the citation ''§ 682.401(b)(17)(ii)'' and adding, in its place, the citation ''§ 682.401(b)(8)(ii)''.

■ G. In paragraph (g), removing the citation ''§ 682.411(g)'' and adding, in its place, the citation ''§ 682.411(h)''.

■ 26. Section 682.209 is amended by:

■ A. In paragraph (a)(3)(i)(B), removing the word ''and''.

■ B. In paragraph (a)(3)(i)(C), removing the punctuation ''.'' and adding, in its place, the punctuation and the word ''; and''.

■ C. Adding a new paragraph (a)(3)(i)(D).

■ D. In paragraph (a)(3)(ii)(E), removing the citation ''§ 682.205(c)(1)'' and adding, in its place, the citation ''§ 682.205(a)(1)''.

■ E. In paragraph (b)(2)(ii), revising the last sentence.

■ F. Removing paragraphs (e), (f), (g), and (j).

■ G. Redesignating paragraphs (h), (i), and (k) as paragraphs (e), (f), and (g), respectively.

■ H. In newly redesignated paragraph (e)(3) introductory text, removing the citation ''(h)(2)'' and adding, in its place, the citation ''(e)(2)''.

■ I. In newly redesignated paragraph (e)(4)(ii), removing the word ''Must'' and adding, in its place, the words ''Except in the case of an income-based repayment schedule, must''.

■ J. In newly redesignated paragraph (e)(5), removing the citation ''(h)(2)'' and adding, in its place, the citation ''(e)(2)''.

■ K. In newly redesignated paragraph (f)(2)(i), removing the words ''under § 682.209(f)''.

■ L. In newly redesignated paragraph (f)(2)(ii), removing the citation ''(i)(2)(i)'' and adding, in its place, the citation ''(f)(2)(i)''.

The addition and revision read as follows:

§ 682.209 Repayment of a loan.

(a) * * *

(3) * * *

(i) * * *

(D) For a borrower with a loan for which the applicable interest rate is fixed at 6.0 percent per year, 5.6 percent per year, or 6.8 percent per year, the day after 6 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an institution of higher education.

* * * * *

(b) * * *

(2) * * *

(ii) * * * Information related to next scheduled payment due date need not be provided to borrowers making such prepayments while in an in-school, grace, deferment, or forbearance period when payments are not due.

* * * * *

■ 27. Section 682.210 is amended by:

■ A. In paragraph (a)(4), adding the words and punctuation '', or the borrower's representative for purposes of paragraphs (i) and (t) of this section,'' between the words ''borrower'' and ''must''.

■ B. Revising paragraph (b).

■ C. In paragraph (n)(1) introductory text, removing the words and citations ''paragraphs (b)(2)(v) or (b)(5)(iii)'' and adding, in their place, the word and citation ''paragraph (b)(3)(iv)''.

■ D. In paragraph (n)(2), removing the citation ''(b)(2)(v)'' and adding, in its place, the citation ''(b)(3)(iv)''.

■ E. In paragraph (o)(1) introductory text, removing the citation ''(b)(3)'' and adding, in its place, the citation ''(b)(3)(i)''.

■ F. In paragraph (q)(1) introductory text, removing the citation ''(b)(5)(ii)'' and adding, in its place, the citation ''(b)(3)(iii)''.

■ G. In paragraph (r)(1) introductory text, removing the citation ''(b)(5)(iv)'' and adding, in its place, the citation ''(b)(3)(v)''.

■ H. In paragraph (s)(2), removing the punctuation and the words '', except that the borrower is not required to obtain a Stafford or SLS loan for the period of enrollment covered by the deferment''.

■ I. In paragraph (s)(6) introductory text, removing both occurrences of the citation ''(s)(6)(vi)'' and adding, in their place, the citation ''(s)(6)(iv)''.

■ J. In paragraph (u)(5), removing both occurrences of the words ''military active'' and adding, in their place, the words ''post-active''.

The revision reads as follows:

§ 682.210 Deferment.

* * * * *

(b) *Authorized deferments for borrowers prior to July 1, 1993*—(1) *For all borrowers who are not new borrowers on or after July 1, 1993.* Deferment is authorized for a FFEL borrower during any period when the borrower is—

(i) Except as provided in paragraph (b)(4) of this section, engaged in full-time study at a school in accordance with paragraph (c) of this section;

(ii) Engaged in a course of study under an eligible graduate fellowship program in accordance with paragraph (d) of this section;

(iii) Engaged in a rehabilitation training program for disabled individuals in accordance with paragraph (e) of this section;

(iv) Temporarily totally disabled in accordance with paragraph (f) of this section, or unable to secure employment because the borrower is caring for a spouse or other dependent who is disabled and requires continuous nursing or similar services for up to three years in accordance with paragraph (g) of this section; or

(v) Conscientiously seeking, but unable to find, full-time employment in the United States, for up to two years,

in accordance with paragraph (h) of this section.

(2) *For all Stafford and SLS borrowers who are not new borrowers on or after July 1, 1993, and for parent PLUS loans made before August 15, 1983.* Deferment is authorized during any period when the borrower is—

(i) On active duty status in the United States Armed Forces in accordance with paragraph (i) of this section, or an officer in the Commissioned Corps of the United States Public Health Service in accordance with paragraph (j) of this section, for up to three years (including any period during which the borrower received a deferment authorized under paragraph (b)(3)(ii) of this section);

(ii) A full-time volunteer under the Peace Corps Act, for up to three years, in accordance with paragraph (k) of this section;

(iii) A full-time volunteer under title I of the Domestic Volunteer Service Act of 1973 (ACTION programs), for up to three years, in accordance with paragraph (l) of this section;

(iv) A full-time volunteer for a tax-exempt organization, for up to three years, in accordance with paragraph (m) of this section; or

(v) Engaged in an internship or residency program, in accordance with paragraph (n) of this section, for up to two years (including any period during which the borrower received a deferment authorized under paragraph (b)(3)(iv) of this section).

(3) *For new Stafford or SLS borrowers on or after July 1, 1987 but before July 1, 1993.* Deferment is authorized—

(i) In accordance with paragraph (o) of this section, if the borrower has been enrolled on at least a half-time basis at an institution of higher education during the six months preceding the beginning of the deferment, for a period of up to six months during which the borrower is—

(A)(*1*) Pregnant;

(*2*) Caring for his or her newborn child; or

(*3*) Caring for a child immediately following the placement of the child with the borrower before or immediately following adoption; and

(B) Not attending a school or gainfully employed;

(ii) During a period when the borrower is on active duty status in the National Oceanic and Atmospheric Administration Corps, for up to three years, in accordance with paragraph (p) of this section, (including any period during which the borrower received a deferment authorized under paragraph (b)(2)(i) of this section);

(iii) During a period of up to three years when the borrower is serving as a full-time teacher in a public or non-profit private elementary or secondary school in a teacher shortage area designated by the Secretary under paragraph (q) of this section;

(iv) During a period when the borrower is engaged in an internship or residency program, for up to two years, in accordance with paragraph (n) of this section, (including any period during which the borrower received a deferment authorized under paragraph (b)(2)(v) of this section); or

(v) When a mother who has preschool-age children (i.e., children who have not enrolled in first grade) and who is earning not more than $1 per hour above the Federal minimum wage, for up to 12 months of employment, and who began that full-time employment within one year of entering or re-entering the work force, in accordance with paragraph (r) of this section. Full-time employment involves at least 30 hours of work a week and it is expected to last at least 3 months.

(4) *For new Stafford or SLS borrowers on or after July 1, 1987.* Deferment is authorized during periods when the borrower is engaged in at least half-time study at a school in accordance with paragraph (b) of this section.

(5) *For new parent PLUS borrowers on or after July 1, 1987 and before July 1, 1993.* Deferment is authorized during any period when a student on whose behalf the parent borrower received the loan—

(i) Is not independent as defined in section 480(d) of the Act; and

(ii) Meets the conditions and provides the required documentation, for any of the deferments described in paragraphs (b)(1)(i) through (iii) and (b)(4) of this section.

(6) *Definition of a new borrower.* For purposes of paragraphs (b)(3), (b)(4), and (b)(5) of this section, a ''new borrower'' with respect to a loan is a borrower who, on the date he or she signs the promissory note, has no outstanding balance on—

(i) A Stafford, SLS, or PLUS loan made prior to July 1, 1987 for a period of enrollment beginning prior to July 1, 1987; or

(ii) A Consolidation loan that repaid a loan made prior to July 1, 1987 and for a period of enrollment beginning prior to July 1, 1987.

* * * * *

■ 28. Section 682.211 is amended by:

■ A. In paragraph (a)(4), removing the citation ''(f)(10)'' and adding, in its place, the citation ''(f)(11)''.

■ B. Revising paragraphs (c) and (d).

■ C. In paragraph (f)(2), removing the words ''or an administrative forbearance period as specified under paragraph (f)(11) or (i)(2) of this section;'' and adding, in their place, the words ''or an authorized period of forbearance;''.

■ D. In paragraph (f)(6), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ E. In paragraph (h)(2)(ii)(B), removing the words ''10 U.S.C. 2171; or'' and adding, in their place, the words ''10 U.S.C. 2171, 2173, 2174 or any other student loan repayment programs administered by the Department of Defense; or''.

■ F. In paragraph (h)(2)(ii)(C), removing the citation ''§ 682.215'' and adding, in its place, the citation ''§ 682.216''.

■ G. In paragraph (h)(4)(iii)(A), removing the citation ''§ 682.215(c)'' and adding, in its place the citation ''§ 682.216(c)''.

■ H. In paragraph (h)(4)(iii)(B), removing the citation ''§ 682.215(c)'' and adding, in its place the citation ''§ 682.216(c)''.

The revisions read as follows:

§ 682.211 Forbearance.

* * * * *

(c) Except as provided in paragraph (d)(2) of this section, a lender may grant forbearance for a period of up to one year at a time if both the borrower or endorser and an authorized official of the lender agree to the terms of the forbearance. If the borrower or endorser requests the forbearance orally and the lender and the borrower or endorser agree to the terms of the forbearance orally, the lender must notify the borrower or endorser of the terms within 30 days of that agreement.

(d)(1) A guaranty agency may authorize a lender to grant forbearance to permit a borrower or endorser to resume honoring the agreement to repay the debt after default but prior to claim payment. The forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt.

(2) If the forbearance is based on the borrower's or endorser's oral request and affirmation of the obligation to repay the debt—

(i) The forbearance period is limited to a period of 120 days;

(ii) Such a forbearance cannot be granted consecutively;

(iii) The lender must orally review with the borrower the terms and conditions of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower; and

(iv) The lender must—

(A) Send a notice to the borrower or endorser, as provided in paragraph (c) of this section, that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to repay the debt, and includes information on all other repayment options available to the borrower, and

(B) Retain a record of the terms of the forbearance and affirmation in the borrower's or endorser's file.

(3) For purposes of this section, an ''affirmation'' means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation may include, but is not limited to, the borrower's or endorser's—

(i) New signed repayment agreement or schedule, or another form of signed agreement to repay the debt;

(ii) Oral acknowledgment and agreement to repay the debt documented by the lender in the borrower's or endorser's file and confirmed by the lender in a notice to the borrower; or

(iii) A payment made on the loan by the borrower or endorser.

* * * * *

§ 682.214 [Removed and Reserved]

■ 29. Section 682.214 is removed and reserved.

■ 30. Section 682.216 is amended by:

■ A. In paragraph (a)(2)(iii), removing the first occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ B. In paragraph (a)(4)(i), removing the second occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ C. In paragraph (c)(1) introductory text, removing the words ''at an educational'' and adding, in their place, the words ''for an educational''.

■ D. In paragraph (c)(1)(iii), removing the final sentence.

■ E. Redesignating paragraphs (c)(2) through (c)(11) as paragraphs (c)(3) through (c)(12), respectively.

■ F. Adding a new paragraph (c)(2).

■ G. In newly redesignated paragraph (c)(4)(ii)(A), removing the words ''at an eligible educational'' and adding, in their place, the words ''for an eligible educational''.

■ H. In newly redesignated paragraph (c)(4)(ii)(B), adding the words ''for an'' immediately before the words ''educational service agency''.

■ I. In newly redesignated paragraph (c)(4)(iii), removing the first occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ J. In newly redesignated paragraph (c)(5)(i), adding the words ''for an'' immediately before the words ''educational service''.

■ K. In newly redesignated paragraph (c)(5)(ii)(A), removing the words ''students at an eligible'' and adding, in their place, the words ''students for an eligible''.

■ L. In newly redesignated paragraph (c)(5)(ii)(B), adding the words ''for an'' immediately before the words ''educational service''.

■ M. In newly redesignated paragraph (c)(5)(iii), removing the first occurrence of the word ''at'' and adding, in its place the word ''for''.

■ N. In newly redesignated paragraph (c)(10), removing the second occurrence of the word ''at'' and adding, in its place, the word ''for''.

■ O. In paragraphs (d)(1) and (d)(2), removing the words and citations ''paragraphs (c)(3)(ii) or (c)(4)(ii)'' and adding, in their place, the words and citations ''paragraph (c)(4)(ii) or (c)(5)(ii)''.

■ P. In the heading of paragraph (e), removing the word ''discharge'' and adding in its place, the word ''forgiveness''.

■ Q. In paragraph (e)(1)(i), removing the citation ''(h)(3)(iii)'' and adding, in its place, the citation ''(h)(4)(iii)''.

■ R. In paragraph (e)(1)(iii), removing the word ''discharge'' and adding, in its place, the word ''forgiveness''.

■ S. Revising paragraphs (f)(2)(i) and (f)(2)(ii).

■ T. In paragraph (f)(2)(iii), removing both occurrences of the word ''discharged'' and adding, in their place, the words ''loan forgiveness''.

■ U. In paragraph (f)(3)(ii), removing both occurrences of the word ''discharge'' and adding, in their place, the words ''loan forgiveness''.

■ V. In paragraph (f)(4), removing both occurrences of the word ''discharge'' and adding, in their place, the words ''loan forgiveness''.

■ W. In paragraph (f)(5), removing the word ''discharge''.

■ X. Revising paragraph (g).

The additions and revisions read as follows:

§ 682.216 Teacher loan forgiveness program.

* * * * *

(c) * * *

(2) The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Education (BIE) or operated on Indian reservations by Indian tribal groups under contract with the BIE to qualify as schools serving low-income students.

* * * * *

(f) * * *

(2) * * *

(i) The holder must file a request for payment with the guaranty agency on a teacher loan forgiveness amount no later than 60 days after the receipt, from the borrower, of a completed teacher loan forgiveness application.

(ii) When filing a request for payment on a teacher loan forgiveness, the holder must provide the guaranty agency with the completed loan forgiveness application submitted by the borrower and any required supporting documentation.

* * * * *

(g) *Claims for reimbursement from the Secretary on loans held by guaranty agencies.* In the case of a teacher loan forgiveness applied to a defaulted loan held by the guaranty agency, the Secretary pays the guaranty agency a percentage of the amount forgiven that is equal to the complement of the reinsurance percentage paid on the loan. The payment of up to $5,000, or up to $17,500, may also include interest that accrues on the forgiveness amount during the period from the date on which the guaranty agency received payment from the Secretary on a default claim to the date on which the guaranty agency determines that the borrower is eligible for the teacher loan forgiveness.

* * * * *

§ 682.300 [Amended]

■ 31. Section 682.300 is amended by:

■ A. In paragraph (b)(2)(ii) introductory text, removing the words '', except as provided in paragraph (c)(4) of this section''.

■ B. In paragraph (b)(2)(ii)(B), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.

■ C. In paragraph (c)(1), adding the word ''or'' after the punctuation '';''.

■ D. In paragraph (c)(2), removing the punctuation '';'' and adding, in its place, the punctuation ''.''.

■ E. Removing paragraphs (c)(3) and (c)(4).

§ 682.301 [Amended]

■ 32. Section 682.301 is amended by removing paragraph (c).

■ 33. Section 682.302 is amended by:

■ A. In paragraph (b)(3) introductory text, adding the words ''and prior to July 1, 2010'' after the date ''1992'' and before the punctuation '',''.

■ B. In paragraph (d)(1)(vi)(B), removing the words ''the loan proceeds disbursed by electronic funds transfer or master check in accordance with § 682.207(b)(1)(ii)(B) and (C)'' and adding, in their place, the words ''The loan proceeds disbursed by electronic funds transfer or master check''.

■ C. In paragraph (d)(2) introductory text, adding the words ''and prior to July 1, 2010'' after the date ''1992'' and before the punctuation '',''.

■ D. In paragraph (e)(1)(i), removing the citation ''§ 682.800'' and adding, in its place, the words ''section 438(e) of the Act''.
■ E. Revising paragraph (f)(3)(viii)(B).
■ F. In paragraph (f)(3)(x)(B)(*3*), removing the citation ''503(c)(3)'' and adding, in its place, the citation ''501(c)(3)''.

The revision reads as follows:

§ 682.302 Payment of special allowance on FFEL loans.

* * * * *

(f) * * *

(3) * * *

(viii) * * *

(B) Fees are reasonable and customary for purposes of paragraph (f)(3)(viii) of this section, if they do not exceed the amounts received by the trustee for similar services with regard to similar portfolios of loans of that State or non-profit entity or its related special purpose entity that are not eligible to receive special allowance at the rate established under paragraph (f)(2) of this section, or if they do not exceed an amount as determined by such other method requested by the State or non-profit entity that the Secretary considers reliable.

* * * * *

§ 682.305 [Amended]

■ 34. Section 682.305 is amended by:
■ A. In paragraph (a)(3)(ii)(B), by adding the words ''and prior to July 1, 2010'' after the date ''2007'' and before the punctuation ''.''.
■ B. In paragraph (c)(1)(i), removing the words ''originating or''.
■ C. Removing paragraph (c)(1)(ii).
■ D. Redesignating paragraph (c)(1)(iii) as paragraph (c)(1)(ii).
■ E. In paragraph (c)(2)(iv), adding the word ''and'' as the last word in the paragraph, immediately following the punctuation '';''.
■ F. In paragraph (c)(2)(v), removing the final punctuation '';'' and adding, in its place, the punctuation ''.''.
■ G. Removing paragraphs (c)(2)(vi) and (c)(2)(vii).
■ 35. Section 682.400 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 682.400 Agreements between a guaranty agency and the Secretary.

* * * * *

(b) * * *

(1) * * *

(i) Borrowers whose Stafford or Consolidation loans are guaranteed by the agency may qualify for interest benefits that are paid to the lender on the borrower's behalf under § 682.301; and

* * * * *

■ 36. Section 682.401 is amended by:
■ A. Removing paragraphs (b)(1), (b)(2), and (b)(3).
■ B. Redesignating paragraph (b)(4) as paragraph (b)(1).
■ C. In newly redesignated paragraph (b)(1) introductory text, removing the citation ''(b)(4)'' and adding, in its place, the citation ''(b)(1)''.
■ D. Removing paragraphs (b)(5) and (b)(6).
■ E. Redesignating paragraph (b)(7) as paragraph (b)(2).
■ F. Removing paragraphs (b)(8) and (b)(9).
■ G. Redesignating paragraphs (b)(10) and (b)(11) as paragraphs (b)(3) and (b)(4), respectively.
■ H. In newly redesignated paragraph (b)(3)(i) introductory text, removing the words ''SLS or PLUS loans refinanced under § 682.209(e) or (f)'' and adding, in their place, the words ''refinanced SLS or PLUS loans''.
■ I. In newly redesignated paragraph (b)(3)(iv)(C), adding the words ''and prior to July 1, 2010'' between the date ''2006'' and the punctuation ''.''.
■ J. In newly redesignated paragraph (b)(3)(vi)(B)(*4*), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.
■ K. Removing paragraphs (b)(12) and (b)(13).
■ L. Redesignating paragraphs (b)(14) through (b)(29) as paragraphs (b)(5) through (b)(20), respectively.
■ M. In newly redesignated paragraph (b)(6), adding the words ''and N'' between the letter ''M'' and the word ''of''.
■ N. In newly redesignated paragraph (b)(8)(i) introductory text, removing the citation ''(b)(17)(iii)'' and adding, in its place, the citation ''(b)(8)(iii)''.
■ O. In newly redesignated paragraph (b)(8)(iii), removing the citation ''(b)(17)(i)'' and adding, in its place, the citation ''(b)(8)(i)''.
■ P. In newly redesignated paragraph (b)(10)(i)(B), removing the words ''School and lender'' and adding, in their place, the word ''Lender''.
■ Q. In newly redesignated paragraph (b)(10)(i)(C), removing the words ''school and''.
■ R. In newly redesignated paragraph (b)(10)(i)(D), removing the words ''school or''.
■ S. In newly redesignated paragraph (b)(11) introductory text, adding the word ''of'' between the words ''days'' and ''any''.
■ T. In newly redesignated paragraph (b)(14)(ii), removing the citation ''(b)(23)(i)'' and adding, in its place, the citation ''(b)(14)(i)''.
■ U. In newly redesignated paragraph (b)(18)(i), removing the word ''Federal'' and adding, in its place, the word ''Direct''.
■ V. Removing newly redesignated paragraph (b)(18)(ii).
■ W. Further redesignating newly redesignated paragraphs (b)(18)(iii) through (v) as paragraphs (b)(18)(ii) through (iv), respectively.
■ X. Revising newly redesignated paragraph (b)(18)(iii).
■ Y. Removing paragraph (c).
■ Z. Redesignating paragraph (d) as paragraph (c).
■ AA. In newly redesignated paragraph (c)(2), removing the citation ''(d)(1)'' and adding, in its place, the citation ''(c)(1)''.
■ BB. In newly redesignated paragraph (c)(3), adding a final sentence to the end of the paragraph.
■ CC. Removing newly redesignated paragraph (c)(4).
■ DD. Further redesignating newly redesignated paragraphs (c)(5) and (c)(6) as paragraphs (c)(4) and (c)(5), respectively.
■ EE. Removing paragraph (e).
■ FF. Redesignating paragraphs (f) and (g) as paragraphs (d) and (e), respectively.
■ GG. In newly redesignated paragraph (d)(2), removing the word ''HEA'' and adding, in its place, the word ''Act''.
■ HH. In newly redesignated paragraph (e)(1), removing the word ''participate'' and adding, in its place, the word ''participated''.
■ II. In newly redesignated paragraph (e)(2), removing the citation ''(g)(1)'' and adding, in its place, the citation ''(e)(1)''.
■ JJ. In newly redesignated paragraph (e)(4), removing the citation ''(g)(1)'' and adding, in its place, the citation ''(e)(1)''.

The revision and addition read as follows:

§ 682.401 Basic program agreement.

* * * * *

(b) * * *

(18) * * *

(iii) On or after October 1, 2009, when returning proceeds to the Secretary from the consolidation of a defaulted loan that is paid off with excess consolidation proceeds as defined in paragraph (b)(18)(iv) of this section, a guaranty agency must remit the entire amount of collection costs repaid through the consolidation loan.

* * * * *

(c) * * *

(3) * * * Each loan made under an MPN is enforceable in accordance with the terms of the MPN and is eligible for claim payment based on a true and exact copy of such MPN.

* * * * *

■ 37. Section 682.402 is amended by:
■ A. In paragraph (a)(5)(ii), removing the words ''credit bureau'' and adding,

in their place, the words ''consumer reporting agency''.

■ B. Revising paragraph (d)(1)(i).

■ C. In paragraph (d)(3)(ii)(B), by removing the figure ''90'' and adding, in its place, the figure ''120''.

■ D. In paragraphs (d)(6)(i)(C), (d)(6)(i)(D) introductory text, (d)(6)(i)(D)(*2*), (d)(6)(i)(H)(*3*), (d)(6)(ii)(B) introductory text, (d)(6)(ii)(B)(*2*), and (d)(6)(ii)(F)(*3*), by removing the figure ''90'' each time it appears and adding, in its place, the figure ''120''.

■ E. In paragraph (d)(7)(iv), removing the words ''credit bureaus'' and adding, in their place, the words ''consumer reporting agencies''.

■ F. In paragraph (d)(8)(i), removing the citation ''34 CFR 685.213'' and adding, in its place, the citation ''34 CFR 685.214''.

■ G. In paragraph (e)(3) introductory text, removing the citation ''(e)(14)'' and adding, in its place, the citation ''(e)(15)''.

■ H. In paragraph (e)(3)(v)(C), removing the word ''identify'' and adding, in its place, the word ''identity''.

■ I. In paragraph (e)(12)(v) introductory text, removing the words ''credit bureaus'' and adding, in their place, the words ''consumer reporting agencies''.

■ J. In paragraphs (l)(1), (l)(2)(ii), and (l)(3)(i), adding the words ''or Federal default fees'' between the word ''premiums'' and the punctuation '')''.

■ K. In paragraph (n)(2), adding the words ''or Federal default fees'' between the word ''premiums'' and the punctuation '')''.

The revision reads as follows:

§ 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.

* * * * *

(d) * * *

(1) * * *

(i) The Secretary reimburses the holder of a loan received by a borrower on or after January 1, 1986, and discharges the borrower's obligation with respect to the loan in accordance with the provisions of paragraph (d) of this section, if the borrower (or the student for whom a parent received a PLUS loan) could not complete the program of study for which the loan was intended because the school at which the borrower (or student) was enrolled closed, or the borrower (or student) withdrew from the school not more than 120 days prior to the date the school closed. The Secretary may extend the 120-day period if the Secretary determines that exceptional circumstances related to a school's closing justify an extension. Exceptional circumstances for this purpose may include, but are not limited to: the school's loss of accreditation; the school's discontinuation of the majority of its academic programs; action by the State to revoke the school's license to operate or award academic credentials in the State; or a finding by a State or Federal government agency that the school violated State or Federal law.

* * * * *

§ 682.403 [Removed and Reserved]

■ 38. Section 682.403 is removed and reserved.

■ 39. Section 682.404 is amended by:

■ A. Revising paragraph (b)(3)(ii).

■ B. In paragraph (b)(3)(iii), adding the word ''or'' after the punctuation '';''.

■ C. In paragraph (b)(4)(ii)(G)(*2*), removing the words ''is consistent with § 682.509(a)(1)'' and adding, in their place, the words ''addresses the condition identified in paragraph (b)(3)(ii) of this section''.

■ D. In paragraph (d)(1) introductory text, removing the words ''made under § 682.209(e), (f) and (h),'' and adding, in their place the words ''that were refinanced pursuant to section 428B(e)(2) and (3) of the Act,''.

■ E. Removing paragraph (h).

■ F. Redesignating paragraphs (i) through (l) as paragraphs (h) through (k), respectively.

■ G. In newly redesignated paragraph (j)(3)(i), removing the parenthetical ''(k)(2)(i)'' and adding, in its place, the parenthetical ''(j)(2)(i)''.

■ H. In newly redesignated paragraph (j)(3)(ii), removing the citation ''(k)(2)(ii)'' and adding, in its place, the citation ''(j)(2)(ii)''.

The revision reads as follows:

§ 682.404 Federal reinsurance agreement.

* * * * *

(b) * * *

(3) * * *

(ii) Under a policy established by the agency that addresses instances in which, for a non-school originated loan, a lender learns that the school terminated its teaching activities while a student was enrolled during the academic period covered by the loan;

* * * * *

■ 40. Section 682.405 is amended by:

■ A. In the introductory text of paragraph (a)(2)(i), adding the word ''qualifying'' between the words ''ten'' and ''payments''.

■ B. Revising the introductory text of paragraph (a)(2)(i)(A).

■ C. Redesignating paragraph (a)(3) as paragraph (a)(4).

■ D. Adding a new paragraph (a)(3).

■ E. Revising paragraph (b)(1).

The revisions and addition read as follows:

§ 682.405 Loan rehabilitation agreement.

(a) * * *

(2) * * *

(i) * * *

(A) A qualifying payment is—

* * * * *

(3)(i) If a borrower's loan is being collected by administrative wage garnishment while the borrower is also making monthly payments on the same loan under a loan rehabilitation agreement, the guaranty agency must continue collecting the loan by administrative wage garnishment until the borrower makes five qualifying monthly payments under the rehabilitation agreement, unless the guaranty agency is otherwise precluded from doing so under § 682.410(b)(9).

(ii) After the borrower makes the fifth qualifying monthly payment, the guaranty agency must, unless otherwise directed by the borrower, suspend the garnishment order issued to the borrower's employer.

(iii) A borrower may only obtain the benefit of a suspension of administrative wage garnishment while also attempting to rehabilitate a defaulted loan once.

* * * * *

(b) * * *

(1) A borrower may request rehabilitation of the borrower's defaulted loan held by the guaranty agency. In order to be eligible for rehabilitation of the loan, the borrower must voluntarily make at least 9 of the 10 payments required under a monthly repayment agreement.

(i) Each payment must be—

(A) Made voluntarily;

(B) For the full amount required;

(C) Received within 20 days of the due date for the payment; and

(D) Reasonable and affordable.

(ii) All 9 payments must be received within a 10-month period that begins with the month in which the first required due date falls and ends with the ninth consecutive calendar month following that month.

(iii) The guaranty agency initially considers the borrower's reasonable and affordable payment amount to be an amount equal to 15 percent of the amount by which the borrower's Adjusted Gross Income (AGI) exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12, except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5.

(iv) The guaranty agency or its agents may calculate the payment amount based on information provided orally by the borrower or the borrower's representative and provide the borrower

with a rehabilitation agreement using that amount. The guaranty agency must request documentation from the borrower to confirm the borrower's AGI and family size. If the borrower does not provide the guaranty agency or its agents with any documentation requested by the guaranty agency to calculate or confirm the reasonable and affordable payment amount, within a reasonable time deadline set by the guaranty agency or its agent, the rehabilitation agreement provided is null and void.

(v) The reasonable and affordable payment amount calculated under this section must not be—

(A) A required minimum loan payment amount (e.g., $50) if the agency determines that a smaller amount is reasonable and affordable;

(B) A percentage of the borrower's total loan balance; or

(C) Based on other criteria unrelated to the borrower's total financial circumstances.

(vi) Within 15 business days of its determination of the borrower's loan rehabilitation payment amount, the guaranty agency must provide the borrower with a written rehabilitation agreement which includes the borrower's payment amount calculated under paragraph (b)(1)(iii), a prominent statement that the borrower may object orally or in writing to the payment amount, with the method and timeframe for raising such an objection, and an explanation of any other terms and conditions applicable to the required series of payments that must be made before the borrower's account can be considered for repurchase by an eligible lender (i.e., rehabilitated). To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the agency. The agency may not impose any other conditions unrelated to the amount or timing of the rehabilitation payments in the rehabilitation agreement. The written rehabilitation agreement must inform the borrower—

(A) Of the effects of having the loans rehabilitated (e.g., removal of the record of default from the borrower's credit history and return to normal repayment);

(B) Of the amount of any collection costs to be added to the unpaid principal of the loan when the loan is sold to an eligible lender, which may not exceed 18.5 percent of the unpaid principal and accrued interest on the loan at the time of the sale; and

(C) That the rehabilitation agreement is null and void if the borrower fails to provide the documentation required to confirm the monthly payment calculated under paragraph (b)(1)(iii) of this section.

(vii) If the borrower objects to the monthly payment amount determined under paragraph (b)(1)(iii) of this section, the guaranty agency or its agents must recalculate the payment amount based solely on information provided on a form approved by the Secretary and, if requested, supporting documentation from the borrower and other sources, and must consider—

(A) The borrower's, and if applicable, the spouse's current disposable income, including public assistance payments, and other income received by the borrower and the spouse, such as welfare benefits, Social Security benefits, Supplemental Security Income, and workers' compensation. Spousal income is not considered if the spouse does not contribute to the borrower's household income;

(B) Family size as defined in § 682.215(a)(3); and

(C) Reasonable and necessary expenses, which include—

(*1*) Food;

(*2*) Housing;

(*3*) Utilities;

(*4*) Basic communication expenses;

(*5*) Necessary medical and dental costs;

(*6*) Necessary insurance costs;

(*7*) Transportation costs;

(*8*) Dependent care and other work-related expenses;

(*9*) Legally required child and spousal support;

(*10*) Other title IV and non-title IV student loan payments; and

(*11*) Other expenses approved by the Secretary.

(viii) The guaranty agency must provide the borrower with a new written rehabilitation agreement confirming the borrower's recalculated reasonable and affordable payment amount within the timeframe specified in paragraph (b)(1)(vii) of this section. To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the agency.

(ix) The agency must include any payment made under § 682.401(b)(1) in determining whether the 9 out of 10 payments required under paragraph (b)(1) of this section have been made.

(x) A borrower may request that the monthly payment amount be adjusted due to a change in the borrower's total financial circumstances only upon providing the documentation specified in paragraph (b)(1)(vii) of this section.

(xi) During the rehabilitation period, the guaranty agency must limit contact with the borrower on the loan being rehabilitated to collection activities that are required by law or regulation and to communications that support the rehabilitation.

* * * * *

§ 682.406 [Amended]

■ 41. Section 682.406 is amended by:

■ A. In paragraph (a)(2)(ii), removing the words ''in accordance with § 682.207(b)(1)(ii)(B) and (C)''.

■ B. In paragraph (a)(12)(iv), adding the words ''and prior to July 1, 2010'' after the date ''1999'' and before the punctuation ''.''.

§ 682.407 [Amended]

■ 42. Section 682.407(e)(1)(ii) is amended by removing the figure ''24'' the first time it appears and adding, in its place, the figure ''72''.

§ 682.408 [Removed and Reserved]

■ 43. Section 682.408 is removed and reserved.

§ 682.409 [Amended]

■ 44. Section 682.409 is amended by:

■ A. In paragraph (a)(2)(i), removing the citation ''§ 682.401(b)(4)'' and adding, in its place, the citation ''§ 682.401(b)(1)''.

■ B. In paragraph (a)(3)(i)(B), removing the citation ''§ 682.401(b)(4)'' and adding, in its place, the citation ''§ 682.401(b)(1)''.

■ 45. Section 682.410 is amended by:

■ A. Revising the introductory text of paragraph (a)(2).

■ B. In paragraph (a)(2)(ii) introductory text, removing the word ''preclaims'' and adding, in its place, the words ''default aversion''.

■ C. In paragraph (b)(2) introductory text, removing the citation ''§§ 682.401(b)(27) and 682.405(b)(1)(iv)'' and adding, in its place, the citation ''§§ 682.401(b)(18)(i) and 682.405(b)(1)(iv)(B)''.

■ D. In paragraph (b)(5)(i) introductory text, removing the citation ''(b)(6)(v)'' and adding, in its place, the citation ''(b)(6)(ii)''.

■ E. In paragraph (b)(7)(i), removing the words ''conditions described in § 682.509(a)(1)'' and adding, in their place, the words ''condition described in § 682.404(b)(3)(ii)''.

■ F. In paragraph (b)(7)(ii)(A), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

■ G. Revising paragraph (b)(9).

■ H. In paragraph (c)(1)(i)(A) introductory text, removing the words ''made or''.

■ I. In paragraph (c)(1)(i)(A)(*1*), removing the words ''in that year''.

■ J. In paragraph (c)(1)(i)(A)(*2*), removing the words ''in that year''.

■ K. Revising paragraph (c)(1)(i)(C).
■ L. In paragraph (c)(1)(ii), removing the citation ''(c)(1)(A)–(C)'' and adding, in its place, the citation ''(c)(1)(i)(A)–(C)''.
■ M. Removing paragraph (c)(4).
■ N. Redesignating paragraphs (c)(5) through (c)(11) as paragraphs (c)(4) through (c)(10), respectively.
■ O. In newly redesignated paragraphs (c)(8)(i) and (c)(8)(ii), adding the words ''title IV eligibility of a'' between the words ''or'' and ''school''.
■ P. Revising newly redesignated paragraph (c)(10) introductory text.

The revisions read as follows:

§ 682.410 Fiscal, administrative, and enforcement requirements.

(a) * * *

(2) *Uses of reserve fund assets.* A guaranty agency may use the assets of the reserve fund established under paragraph (a)(1) of this section to pay only—

* * * * *

(b) * * *

(9) *Administrative garnishment.* (i) If a guaranty agency decides to garnish the disposable pay of a borrower who is not making payments on a loan held by the agency, on which the Secretary has paid a reinsurance claim, it must do so in accordance with the following procedures:

(A) At least 30 days before the initiation of garnishment proceedings, the guaranty agency must mail to the borrower's last known address, a written notice described in paragraph (b)(9)(i)(B) of this section.

(B) The notice must describe—

(*1*) The nature and amount of the debt;

(*2*) The intention of the agency to collect the debt through deductions from disposable pay;

(*3*) An explanation of the borrower's rights;

(*4*) The deadlines by which a borrower must exercise those rights; and

(*5*) The consequences of failure to exercise those rights in a timely manner.

(C) The guaranty agency must offer the borrower an opportunity to inspect and copy agency records related to the debt.

(D) The guaranty agency must offer the borrower an opportunity to enter into a written repayment agreement with the agency under terms agreeable to the agency.

(E)(*1*) The guaranty agency must offer the borrower an opportunity for a hearing in accordance with paragraphs (b)(9)(i)(F) through (J) of this section and other guidance provided by the Secretary, for any objection regarding the existence, amount, or enforceability of the debt, and any objection that withholding from the borrower's disposable pay in the amount or at the rate proposed in the notice would cause financial hardship to the borrower.

(*2*) The borrower must request a hearing in writing. At the borrower's option, the hearing may be oral or written. The time and location of the hearing is established by the guaranty agency. An oral hearing may, at the borrower's option, be conducted either in-person or by telephone conference. The agency notifies the borrower of the process for arranging the time and location of an oral hearing. All telephonic charges are the responsibility of the agency. All travel expenses incurred by the borrower in connection with an in-person oral hearing are the responsibility of the borrower.

(F)(*1*) If the borrower submits a written request for a hearing on the existence, amount, or enforceability of the debt—

(*i*) The guaranty agency must provide evidence of the existence of the debt. If the agency provides evidence of the existence of the debt, the borrower must prove by the preponderance of the evidence that no debt exists, the debt is not enforceable under applicable law, the amount the guaranty agency claims the borrower owes is incorrect, including that any amount of collection costs assessed to the borrower exceeds the limits established under § 682.410(b)(2), or the debt is not delinquent; and

(*ii*) The borrower may raise any of the objections described in paragraph (b)(9)(i)(F)(*1*)(*i*) of this section not raised in the written request, but must do so before a hearing is completed. For purposes of this paragraph, a hearing is completed when the record is closed and the hearing official notifies the parties that no additional evidence or objections will be accepted.

(*2*) If the borrower submits a written request for a hearing on an objection that withholding in the amount or at the rate that the agency proposed in its notice would cause financial hardship to the borrower and the borrower's spouse and dependents—

(*i*) The borrower bears the burden of proving the claim of financial hardship by a preponderance of the credible evidence by providing credible documentation that the amount of wages proposed in the notice would leave the borrower unable to meet basic living expenses of the borrower, the borrower's spouse, and the borrower's dependents. The documentation must show the amount of the costs incurred for basic living expenses and the income available from any source to meet those expenses;

(*ii*) The borrower's claim of financial hardship must be evaluated by comparing the amounts that the borrower proves are being incurred for basic living expenses against the amounts spent for basic living expenses by families of the same size as the borrower's. For the purposes of this section, the standards published by the Internal Revenue Service under 26 U.S.C. 7122(d)(2) (the ''Collection Financial Standards'') establish the average amounts spent for basic living expenses for families of the same size as the borrower's family;

(*iii*) The amount that the borrower proves is incurred for a type of basic living expense is considered to be reasonable to the extent that the amount does not exceed the amount spent for that expense by families of the same size according to the Collection Financial Standards. If the borrower claims an amount for any basic living expense that exceeds the amount in the Collection Financial Standards, the borrower must prove that the amount claimed is reasonable and necessary;

(*iv*) If the borrower's objection to the rate or amount proposed in the notice is upheld in part, the garnishment must be ordered at a lesser rate or amount, that is determined will allow the borrower to meet basic living expenses proven to be reasonable and necessary. If this financial hardship determination is made after a garnishment order is already in effect, the guaranty agency must notify the borrower's employer of any change required by the determination in the amount to be withheld or the rate of withholding under that order; and

(*v*) A determination by a hearing official that financial hardship would result from garnishment is effective for a period not longer than six months after the date of the finding. After this period, the guaranty agency may require the borrower to submit current information regarding the borrower's family income and living expenses. If the borrower fails to submit current information within 30 days of this request, or the guaranty agency concludes from a review of the available evidence that garnishment should now begin or the rate or the amount of an outstanding withholding should be increased, the guaranty agency must notify the borrower and provide the borrower with an opportunity to contest the determination and obtain a hearing on the objection under the procedures in paragraph (b)(9)(i) of this section.

(G) If the borrower's written request for a hearing is received by the guaranty agency on or before the 30th day following the date of the notice

described in paragraph (b)(9)(i)(B) of this section, the guaranty agency may not issue a withholding order until the borrower has been provided the requested hearing and a decision has been rendered. The guaranty agency must provide a hearing to the borrower in sufficient time to permit a decision, in accordance with the procedures that the agency may prescribe, to be rendered within 60 days.

(H) If the borrower's written request for a hearing is received by the guaranty agency after the 30th day following the date of the notice described in paragraph (b)(9)(i)(B) of this section, the guaranty agency must provide a hearing to the borrower in sufficient time that a decision, in accordance with the procedures that the agency may prescribe, may be rendered within 60 days, but may not delay issuance of a withholding order unless the agency determines that the delay in filing the request was caused by factors over which the borrower had no control, or the agency receives information that the agency believes justifies a delay or cancellation of the withholding order. If a decision is not rendered within 60 days following receipt of a borrower's written request for a hearing, the guaranty agency must suspend the order beginning on the 61st day after the hearing request was received until a hearing is provided and a decision is rendered.

(I) The hearing official appointed by the agency to conduct the hearing may be any qualified individual, including an administrative law judge. Under no circumstance may the hearing official be under the supervision or control of the head of the guaranty agency or of a third-party servicer or collection contractor employed by the agency. Payment of compensation by the guaranty agency, third-party servicer, or collection contractor employed by the agency to the hearing official for service as a hearing official does not constitute impermissible supervision or control under this paragraph. The guaranty agency must ensure that, except as needed to arrange for administrative matters pertaining to the hearing, including the type of hearing requested by the borrower, the time, place, and manner of conducting an oral hearing, and post-hearing matters such as issuance of a hearing decision, all oral communications between the hearing official and any representative of the guaranty agency or with the borrower are made within the hearing of the other party, and that copies of any written communication with either party are promptly provided to the other party. This paragraph does not preclude a hearing in the absence of one of the parties if the borrower is given proper notice of the hearing, both parties have agreed on the time, place, and manner of the hearing, and one of the parties fails to attend.

(J) The hearing official must conduct any hearing as an informal proceeding, require witnesses in an oral hearing to testify under oath or affirmation, and maintain a summary record of any hearing. The hearing official must issue a final written decision at the earliest practicable date, but not later than 60 days after the guaranty agency's receipt of the borrower's hearing request. However—

(*1*) The borrower may request an extension of that deadline for a reasonable period, as determined by the hearing official, for the purpose of submitting additional evidence or raising a new objection described in paragraph (b)(9)(i)(F)(*1*)(*ii*) of this section; and

(*2*) The agency may request, and the hearing official must grant, a reasonable extension of time sufficient to enable the guaranty agency to evaluate and respond to any such additional evidence or any objections raised pursuant to paragraph (b)(9)(i)(F)(*1*)(*ii*) of this section.

(K) An employer served with a garnishment order from the guaranty agency with respect to a borrower whose wages are not then subject to a withholding order of any kind must deduct and pay to the agency from a borrower's disposable pay an amount that does not exceed the smallest of—

(*1*) The amount specified in the guaranty agency order;

(*2*) The amount permitted by section 488A(a)(1) of the Act, which is 15 percent of the borrower's disposable pay; or

(*3*) The amount permitted by 15 U.S.C. 1673(a)(2), which is the amount by which the borrower's disposable pay exceeds 30 times the minimum wage.

(L) If a borrower's pay is subject to more than one garnishment order—

(*1*) Unless other Federal law requires a different priority, the employer must pay the agency the amount calculated under paragraph (b)(9)(i)(K) of this section before the employer complies with any later garnishment orders, except a family support withholding order;

(*2*) If an employer is withholding from a borrower's pay based on a garnishment order served on the employer before the guaranty agency's order, or if a withholding order for family support is served on an employer at any time, the employer must comply with the agency's garnishment order by withholding an amount that is the lesser of—

(*i*) The amount specified in the guaranty agency order; or

(*ii*) The amount calculated under paragraph (b)(9)(i)(L)(*3*) of this section less the amount or amounts withheld under the garnishment order or orders that have priority over the agency's order; and

(*3*) The cumulative withholding for all garnishment orders issued by guaranty agencies may not exceed, for an individual borrower, the amount permitted by 15 U.S.C. 1673, which is the lesser of 25 percent of the borrower's disposable pay or the amount by which the borrower's disposable pay exceeds 30 times the minimum wage. If a borrower owes debts to one or more guaranty agencies, each agency may issue a garnishment order to enforce each of those debts, but no single agency may order a total amount exceeding 15 percent of the disposable pay of a borrower to be withheld. The employer must honor these orders as provided in paragraphs (b)(9)(i)(L)(*1*) and (*2*) of this section.

(M) Notwithstanding paragraphs (b)(9)(i)(K) and (L) of this section, an employer may withhold and pay a greater amount than required under the order if the borrower gives the employer written consent.

(N) A borrower may, at any time, raise an objection to the amount or the rate of withholding specified in the guaranty agency's order to the borrower's employer on the ground of financial hardship. However, the guaranty agency is not required to consider such an objection and provide the borrower with a hearing until at least six months after the agency issued the most recent garnishment order, either one for which the borrower did not request a hearing or one that was issued after a hardship-related hearing determination. The agency may provide a hearing in extraordinary circumstances earlier than six months if the borrower's request for review shows that the borrower's financial circumstances have substantially changed after the garnishment notice because of an event such as injury, divorce, or catastrophic illness.

(O) A garnishment order is effective until the guaranty agency rescinds the order or the agency has fully recovered the amounts owed by the borrower, including interest, late fees, and collections costs. If an employer is unable to honor a garnishment order because the amount available for garnishment is insufficient to pay any portion of the amount stated in the order, the employer must notify the

agency and comply with the order when sufficient disposable pay is available. Upon full recovery of the debt, the agency must send the borrower's employer notification to stop wage withholding.

(P) The guaranty agency must sue any employer for any amount that the employer, after receipt of the withholding order provided by the agency under paragraph (b)(9)(i)(R) of this section, fails to withhold from wages owed and payable to an employee under the employer's normal pay and disbursement cycle.

(Q) The guaranty agency may not garnish the wages of a borrower whom it knows has been involuntarily separated from employment until the borrower has been reemployed continuously for at least 12 months. The borrower has the burden of informing the guaranty agency of the circumstances surrounding the borrower's involuntary separation from employment.

(R) Unless the guaranty agency receives information that the agency believes justifies a delay or cancellation of the withholding order, it must send a withholding order to the employer within 20 days after the borrower fails to make a timely request for a hearing, or, if a timely request for a hearing is made by the borrower, within 20 days after a final decision is made by the agency to proceed with garnishment.

(S) The notice given to the employer under paragraph (b)(9)(i)(R) of this section must contain only the information as may be necessary for the employer to comply with the withholding order and to ensure proper credit for payments received. At a minimum, the notice given to the employer includes the borrower's name, address, and Social Security Number, as well as instructions for withholding and information as to where the employer must send payments.

(T)(*1*) A guaranty agency may use a third-party servicer or collection contractor to perform administrative activities associated with administrative wage garnishment, but may not allow such a party to conduct required hearings or to determine that a withholding order is to be issued. Subject to the limitations of paragraphs (b)(9)(i)(T)(*2*) and (*3*) of this section, administrative activities associated with administrative wage garnishment may include but are not limited to—

(*i*) Identifying to the agency suitable candidates for wage garnishment pursuant to agency standards;

(*ii*) Obtaining employment information for the purposes of garnishment;

(*iii*) Sending candidates selected for garnishment by the agency notices prescribed by the agency;

(*iv*) Negotiating alternative repayment arrangements with borrowers;

(*v*) Responding to inquiries from notified borrowers;

(*vi*) Receiving garnishment payments on behalf of the agency;

(*vii*) Arranging for the retention of hearing officials and for the conduct of hearings on behalf of the agency;

(*viii*) Providing information to borrowers or hearing officials on the process or conduct of hearings; and

(*ix*) Sending garnishment orders and other communications to employers on behalf of the agency.

(*2*) Only an authorized official of the agency may determine that an individual withholding order is to be issued. The guarantor must record the official's determination for each order it issues, including any order which it causes to be prepared or mailed by a third-party servicer or collection contractor. The guarantor must evidence the official's approval, either by including the official's signature on the order or, if the agency uses a form of withholding order that does not provide for execution by signature, by retaining in the agency's records the identity of the approving official, the date of the approval, the amount or rate of the order, the name and address of the employer to whom the order was issued, and the debt for which the order was issued.

(*3*) The withholding order must identify the guaranty agency as the holder of the debt, as the issuer of the order, and as the sole party legally authorized to issue the withholding order. If a guaranty agency uses a third-party servicer or collection contractor to prepare and mail a withholding order that includes the name of the servicer or contractor that prepared or mailed the order, the guaranty agency must also ensure that the order contains no captions or representations that the servicer or contractor is the party that issued, or was empowered by Federal law or by the agency to issue, the withholding order.

(U) As specified in section 488A(a)(8) of the Act, the borrower may seek judicial relief, including punitive damages, if the employer discharges, refuses to employ, or takes disciplinary action against the borrower due to the issuance of a withholding order.

(V) A guaranty agency is required to suspend a garnishment order when the agency receives a borrower's fifth qualifying payment under a loan rehabilitation agreement with the agency, unless otherwise directed by the borrower, in accordance with § 682.405(a)(3).

(ii) For purposes of paragraph (b)(9) of this section—

(A) ''Borrower'' includes all endorsers on a loan;

(B) ''Day'' means calendar day;

(C) ''Disposable pay'' means that part of a borrower's compensation for personal services, whether or not denominated as wages from an employer, that remains after the deduction of health insurance premiums and any amounts required by law to be withheld, and includes, but is not limited to, salary, bonuses, commissions, or vacation pay. ''Amounts required by law to be withheld'' include amounts for deductions such as Social Security taxes and withholding taxes, but do not include any amount withheld under a court order or other withholding order. All references to an amount of disposable pay refer to disposable pay calculated for a single week;

(D) ''Employer'' means a person or entity that employs the services of another and that pays the latter's wages or salary and includes, but is not limited to, State and local governments, but does not include an agency of the Federal Government;

(E) ''Financial hardship'' means an inability to meet basic living expenses for goods and services necessary for the survival of the borrower and the borrower's spouse and dependents;

(F) ''Garnishment'' means the process of withholding amounts from an employee's disposable pay and paying those amounts to a creditor in satisfaction of a withholding order; and

(G) ''Withholding order'' means any order for withholding or garnishment of pay issued by the guaranty agency and may also be referred to as ''wage garnishment order'' or ''garnishment order.''

* * * * *

(c) * * *

(1) * * *

(i) * * *

(C) Each school that participated in the guaranty agency's program, located in a State for which the guaranty agency is the principal guaranty agency, that has a cohort default rate, as described in subpart M of 34 CFR part 668, that includes FFEL Program loans, for either of the 2 immediately preceding fiscal years, as defined in 34 CFR 668.182, that exceeds 20 percent, unless the school is under a mandate from the Secretary under subpart M of 34 CFR part 668 to take specific default reduction measures or if the total dollar amount of loans entering repayment in

each fiscal year on which the cohort default rate of over 20 percent is based does not exceed $100,000; or

* * * * *

(10) Taking prompt action to protect the rights of borrowers and the Federal fiscal interest respecting loans that the agency has guaranteed when the agency learns that a school that participated in the FFEL Program or a holder of loans participating in the program is experiencing problems that threaten the solvency of the school or holder, including—

* * * * *

§ 682.411 [Amended]

■ 46. Section 682.411 is amended by:
■ A. In paragraph (d)(2), removing the words ''all national credit bureaus'' and adding, in their place, the words ''each nationwide consumer reporting agency''.
■ B. In paragraph (f), removing the words ''a national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.
■ C. In paragraph (n)(2), removing the words ''a national credit bureau'' and adding, in their place, the words ''each nationwide consumer reporting agency''.
■ D. In paragraph (o)(2), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.

§ 682.412 [Amended]

■ 47. Section 682.412(a)(2) is amended by removing the words ''as provided under § 682.301''.

■ 48. Section 682.413 is amended by:
■ A. In paragraph (c)(1)(vi), removing the words ''certification required under § 682.206(f)(1)'' and adding, in their place the words ''required lender verification certification''.
■ B. Revising the first sentence of paragraph (h).

The revision reads as follows:

§ 682.413 Remedial actions.

* * * * *

(h) In any action to require repayment of funds or to withhold funds from a guaranty agency, or to limit, suspend, or terminate a guaranty agency based on a violation of section 428(b)(3) of the Act, if the Secretary finds that the guaranty agency provided or offered the prohibited payments or activities, the Secretary applies a rebuttable presumption that the payments or activities were offered or provided to secure applications for FFEL loans or to secure FFEL loan volume. * * *

* * * * *

§ 682.414 [Amended]

■ 49. Section 682.414 is amended by:
■ A. In paragraph (a)(1)(ii)(D), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.
■ B. In paragraph (a)(4)(ii)(J), removing the words ''credit bureau'' and adding, in their place, the words ''consumer reporting agency''.
■ C. In paragraph (a)(6)(ii)(D), removing the word ''is'' and adding, in its place, the word ''it''.
■ D. Removing paragraph (b)(2)(i).
■ E. Redesignating paragraphs (b)(2)(ii) through (b)(2)(iv), as (b)(2)(i) through (b)(2)(iii), respectively.
■ F. In paragraph (b)(3)(i), removing the words ''schools and''.
■ G. In paragraph (b)(3)(ii), removing the words ''schools and''.
■ H. In paragraph (b)(3)(iii), removing the words ''school or''.
■ I. In paragraph (c)(2), removing the citation ''§ 682.401(b)(21) and (22)'' and adding, in its place, the citation ''§ 682.401(b)(12) and (13)''.

§ 682.416 [Amended]

■ 50. Section 682.416(d)(2) is amended by removing the word ''Title'' and adding, in its place, the word ''title''.

§ 682.418 [Removed and Reserved]

■ 51. Section 682.418 is removed and reserved.

§ 682.419 [Amended]

■ 52. Section 682.419 is amended by:
■ A. In paragraph (b)(8), removing the words '', in accordance with § 682.420''.
■ B. In paragraph (c)(6), removing the citation ''§ 682.421'' and adding, in its place, the citation ''section 422A(f) of the Act''.

§ 682.420 [Removed and Reserved]

■ 53. Section 682.420 is removed and reserved.

§ 682.421 [Removed and Reserved]

■ 54. Section 682.421 is removed and reserved.

§ 682.422 [Removed and Reserved]

■ 55. Section 682.422 is removed and reserved.

§ 682.423 [Amended]

■ 56. Section 682.423 is amended by:
■ A. In the second sentence of paragraph (a), adding the word ''may'' between the words ''that'' and ''have''.
■ B. In paragraph (a), removing the last sentence.

Subpart E—[Removed and Reserved]

■ 57. Remove and reserve subpart E of part 682.

Subpart F—Requirements, Standards, and Payments for Schools That Participated in the FFEL Program

■ 58. Revise the heading to subpart F of part 682 to read as set forth above.

§ 682.601 [Removed and Reserved]

■ 59. Section 682.601 is removed and reserved.

§ 682.602 [Removed and Reserved]

■ 60. Section 682.602 is removed and reserved.

■ 61. Section 682.603 is amended by:
■ A. Revising the section heading.
■ B. In paragraph (b)(3), removing the citation ''§ 682.604(c)'' and adding, in its place, the citation ''section 428G of the Act''.
■ C. Revising paragraphs (g), (h), and (i).
■ D. Revising the first of the two paragraphs that are both designated as paragraph (j).
■ E. Removing the second of the two paragraphs that are both designated as paragraph (j).
■ F. Adding paragraphs (k) and (l).

The revisions and additions read as follows:

§ 682.603 Certification by a school that participated in the FFEL Program in connection with a loan application.

* * * * *

(g) The maximum period for which a school may certify a loan application is—

(1) Generally an academic year, as defined by 34 CFR 668.3, except that a guaranty agency may allow a school to use a longer period of time, corresponding to the period to which the agency applies the annual loan limits; or

(2) For a defaulted borrower who has regained eligibility under § 682.401(b)(1), the academic year in which the borrower regained eligibility.

(h) In certifying a Stafford or Unsubsidized Stafford loan amount in accordance with § 682.204—

(1) A program of study must be considered at least one full academic year if—

(i) The number of weeks of instructional time is at least 30 weeks; and

(ii) The number of clock hours is a least 900, the number of semester or trimester hours is at least 24, or the number of quarter hours is at least 36;

(2) A program of study must be considered two-thirds (2/3) of an academic year if—

(i) The number of weeks of instructional time is at least 20 weeks; and

(ii) The number of clock hours is at least 600, the number of semester or

trimester hours is at least 16, or the number of quarter hours is at least 24;

(3) A program of study must be considered one-third (⅓) of an academic year if—

(i) The number of weeks of instructional time is at least 10 weeks; and

(ii) The number of clock hours is at least 300, the number of semester or trimester hours is at least 8, or the number of quarter hours is at least 12; and

(4) In prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school certifies the loan.

(i)(1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

(j)(1) A school must cease certifying loans based on the exceptions in section 428G(a)(3) of the Act no later than—

(i) 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs; or

(ii) October 1, 2002.

(2) A school must cease certifying loans based on the exceptions in section 428G(a)(3) of the Act no later than 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs.

(k) A school may not assess the borrower, or the student in the case of a parent PLUS loan, a fee for the completion or certification of any FFEL Program form or information or for providing any information necessary for a student or parent to receive a loan under part B of the Act or any benefits associated with such a loan.

(l) Pursuant to paragraph (b)(3) of this section, a school may not request the disbursement by the lender for loan proceeds earlier than the period specified in 34 CFR 668.167.

* * * * *

■ 62. Section 682.604 is amended by:

■ A. Revising the section heading.

■ B. Removing paragraphs (a), (c), (d), (e), (f), (h), and (i).

■ C. Redesignating paragraph (g) as paragraph (a).

■ D. Removing and reserving paragraph (b).

■ E. Revising newly redesignated paragraph (a)(1).

■ F. Removing newly redesignated paragraph (a)(2)(vi).

■ G. Further redesignating newly redesignated paragraphs (a)(2)(vii) through (a)(2)(xii) as paragraphs (a)(2)(ix) through (a)(2)(xiv), respectively.

■ H. Adding new paragraphs (a)(2)(vi) through (a)(2)(viii).

■ I. Adding new paragraph (a)(5).

The revisions and additions read as follows:

§ 682.604 Required exit counseling for borrowers.

(a) * * *

(1) A school must ensure that exit counseling is conducted with each Stafford Loan borrower and graduate or professional student PLUS Loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that this counseling is conducted shortly before the student borrower ceases at least half-time study at the school, and that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, written counseling materials may be provided by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, the school must, within 30 days after learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required, ensure that exit counseling is provided through interactive electronic means, by mailing written counseling materials to the student borrower at the student borrower's last known address, or by sending written counseling materials to an email address provided by the student borrower that is not an email address associated with the school sending the counseling materials.

(2) * * *

(vi) Explain to the borrower the use of a Master Promissory Note;

(vii) Emphasize to the student borrower the seriousness and importance of the repayment obligation the borrower has assumed;

(viii) Emphasize to the student borrower that the full amount of the loan (other than a loan made or originated by the school) must be repaid in full even if the student borrower does not complete the program, does not complete the program within the regular time for program completion, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student borrower purchased from the school;

* * * * *

(5)(i) For students who have received both FFEL Program and Direct Loan Program loans for attendance at a school, the school's compliance with the exit counseling requirements in 34 CFR 685.304(b) satisfies the requirements of this section if the school ensures that the exit counseling also provides the borrower with the information described in paragraphs (a)(2)(i) and (a)(2)(ii) of this section.

(ii) A student's completion of electronic interactive exit counseling offered by the Secretary satisfies the requirements of this section, and for students who have also received Direct Loan Program loans for attendance at the school, the requirements of 34 CFR 685.304(b).

* * * * *

§ 682.605 [Amended]

■ 63. Section 682.605 is amended by:

■ A. In paragraph (b), adding the words ''and the Secretary'' between the words ''lender'' and ''the date''.

■ B. In paragraph (c), adding the words ''and the Secretary'' between the word ''lender'' and the punctuation ''\,''.

§ 682.608 [Removed and Reserved]

■ 64. Section 682.608 is removed and reserved.

■ 65. Section 682.610 is amended by:

■ A. Revising the section heading.

■ B. Revising paragraph (b)(5).

■ C. Revising paragraph (c).

The revisions read as follows:

§ 682.610 Administrative and fiscal requirements for schools that participated in the FFEL Program.

* * * * *

(b) * * *

(5) For loans delivered by electronic funds transfer or master check, a copy of the borrower's required written authorization, if it was not provided in the loan application or MPN, to deliver the initial and subsequent disbursements of each FFEL Program loan; and

* * * * *

(c) *Enrollment reporting process.* (1) Upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary—

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe specified by the Secretary.

(2) Unless it expects to submit its next updated enrollment report to the Secretary within the next 60 days, a school must notify the Secretary within 30 days after the date that the school discovers that—

(i) A loan under title IV of the Act was made to or on behalf of a student who was enrolled or accepted for enrollment at the school, and the student has ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(ii) A student who is enrolled at the school and who received a loan under title IV of the Act has changed his or her permanent address.

* * * * *

Subpart G—Limitation, Suspension, or Termination of Lender or Third-Party Servicer Eligibility and Disqualification of Lenders

■ 66. The heading of subpart G of part 682 is revised to read as set forth above.

§ 682.700 [Amended]

■ 67. Section 682.700 is amended by:

■ A. In paragraph (a), removing the words ''or school'' and the word and citation ''and (h)(3)'' in the final sentence.

■ B. In paragraph (b)(1)(ii), adding the word ''or'' after the punctuation ''\;''.

■ C. Removing paragraph (b)(2).

■ D. Redesignating paragraph (b)(3) as paragraph (b)(2).

■ E. In paragraph (c), removing the words ''or schools''.

■ 68. Section 682.701 is amended by revising the definition of ''*Disqualification''* to read as follows:

§ 682.701 Definitions of terms used in this subpart.

* * * * *

Disqualification. The removal of a lender's eligibility for an indefinite period of time by the Secretary on review of limitation, suspension, or termination action taken against the lender by a guaranty agency.

* * * * *

■ 69. Section 682.702 is amended by:

■ A. In paragraph (a), removing the words ''in paragraph (d) of this section and''.

■ B. Revising paragraph (b)(1).

■ C. Removing paragraph (b)(2).

■ D. Redesignating paragraph (b)(3) as paragraph (b)(2).

■ E. Removing paragraph (d).

The revision reads as follows:

§ 682.702 Effect on participation.

* * * * *

(b) * * *

(1) A limit on the number or total amount of loans that a lender may purchase or hold under the FFEL Program; or

* * * * *

§ 682.704 [Amended]

■ 70. Section 682.704(a) introductory text is amended, by removing the words ''stop the issuance of guarantee commitments by the Secretary and guarantee agencies and to''.

§ 682.705 [Amended]

■ 71. Section 682.705 is amended by:

■ A. In paragraph (a)(1) introductory text, removing the words ''new loan made by the lender or''.

■ B. In paragraph (b)(2)(v), removing the words '', except as provided in paragraph (c)(9) of this section,''.

■ C. Removing paragraph (c).

§ 682.706 [Amended]

■ 72. Section 682.706 is amended by removing paragraph (d).

■ 73. Section 682.709 is amended by adding paragraph (d) to read as follows:

§ 682.709 Reimbursements, refunds, and offsets.

* * * * *

(d) In any action under this part based on a violation of the prohibitions in section 435(d)(5) of the Act, if the Secretary, the designated Department official, or the hearing official finds that the lender provided or offered the payments or activities described in paragraph (5)(i) of the definition of ''lender'' in § 682.200(b), the Secretary or the official applies a rebuttable presumption that the payments or activities were offered or provided to secure applications for FFEL loans. To reverse the presumption, the lender must present evidence that the activities or payments were provided for a reason unrelated to securing applications for FFEL loans or securing FFEL loan volume.

* * * * *

§ 682.711 [Amended]

■ 74. Section 682.711 is amended by:

■ A. Removing paragraph (c).

■ B. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

■ C. In newly redesignated paragraph (d)(2), removing the citation ''(d)(3)'' and adding, in its place, the citation ''(c)(3)''.

■ D. In newly redesignated paragraph (d)(2), removing the citation ''(e)(1)'' and adding, in its place, the citation ''(d)(1)''.

§ 682.712 [Amended]

■ 75. Section 682.712 is amended by:

■ A. In paragraph (g)(2), removing the parenthetical ''(j)'' and adding, in its place, the parenthetical ''(i)''.

■ B. In paragraph (h)(2) and in paragraph (h)(3) introductory text, removing the parenthetical ''(j)'' and adding, in its place, the parenthetical ''(i)''.

■ C. Removing paragraph (i).

■ D. Redesignating paragraph (j) as paragraph (i).

§ 682.713 [Removed and Reserved]

■ 76. Section 682.713 is removed and reserved.

Subpart H of Part 682 [Removed and Reserved]

■ 77. Remove and reserve subpart H of part 682.

Appendix C to Part 682 [Removed and Reserved]

■ 78. Appendix C to part 682 is removed and reserved.

Appendix D to Part 682 [Amended]

■ 79. In appendix D to part 682, paragraph (3) of the introduction is amended by removing the final citation ''34 CFR 682.401(d)'' and adding, in its place, the citation ''34 CFR 682.401(c)''.

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 80. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1070g, 1087a, *et seq.,* unless otherwise noted.

■ 81. Section 685.100 is amended by:
■ A. Revising paragraph (a).
■ B. In paragraph (b), removing the words ''has been selected by the Secretary to participate'' and adding, in their place, the word ''participates''.
■ C. Revising paragraph (c).
The revisions read as follows:

§ 685.100 The William D. Ford Federal Direct Loan Program.

(a) Under the William D. Ford Federal Direct Loan (Direct Loan) Program (formerly known as the Federal Direct Student Loan Program), the Secretary makes loans to enable a student or parent to pay the costs of the student's attendance at a postsecondary school. This part governs the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, the Federal Direct PLUS Program, and the Federal Direct Consolidation Loan Program. The Secretary makes loans under the following program components:

(1)(i) Federal Direct Stafford/Ford Loan Program (Direct Subsidized Loan Program), which provides loans to undergraduate, graduate, and professional students. Loans made under this program are referred to as Direct Subsidized Loans. Except as provided in paragraph (a)(1)(ii) of this section, the Secretary subsidizes the interest while the borrower is in an in-school, grace, or deferment period. Graduate and professional students are not eligible to receive Direct Subsidized Loans for any period of enrollment beginning on or after July 1, 2012.

(ii) The Secretary does not subsidize the interest that accrues during the grace period on any Direct Subsidized Loan for which the first disbursement is made on or after July 1, 2012 and before July 1, 2014.

(2) Federal Direct Unsubsidized Stafford/Ford Loan Program (Direct Unsubsidized Loan Program), which provides loans to undergraduate, graduate and professional students. Loans made under this program are referred to as Direct Unsubsidized Loans. The borrower is responsible for the interest that accrues during any period.

(3) Federal Direct PLUS Program (Direct PLUS Loan Program), which provides loans to parents of dependent students and to graduate or professional students. Loans made under this program are referred to as Direct PLUS Loans. The borrower is responsible for the interest that accrues during any period.

(4) Federal Direct Consolidation Loan Program (Direct Consolidation Loan Program), which provides loans to borrowers to consolidate certain Federal educational loans. Loans made under this program are referred to as Direct Consolidation Loans.

* * * * *

(c) The Secretary makes a Direct Consolidation Loan only to a borrower who is consolidating at least one loan made under the Direct Loan Program or the Federal Family Education Loan (FFEL) Program.

* * * * *

■ 82. Section 685.101 is revised to read as follows:

§ 685.101 Participation in the Direct Loan Program.

(a) Colleges, universities, graduate and professional schools, vocational schools, and proprietary schools may participate in the Direct Loan Program. Participation in the Direct Loan Program enables an eligible student or parent to obtain a loan to pay for the student's cost of attendance at the school.

(b)(1) An eligible undergraduate student who is enrolled at a school participating in the Direct Loan Program may borrow under the Direct Subsidized Loan and Direct Unsubsidized Loan programs.

(2) An eligible graduate or professional student enrolled at a school participating in the Direct Loan Program may borrow under the Direct Subsidized Loan, Direct Unsubsidized Loan, and Direct PLUS Loan programs, except that a graduate or professional student may not borrow under the Direct Subsidized Loan Program for any period of enrollment beginning on or after July 1, 2012.

(3) An eligible parent of an eligible dependent student enrolled at a school participating in the Direct Loan Program may borrow under the Direct PLUS Loan Program.

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 83. Section 685.102 is amended by:
■ A. In paragraph (a)(1) introductory text, removing the words ''subpart A of''.
■ B. In paragraph (a)(1), removing the terms ''Academic Competitiveness Grant (ACG) Program'', ''Disburse'', ''Federal Direct Student Loan Program (Direct Loan Program)'', ''Leveraging Educational Assistance Partnership Program'', ''National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Program'', and ''State''.
■ C. In paragraph (a)(1), adding the terms ''Disbursement'' and ''William D. Ford Federal Direct Loan (Direct Loan) Program'' in alphabetical order.
■ D. In paragraph (a)(2), adding the terms ''Correspondence course'' and ''State'' in alphabetical order.
■ E. In paragraph (a)(2), removing the term ''Program of study by correspondence''.
■ F. Removing paragraph (a)(3).
■ G. In paragraph (b), adding the definitions of ''Act'', ''Endorser'', ''Federal Insured Student Loan Program'', ''Federal Stafford Loan Program'', ''Guaranty agency'', ''Holder'', ''Lender'', ''Nationwide consumer reporting agency'', ''Substantial gainful activity'', and ''Totally and permanently disabled'', in alphabetical order.
■ H. In paragraph (b), removing the definitions of ''Alternative originator'', ''Consortium'', ''School origination option 1'', ''School origination option 2'', ''Servicer'', and ''Standard origination''.
■ I. In paragraph (b), in the definition of ''Estimated financial assistance'', revising paragraphs (1)(vi) and (2)(i).
■ J. In paragraph (b), in the heading of the definition of ''Federal Direct Consolidation Loan Program:'', adding the words ''(Direct Consolidation Loan Program)'' immediately before the punctuation '':''.
■ K. In paragraph (b), in paragraph (4) of the definition of ''Federal Direct Consolidation Loan Program'', removing the words ''The term'' in the first sentence and adding, in their place, the words ''In the case of a Direct Consolidation Loan that entered repayment prior to July 1, 2006, the term''.
■ L. In paragraph (b), in the heading of the definition of ''Federal Direct PLUS Program:'', adding the words ''(Direct PLUS Loan Program)'' immediately before the punctuation '':''.

■ M. In paragraph (b), revising the definition of ''Federal Direct Stafford/Ford Loan Program''.
■ N. In paragraph (b), in the heading of the definition of ''Federal Direct Unsubsidized Stafford/Ford Loan Program:'', adding the words ''(Direct Unsubsidized Loan Program)'' immediately before the punctuation '':''.
■ O. In paragraph (b), revising the definition of ''Grace period''.
■ P. In paragraph (b), in the definition of ''Master Promissory Note (MPN)'', adding a new paragraph (4).
■ Q. In paragraph (b), revising the definition of ''Satisfactory repayment arrangement''.

The revisions and additions read as follows:

§ 685.102 Definitions.

* * * * *

(b) * * *

Act: The Higher Education Act of 1965, as amended, 20 U.S.C. 1071 *et seq.*

* * * * *

Endorser: An individual who signs a promissory note and agrees to repay the loan in the event that the borrower does not.

Estimated financial assistance:

(1) * * *

(vi) The estimated amount of other Federal student financial aid, including but not limited to a Federal Pell Grant, campus-based aid, and the gross amount (including fees) of subsidized and unsubsidized Federal Stafford Loans, Direct Subsidized and Unsubsidized Loans, and Federal PLUS or Direct PLUS Loans.

(2) * * *

(i) Those amounts used to replace the expected family contribution (EFC), including the amounts of any TEACH Grants, unsubsidized Federal Stafford Loans or Direct Unsubsidized Loans, Federal PLUS or Direct PLUS Loans, and non-federal non-need-based loans, including private, state-sponsored, and institutional loans. However, if the sum of the amounts received that are being used to replace the student's EFC exceed the EFC, the excess amount must be treated as estimated financial assistance;

* * * * *

Federal Direct Stafford/Ford Loan Program (Direct Subsidized Loan Program): A loan program authorized by title IV, part D of the Act that provides loans to undergraduate, graduate, and professional students attending Direct Loan Program schools, and one of the components of the Direct Loan Program. The Secretary subsidizes the interest while the borrower is in an in-school, grace, or deferment period, except that the Secretary does not subsidize the interest that accrues during the grace period on a loan for which the first disbursement is made on or after July 1, 2012 and before July 1, 2014. Loans made under this program are referred to as Direct Subsidized Loans. Graduate and professional students are not eligible to receive Direct Subsidized Loans for any period of enrollment beginning on or after July 1, 2012.

* * * * *

Federal Insured Student Loan Program: The loan program authorized by title IV, part B of the Act under which the Secretary directly insures lenders against losses.

Federal Stafford Loan Program: The loan program authorized by title IV, part B of the Act which encouraged the making of subsidized and unsubsidized loans to undergraduate, graduate, and professional students and is one of the Federal Family Education Loan programs.

Grace period: A six-month period that begins on the day after a Direct Subsidized Loan borrower, a Direct Unsubsidized Loan borrower, or, in some cases, a Direct Consolidation Loan borrower whose consolidation application was received before July 1, 2006, ceases to be enrolled as at least a half-time student at an eligible institution and ends on the day before the repayment period begins.

Guaranty agency: A State or private nonprofit organization that has an agreement with the Secretary under which it will administer a loan guarantee program under the Act.

Holder: The entity that owns a loan. For a FFEL Program loan, the term ''holder'' refers to an eligible lender owning a FFEL Program loan, including a Federal or State agency or an organization or corporation acting on behalf of such an agency and acting as a conservator, liquidator, or receiver of an eligible lender.

* * * * *

Lender: As used in this part, the term ''lender'' has the meaning specified in section 435(d) of the Act for purposes of the FFEL Program.

* * * * *

Master Promissory Note (MPN):

* * * * *

(4) Unless the Secretary determines otherwise, a school may use a single MPN as the basis for all loans borrowed by a student or parent borrower for attendance at that school. If a school is not authorized by the Secretary for multi-year use of the MPN, a student or parent borrower must sign a new MPN for each academic year.

Nationwide consumer reporting agency: A consumer reporting agency as defined in 15 U.S.C. 1681a(p).

* * * * *

Satisfactory repayment arrangement: (1) For the purpose of regaining eligibility under section 428F(b) of the HEA, the making of six consecutive, voluntary, on-time, full monthly payments on a defaulted loan. A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) For the purpose of consolidating a defaulted loan under § 685.220(d)(1)(ii)(A)(*3*)—

(i) The making of three consecutive, voluntary, on-time, full monthly payments on a defaulted loan prior to consolidation; or

(ii) Agreeing to repay the Direct Consolidation Loan under one of the income-contingent repayment plans described in § 685.209 or the income-based repayment plan described in § 685.221.

(3) For the purpose of paragraph (2)(i) of this definition, the required monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. ''On-time'' means a payment made within 20 days of the scheduled due date, and voluntary payments are payments made directly by the borrower and do not include payments obtained by Federal offset, garnishment, or income or asset execution.

(4) A borrower has not used the one opportunity to renew eligibility for title IV assistance if the borrower makes six consecutive, on-time, voluntary, full monthly payments under an agreement to rehabilitate a defaulted loan, but does not receive additional title IV assistance prior to defaulting on that loan again.

Substantial gainful activity: A level of work performed for pay or profit that involves doing significant physical or mental activities, or a combination of both.

Totally and permanently disabled: The condition of an individual who—

(1) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that—

(i) Can be expected to result in death;

(ii) Has lasted for a continuous period of not less than 60 months; or

(iii) Can be expected to last for a continuous period of not less than 60 months; or

(2) Has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability.

* * * * *

■ 84. Section 685.200 is amended by:
■ A. Revising paragraph (a)(1)(iv).
■ B. Revising paragraph (a)(1)(v).
■ C. Revising paragraph (b)(4).
■ D. In paragraph (c)(1)(vii)(C), adding the word ''paragraph'' immediately before the citation ''(c)(1)(vii)(A)''.
■ E. Adding a new paragraph (c)(1)(vii)(D).
■ F. Revising paragraph (d).

The revisions and addition read as follows:

§ 685.200 Borrower eligibility.

(a) * * *

(1) * * *

(iv) In the case of a borrower whose previous loan or TEACH Grant service obligation was discharged due to total and permanent disability, the student—

(A) In the case of a borrower whose prior loan under title IV of the Act or TEACH Grant service obligation was discharged after a final determination of total and permanent disability, the borrower—

(*1*) Obtains a certification from a physician that the borrower is able to engage in substantial gainful activity; and

(*2*) Signs a statement acknowledging that neither the new Direct Loan the borrower receives nor any previously discharged loan on which the borrower is required to resume payment in accordance with paragraph (a)(1)(iv)(B)

of this section can be discharged in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates;

(B) In the case of a borrower who receives a new Direct Loan, other than a Direct Consolidation Loan, within three years of the date that any previous title IV loan or TEACH Grant service obligation was discharged due to a total and permanent disability in accordance with § 685.213(b)(4)(iii), 34 CFR 674.61(b)(3)(v), 34 CFR 682.402(c)(3)(iv), or 34 CFR 686.42(b) based on a discharge request received on or after July 1, 2010, the borrower resumes repayment on the previously discharged loan in accordance with § 685.213(b)(7), 34 CFR 674.61(b)(6), or 34 CFR 682.402(c)(6), or acknowledges that he or she is once again subject to the terms of the TEACH Grant agreement to serve before receiving the new loan; and

(C) In the case of a borrower whose prior loan under title IV of the Act was conditionally discharged after an initial determination that the borrower was totally and permanently disabled based on a discharge request received prior to July 1, 2010—

(*1*) The suspension of collection activity on the prior loan has been lifted;

(*2*) The borrower complies with the requirement in paragraph (a)(1)(iv)(A)(*1*) of this section;

(*3*) The borrower signs a statement acknowledging that neither the new Direct Loan the borrower receives nor the loan that has been conditionally discharged prior to a final determination of total and permanent disability can be discharged in the future on the basis of any impairment present when the borrower applied for a total and permanent disability discharge or when the new loan is made, unless that impairment substantially deteriorates; and

(*4*) The borrower signs a statement acknowledging that the suspension of collection activity on the prior loan will be lifted.

(v) In the case of a student who was enrolled in a program of study prior to July 1, 2012 and who seeks a loan but does not have a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, the student meets the requirements under 34 CFR 668.32(e)(2), (3), (4), or (5).

* * * * *

(b) * * *

(4) The student has received a determination of his or her annual loan maximum eligibility under the Direct Unsubsidized Loan Program and, for periods of enrollment beginning before July 1, 2012, the Direct Subsidized Loan Program; and

* * * * *

(c) * * *

(1) * * *

(vii) * * *

(D) For the purposes of paragraph (c)(1)(vii)(A)(*3*) of this section, the Secretary may determine that extenuating circumstances exist based on documentation that includes, but is not limited to, an updated credit report, a statement from the creditor that the borrower has made satisfactory arrangements to repay the debt, or a satisfactory statement from the borrower explaining any delinquencies with outstanding balances of less than $500.

* * * * *

(d) *Defaulted Perkins, FFEL, and Direct Loan program borrowers.* Except as noted in § 685.220(d)(1)(ii)(A)(*3*), in the case of a student or parent borrower who is currently in default on a Perkins, FFEL, or Direct Loan program loan, the borrower must make satisfactory repayment arrangements, as described in paragraph (1) of the definition of that term under § 685.102(b), on the defaulted loan.

* * * * *

■ 85. Section 685.201 is amended by:
■ A. Revising paragraph (a)(2).
■ B. Revising paragraph (b).
■ C. Revising paragraph (c)(1).
■ D. In paragraph (c)(2), removing the word ''Servicer'' and adding, in its place, the word ''Secretary''.

The revisions read as follows:

§ 685.201 Obtaining a loan.

(a) * * *

(2) If the student is eligible for a Direct Subsidized Loan or a Direct Unsubsidized Loan, the school in which the student is enrolled must perform the following functions:

(i) Create a loan origination record and transmit the record to the Secretary.

(ii) Ensure that the loan is supported by a completed Master Promissory Note (MPN) and, if applicable, transmit the MPN to the Secretary.

(iii) In accordance with 34 CFR 668.162, draw down funds or receive funds from the Secretary, and disburse the funds to the student.

(b) *Application for a Direct PLUS Loan.* (1) For a parent to obtain a Direct PLUS Loan, the parent must complete the Direct PLUS Loan MPN and the dependent student on whose behalf the parent is borrowing must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application.

(2) For a graduate or professional student to apply for a Direct PLUS Loan, the student must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application. The graduate or professional student must also complete the Direct PLUS Loan MPN.

(3) For either a parent or student PLUS borrower, as applicable, the school must complete its portion of the Direct PLUS Loan MPN and, if applicable, submit it to the Secretary. The Secretary makes a determination as to whether the parent or graduate or professional student has an adverse credit history. The school performs the functions described in paragraph (a)(2) of this section.

(c) * * *

(1) To obtain a Direct Consolidation Loan, the applicant must complete the application and promissory note and submit it to the Secretary. The application and promissory note sets forth the terms and conditions of the Direct Consolidation Loan and informs the applicant how to contact the Secretary. The Secretary answers questions regarding the process of applying for a Direct Consolidation Loan and provides information about the terms and conditions of both Direct Consolidation Loans and the types of loans that may be consolidated.

* * * * *

■ 86. Section 685.202 is amended by:
■ A. Revising paragraph (a).
■ B. Revising paragraph (b)(2).

The revisions read as follows:

§ 685.202 Charges for which Direct Loan Program borrowers are responsible.

(a) *Interest*—(1) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans first disbursed before July 1, 1995.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 8.25 percent.

(2) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans first disbursed on or after July 1, 1995, and before July 1, 1998.* (i) *During the in-school, grace, and deferment periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury

bills auctioned at the final auction held prior to that June 1 plus 2.5 percentage points, but does not exceed 8.25 percent.

(ii) *During all other periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 8.25 percent.

(3) *Interest Rate for Direct Subsidized Loans and Direct Subsidized Loans first disbursed on or after July 1, 1998, and before July 1, 2006.* (i) *During the in-school, grace, and deferment periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 1.7 percentage points, but does not exceed 8.25 percent.

(ii) *During all other periods.* The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 2.3 percentage points, but does not exceed 8.25 percent.

(4) *Interest rate for Direct Subsidized Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013.* For a loan for which the first disbursement is made:

(i) On or after July 1, 2006, and before July 1, 2008, the interest rate is 6.8 percent on the unpaid principal balance of the loan.

(ii) On or after July 1, 2008, and before July 1, 2009, the interest rate is 6 percent on the unpaid principal balance of the loan.

(iii) On or after July 1, 2009, and before July 1, 2010, the interest rate is 5.6 percent on the unpaid principal balance of the loan.

(iv) On or after July 1, 2010, and before July 1, 2011, the interest rate is 4.5 percent on the unpaid principal balance of the loan.

(v) On or after July 1, 2011, and before July 1, 2013, the interest rate is 3.4 percent on the unpaid balance of the loan.

(5) *Interest rate for Direct Subsidized Loans made to graduate or professional students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2012.* The interest rate is 6.8 percent.

(6) *Interest rate for Direct Unsubsidized Loans first disbursed on or after July 1, 2006, and before July 1, 2013.* The interest rate is 6.8 percent.

(7) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2013.* The interest rate for loans first disbursed during any 12-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period and is a fixed rate for the life of the loan. The interest rate is the lesser of—

(i) A rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the June 1 preceding the 12-month period, plus 2.05 percentage points, or

(ii) 8.25 percent.

(8) *Interest rate for Direct Unsubsidized Loans made to graduate or professional students for which the first disbursement is made on or after July 1, 2013.* The interest rate for loans first disbursed during any 12-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period and is a fixed rate for the life of the loan. The interest rate is the lesser of—

(i) A rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the June 1 preceding the 12-month period, plus 3.6 percentage points, or

(ii) 9.5 percent.

(9) *Interest rate for Direct PLUS Loans. (i) Direct PLUS Loans first disbursed before July 1, 1998.* (A) *Interest rates for periods ending before July 1, 2001.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period. The interest rate is equal to the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 9 percent.

(B) *Interest rates for periods beginning on or after July 1, 2001.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 26 preceding that period. The interest rate is equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before that June 26 plus 3.1 percentage points, but does not exceed 9 percent.

(ii) *Direct PLUS Loans first disbursed on or after July 1, 1998, and before July 1, 2006.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 9 percent.

(iii) *Direct PLUS Loans first disbursed on or after July 1, 2006, and before July 1, 2013.* The interest rate is 7.9 percent.

(iv) *Direct PLUS Loans first disbursed on or after July 1, 2013.* The interest rate for loans first disbursed during any 12-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period and is a fixed rate for the life of the loan. The interest rate is the lesser of—

(A) A rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the June 1 preceding the 12-month period, plus 4.6 percentage points, or

(B) 10.5 percent.

(10) *Interest rate for Direct Consolidation Loans*—(i) *Interest rate for Direct Subsidized Consolidation Loans and Direct Unsubsidized Consolidation Loans.* (A) *Loans first disbursed before July 1, 1995.* The interest rate is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans in paragraph (a)(1) of this section.

(B) *Loans first disbursed on or after July 1, 1995, and before July 1, 1998.* The interest rate is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans in paragraph (a)(2) of this section.

(C) *Loans for which the first disbursement is made on or after July 1, 1998, and prior to October 1, 1998, and loans for which the disbursement is made on or after October 1, 1998, for which the consolidation application was received by the Secretary before October 1, 1998.* The interest rate is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans in paragraph (a)(3) of this section.

(D) *Loans for which the consolidation application is received by the Secretary on or after October 1, 1998, and before February 1, 1999.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior

to that June 1 plus 2.3 percentage points, but does not exceed 8.25 percent.

(E) *Loans for which the consolidation application is received by the Secretary on or after February 1, 1999, and before July 1, 2013.* During all periods, the interest rate is based on the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher one-eighth of one percent, but does not exceed 8.25 percent.

(F) *Loans for which the consolidation application is received by the Secretary on or after July 1, 2013.* During all periods, the interest rate is based on the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher one-eighth of one percent.

(ii) *Interest rate for Direct PLUS Consolidation Loans.* (A) *Loans first disbursed before July 1, 1998.* The interest rate is the rate established for Direct PLUS Loans in paragraph (a)(9)(i) of this section.

(B) *Loans for which the first disbursement is made on or after July 1, 1998, and prior to October 1, 1998, and loans for which the disbursement is made on or after October 1, 1998, for which the consolidation application was received by the Secretary before October 1, 1998.* The interest rate is the rate established for Direct PLUS Loans in paragraph (a)(9)(ii) of this section.

(C) *Loans for which the consolidation application is received by the Secretary on or after October 1, 1998, and before February 1, 1999.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 2.3 percentage points, but does not exceed 8.25 percent.

(D) *Loans for which the consolidation application is received by the Secretary on or after February 1, 1999, and before July 1, 2006.* During all periods, the interest rate is based on the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher one-eighth of one percent, but does not exceed 8.25 percent.

(11) *Applicability of the Servicemembers Civil Relief Act (50 U.S.C. 527, App. sec. 207).* Notwithstanding paragraphs (a)(1) through (10) of this section, effective August 14, 2008, upon the Secretary's receipt of a borrower's written request and a copy of the borrower's military orders, the maximum interest rate, as defined in 50 U.S.C. 527, App. section 207(d), on Direct Loan Program loans made prior to the borrower entering active duty status is 6 percent while the borrower is on active duty military service.

(b) * * *

(2) For a Direct Unsubsidized Loan, a Direct Unsubsidized Consolidation Loan that qualifies for a grace period under the regulations that were in effect for consolidation applications received before July 1, 2006, a Direct PLUS Loan, or for a Direct Subsidized Loan for which the first disbursement is made on or after July 1, 2012, and before July 1, 2014, the Secretary may capitalize the unpaid interest that accrues on the loan when the borrower enters repayment.

* * * * *

■ 87. Section 685.203 is amended by:

■ A. Revising the introductory text of paragraph (a)(1).

■ B. In paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii), removing the words ''$2,625, or, for a loan disbursed on or after July 1, 2007, $3,500,'' and adding, in their place, the figure ''$3,500''.

■ C. Revising the introductory text of paragraph (a)(2).

■ D. In paragraphs (a)(2)(i) and (a)(2)(ii), removing the words ''$3,500, or, for a loan disbursed on or after July 1, 2007, $4,500,'' and adding, in their place, the figure ''$4,500''.

■ E. Revising the introductory text of paragraph (a)(3).

■ F. Revising paragraph (a)(5).

■ G. Revising the introductory text of paragraph (a)(6).

■ H. Revising paragraph (a)(7).

■ I. Revising paragraph (b).

■ J. In paragraph (c)(1)(i), removing the words ''Federal Direct Unsubsidized Loan Program'' and adding, in their place, the words ''Direct Unsubsidized Loan Program''.

■ K. Revising paragraph (c)(1)(ii).

■ L. In paragraph (c)(1)(iii), in the last sentence, removing the words ''Federal PLUS Loan or''.

■ M. Revising the introductory text of paragraph (c)(2).

■ N. In paragraphs (c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(i)(C), (c)(2)(ii)(A), and (c)(2)(ii)(B), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ O. In paragraphs (c)(2)(iii)(A) and (c)(2)(iii)(B), removing the words ''$5,000, or, for a loan first disbursed on or after July 1, 2008, $7,000,'' and adding, in their place, the figure ''$7,000''.

■ P. In paragraph (c)(2)(v), removing the words ''$10,000, or, for a loan disbursed on or after July 1, 2007,''.

■ Q. In paragraph (c)(2)(vi)(A), removing the words ''$4,000, or, for a loan first disbursed on or after July 1, 2008, $6,000,'' and adding, in their place, the figure ''$6,000''.

■ R. In paragraph (c)(2)(vi)(B), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007, $7,000,'' and adding, in their place, the figure ''$7,000''.

■ S. In paragraph (c)(2)(vii), removing the words ''$5,000, or, for a loan disbursed on or after July 1, 2007,''.

■ T. Revising the introductory text of paragraph (d).

■ U. Revising paragraph (e).

■ V. In paragraph (i)(1), adding the word ''Subsidized'' immediately before the words ''Federal Stafford Loans''.

■ W. In paragraph (i)(2), removing the words ''Federal Unsubsidized Stafford Loans'' and adding, in their place, the words ''Unsubsidized Federal Stafford Loans''.

The revisions read as follows:

§ 685.203 Loan limits.

(a) * * *

(1) In the case of an undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(2) In the case of an undergraduate student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(3) In the case of an undergraduate student who has successfully completed the first and second years of a program of study of undergraduate education but has not successfully completed the remainder of the program, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(5) In the case of a graduate or professional student for periods of enrollment beginning before July 1, 2012, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed $8,500.

(6) In the case of a student enrolled for no longer than one consecutive 12-month period in a course of study necessary for enrollment in a program leading to a degree or a certificate, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed the following:

* * * * *

(7) In the case of a student who has obtained a baccalaureate degree and is enrolled or accepted for enrollment in coursework necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State, the total amount the student may borrow for any academic year of study under the Direct Subsidized Loan Program may not exceed $5,500.

* * * * *

(b) *Direct Unsubsidized Loans.* (1) In the case of a dependent undergraduate student, except as provided in paragraph (c)(3) of this section, the total amount a student may borrow for any academic year of study under the Direct Unsubsidized Loan Program is the same as the amount determined under paragraph (a) of this section, less any amount received under the Direct Subsidized Loan Program, plus—

(i) $2,000 for a program of study of at least a full academic year in length.

(ii) For a program of study that is one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to $2,000 as the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter or clock hours in academic year}}$$

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to $2,000 as the lesser of the—

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

(2)(i) In the case of an independent undergraduate student or certain dependent undergraduate students under the conditions specified in paragraph (c)(1)(ii) of this section, except as provided in paragraph (c)(3) of this section, the total amount the student may borrow for any period of enrollment under the Direct Unsubsidized Loan Program may not exceed the amounts determined under paragraph (a) of this section less any amount received under the Direct Subsidized Loan Program in combination with the amounts determined under paragraph (c) of this section.

(ii) In the case of a graduate or professional student for a period of enrollment beginning before July 1, 2012, the total amount the student may borrow for any academic year of study under the Direct Unsubsidized Loan Program may not exceed the amount determined under paragraph (a)(5) of this section, less any amount received under the Direct Subsidized Loan Program.

(iii) In the case of a graduate or professional student for a period of enrollment beginning on or after July 1, 2012, the total amount the student may borrow for any academic year of study under the Direct Unsubsidized Loan Program may not exceed $8,500.

(c) * * *

(1) * * *

(ii) In order for a dependent undergraduate student to receive this additional loan amount, the financial aid administrator must determine that the student's parent likely will be precluded by exceptional circumstances from borrowing under the Direct PLUS Loan Program and the student's family is otherwise unable to provide the student's expected family contribution. The financial aid administrator must base the determination on a review of the family financial information provided by the student and consideration of the student's debt

burden and must document the determination in the school's file.

* * * * *

(2) The additional amount that a student described in paragraph (c)(1)(i) of this section may borrow under the Direct Unsubsidized Loan Program for any academic year of study may not exceed the following:

* * * * *

(d) *Aggregate limits for subsidized loans.* The aggregate unpaid principal amount of all Direct Subsidized Loans and Subsidized Federal Stafford Loans made to a student but excluding the amount of capitalized interest may not exceed the following:

* * * * *

(e) *Aggregate limits for unsubsidized loans.* The total amount of Direct Unsubsidized Loans, Unsubsidized Federal Stafford Loans, and Federal SLS Loans, excluding the amount of capitalized interest, may not exceed the following:

(1) For a dependent undergraduate student, $31,000 minus any Direct Subsidized Loan and Subsidized Federal Stafford Loan amounts, unless the student qualifies under paragraph (c) of this section for additional eligibility or qualified for that additional eligibility under the Federal SLS Program.

(2) For an independent undergraduate or a dependent undergraduate who qualifies for additional eligibility under paragraph (c) of this section or qualified for this additional eligibility under the Federal SLS Program, $57,500 minus any Direct Subsidized Loan and Subsidized Federal Stafford Loan amounts.

(3) For a graduate or professional student, $138,500, including any loans for undergraduate study, minus any Direct Subsidized Loan, Subsidized Federal Stafford Loan, and Federal SLS Program loan amounts.

* * * * *

■ 88. Section 685.204 is revised to read as follows:

§ 685.204 Deferment.

(a) *General.* (1) A Direct Subsidized Loan or Direct Subsidized Consolidation Loan borrower who meets the requirements described in paragraphs (b), (d), (e), (f), (g), (h), (i), or (j) of this section is eligible for a deferment during which periodic installments of principal and interest need not be paid.

(2) A Direct Unsubsidized Loan, Direct Unsubsidized Consolidation Loan, Direct PLUS Loan, or Direct PLUS Consolidation Loan borrower who meets the requirements described in paragraphs (b) through (j) of this section is eligible for a deferment during which periodic installments of principal need not be paid but interest does accrue and is capitalized or paid by the borrower. At or before the time a deferment is granted, the Secretary provides information, including an example, to assist the borrower in understanding the impact of capitalization of accrued, unpaid interest on the borrower's loan principal and on the total amount of interest to be paid over the life of the loan.

(3) A borrower whose loan is in default is not eligible for a deferment, unless the borrower has made payment arrangements satisfactory to the Secretary.

(4)(i) To receive a deferment, except as provided for in-school deferments under paragraphs (b)(2)(ii) through (iv) of this section, the borrower must request the deferment and, except as provided in paragraph (a)(5)(i) of this section, provide the Secretary with all information and documents required to establish eligibility for the deferment.

(ii) In the case of a military service deferment under paragraph (h) of this section, a borrower's representative may request the deferment and provide the required information and documents on behalf of the borrower. If the Secretary grants a military service deferment based on a request from a borrower's representative, the Secretary notifies the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan. The Secretary may also notify the borrower's representative of the outcome of the deferment request.

(5)(i) After receiving a borrower's written or verbal request for a deferment, the Secretary may grant a graduate fellowship deferment under paragraph (d), a rehabilitation training deferment under paragraph (e), an unemployment deferment under paragraph (f), an economic hardship deferment under paragraph (g), a military service deferment under paragraph (h), or a post-active duty student deferment under paragraph (i) of this section if the Secretary confirms that the borrower has received a deferment on a FFEL Program loan for the same reason and during the same time period.

(ii) The Secretary will grant a deferment based on the information obtained under paragraph (a)(5)(i) of this section when determining a borrower's eligibility for a deferment, unless the Secretary, as of the date of the determination, has information indicating that the borrower does not qualify for the deferment. The Secretary will resolve any discrepant information before granting a deferment under paragraph (a)(5)(i) of this section.

(iii) If the Secretary grants a deferment under paragraph (a)(5)(i) of this section, the Secretary notifies the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan.

(b) *In-school deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period during which—

(i) The borrower is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible school the borrower is attending; and

(ii) The borrower is not serving in a medical internship or residency program, except for a residency program in dentistry.

(2) For the purpose of paragraph (b)(1) of this section, the Secretary processes a deferment when—

(i) The borrower submits a request to the Secretary along with documentation verifying the borrower's eligibility;

(ii) The Secretary receives information from the borrower's school indicating that the borrower is eligible to receive a new loan;

(iii) The Secretary receives student status information from the borrower's school, either directly or indirectly, indicating that the borrower is enrolled on at least a half-time basis; or

(iv) The Secretary confirms a borrower's half-time enrollment status through the use of the National Student Loan Data System if requested to do so by the school the borrower is attending.

(3)(i) Upon notification by the Secretary that a deferment has been granted based on paragraph (b)(2)(ii), (iii), or (iv) of this section, the borrower has the option to cancel the deferment and continue to make payments on the loan.

(ii) If the borrower elects to cancel the deferment and continue to make payments on the loan, the borrower has the option to make the principal and interest payments that were deferred. If the borrower does not make the payments, the Secretary applies a deferment for the period in which payments were not made and capitalizes the interest.

(c) *In-school deferments for Direct PLUS Loan borrowers with loans first disbursed on or after July 1, 2008.* (1)(i) A student Direct PLUS Loan borrower is eligible for a deferment on a Direct PLUS Loan first disbursed on or after July 1, 2008 during the six-month period that begins on the day after the

student ceases to be enrolled on at least a half-time basis at an eligible institution.

(ii) If the Secretary grants an in-school deferment to a student Direct PLUS Loan borrower in accordance with § 685.204(b)(2)(ii), (iii), or (iv), the deferment period for a Direct PLUS Loan first disbursed on or after July 1, 2008 includes the six-month post-enrollment period described in paragraph (c)(1)(i) of this section.

(2) A parent Direct PLUS Loan borrower is eligible for a deferment on a Direct PLUS Loan first disbursed on or after July 1, 2008—

(i) Upon the request of the borrower, during the period when the student on whose behalf the loan was obtained is enrolled at an eligible institution on at least a half-time basis; and

(ii) Upon the request of the borrower, during the six-month period that begins on the later of the day after the student on whose behalf the loan was obtained ceases to be enrolled on at least a half-time basis or, if the parent borrower is also a student, the day after the parent borrower ceases to be enrolled on at least a half-time basis.

(d) *Graduate fellowship deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period in which an authorized official of the borrower's graduate fellowship program certifies that the borrower is pursuing a course of study pursuant to an eligible graduate fellowship program in accordance with paragraph (d)(2) of this section.

(2)(i) To qualify for a deferment under paragraph (d)(1) of this section, a borrower must—

(A) Hold at least a baccalaureate degree conferred by an institution of higher education;

(B) Have been accepted or recommended by an institution of higher education for acceptance on a full-time basis into an eligible graduate fellowship program, as defined in paragraph (d)(2)(ii) of this section; and

(C) Not be serving in a medical internship or residency program, except for a residency program in dentistry.

(ii) An eligible graduate fellowship program is a fellowship program that—

(A) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;

(B) Requires a written statement from each applicant explaining the applicant's objectives before the award of that financial support;

(C) Requires a graduate fellow to submit periodic reports, projects, or evidence of the fellow's progress; and

(D) In the case of a course of study at a foreign university, accepts the course of study for completion of the fellowship program.

(e) *Rehabilitation training program deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period in which an authorized official of the borrower's rehabilitation training program certifies that the borrower is pursuing an eligible rehabilitation training program for individuals with disabilities in accordance with paragraph (e)(2) of this section.

(2) For purposes of paragraph (e)(1) of this section, an eligible rehabilitation training program for disabled individuals is a program that—

(i) Is licensed, approved, certified, or otherwise recognized as providing rehabilitation training to disabled individuals by—

(A) A State agency with responsibility for vocational rehabilitation programs;

(B) A State agency with responsibility for drug abuse treatment programs;

(C) A State agency with responsibility for mental health services programs;

(D) A State agency with responsibility for alcohol abuse treatment programs; or

(E) The Department of Veterans Affairs; and

(ii) Provides or will provide the borrower with rehabilitation services under a written plan that—

(A) Is individualized to meet the borrower's needs;

(B) Specifies the date on which the services to the borrower are expected to end; and

(C) Is structured in a way that requires a substantial commitment by the borrower to his or her rehabilitation. The Secretary considers a substantial commitment by the borrower to be a commitment of time and effort that normally would prevent an individual from engaging in full-time employment, either because of the number of hours that must be devoted to rehabilitation or because of the nature of the rehabilitation. For the purpose of this paragraph, full-time employment involves at least 30 hours of work per week and is expected to last at least three months.

(f) *Unemployment deferment.* (1) A Direct Loan borrower is eligible for a deferment during periods that, collectively, do not exceed three years in which the borrower is seeking and unable to find full-time employment.

(2) A borrower qualifies for an unemployment deferment by—

(i) Providing evidence of eligibility for unemployment benefits to the Secretary; or

(ii) Providing to the Secretary a written certification, or an equivalent as approved by the Secretary, that—

(A) The borrower has registered with a public or private employment agency, if one is available to the borrower within a 50-mile radius of the borrower's current address; and

(B) For all requests beyond the initial request, the borrower has made at least six diligent attempts during the preceding six-month period to secure full-time employment.

(3) For purposes of obtaining an unemployment deferment under paragraph (f)(2)(ii) of this section, the following rules apply:

(i) A borrower may qualify for an unemployment deferment whether or not the borrower has been previously employed.

(ii) An unemployment deferment is not justified if the borrower refuses to seek or accept employment in kinds of positions or at salary and responsibility levels for which the borrower feels overqualified by virtue of education or previous experience.

(iii) Full-time employment involves at least 30 hours of work a week and is expected to last at least three months.

(iv) The initial period of unemployment deferment may be granted for a period of unemployment beginning up to six months before the date the Secretary receives the borrower's request, and may be granted for up to six months after that date.

(4) The Secretary does not grant an unemployment deferment beyond the date that is six months after the date the borrower provides evidence of the borrower's eligibility for unemployment insurance benefits under paragraph (f)(2)(i) of this section or the date the borrower provides the written certification, or an approved equivalent, under paragraph (f)(2)(ii) of this section.

(g) *Economic hardship deferment.* (1)(i) A Direct Loan borrower is eligible for a deferment during periods that, collectively, do not exceed three years in which the borrower has experienced or will experience an economic hardship in accordance with paragraph (g)(2) of this section.

(ii) An economic hardship deferment is granted for periods of up to one year at a time, except that a borrower who receives a deferment under paragraph (g)(2)(iv) of this section may receive an economic hardship deferment for the lesser of the borrower's full term of service in the Peace Corps or the borrower's remaining period of economic hardship deferment eligibility under the 3-year maximum.

(2) A borrower qualifies for an economic hardship deferment if the borrower—

(i) Has been granted an economic hardship deferment under either the FFEL or the Federal Perkins Loan programs for the period of time for

which the borrower has requested an economic hardship deferment for his or her Direct Loan;

(ii) Is receiving payment under a Federal or State public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or State general public assistance;

(iii) Is working full-time (as defined in paragraph (g)(3)(iii) of this section) and has a monthly income (as defined in paragraph (g)(3)(iv) of this section) that does not exceed the greater of (as calculated on a monthly basis)—

(A) The minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

(B) An amount equal to 150 percent of the poverty guideline applicable to the borrower's family size (as defined in paragraph (g)(3)(v) of this section) as published annually by the Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). If a borrower is not a resident of a State identified in the poverty guidelines, the poverty guideline to be used for the borrower is the poverty guideline (for the relevant family size) used for the 48 contiguous States; or

(iv) Is serving as a volunteer in the Peace Corps.

(3) The following rules apply to a deferment granted under paragraph (g)(2)(iii) of this section:

(i) For an initial period of deferment, the Secretary requires the borrower to submit evidence showing the amount of the borrower's monthly income.

(ii) To qualify for a subsequent period of deferment that begins less than one year after the end of a period of deferment under paragraph (g)(2)(iii) of this section, the Secretary requires the borrower to submit evidence showing the amount of the borrower's monthly income or a copy of the borrower's most recently filed Federal income tax return.

(iii) A borrower is considered to be working full-time if the borrower is expected to be employed for at least three consecutive months at 30 hours per week.

(iv) A borrower's monthly income is the gross amount of income received by the borrower from employment and from other sources, or one-twelfth of the borrower's adjusted gross income, as recorded on the borrower's most recently filed Federal income tax return.

(v) Family size means the number that is determined by counting the borrower, the borrower's spouse, and the borrower's children, including unborn children who will be born during the period covered by the deferment, if the children receive more than half their support from the borrower. A borrower's family size includes other individuals if, at the time the borrower requests the economic hardship deferment, the other individuals—

(A) Live with the borrower; and

(B) Receive more than half their support from the borrower and will continue to receive this support from the borrower for the year the borrower certifies family size. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs.

(h) *Military service deferment.* (1) A Direct Loan borrower is eligible for a deferment during any period in which the borrower is—

(i) Serving on active duty during a war or other military operation or national emergency, as defined in paragraph (h)(5) of this section; or

(ii) Performing qualifying National Guard duty during a war or other military operation or national emergency, as defined in paragraph (h)(5) of this section.

(2) For a borrower whose active duty service includes October 1, 2007, or begins on or after that date, the deferment period ends 180 days after the demobilization date for each period of the service described in paragraphs (h)(1)(i) and (h)(1)(ii) of this section.

(3) Without supporting documentation, the military service deferment will be granted to an otherwise eligible borrower for a period not to exceed the initial 12 months from the date the qualifying eligible service began based on a request from the borrower or the borrower's representative.

(4) The provisions of paragraph (h) of this section do not authorize the refunding of any payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment.

(5) As used in paragraph (h) of this section—

(i) *Serving on active duty during a war or other military operation or national emergency* means service by an individual who is—

(A) A Reserve of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306;

(B) A retired member of an Armed Force ordered to active duty under 10 U.S.C. 688 for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; or

(C) Any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the member is normally assigned;

(ii) *Qualifying National Guard duty during a war or other operation or national emergency* means service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f) in connection with a war, other military operation, or national emergency declared by the President and supported by Federal funds;

(iii) *Active duty* means active duty as defined in 10 U.S.C. 101(d)(1) except that it does not include active duty for training or attendance at a service school;

(iv) *Military operation* means a contingency operation as defined in 10 U.S.C. 101(a)(13); and

(v) *National emergency* means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(i) *Post-active duty student deferment.* (1) A Direct Loan borrower is eligible for a deferment for 13 months following the conclusion of the borrower's active duty military service and any applicable grace period if—

(i) The borrower is a member of the National Guard or other reserve component of the Armed Forces of the United States or a member of such forces in retired status; and

(ii) The borrower was enrolled on at least a half-time basis in a program of instruction at an eligible institution at the time, or within six months prior to the time, the borrower was called to active duty.

(2) As used in paragraph (i)(1) of this section, ''active duty'' means active duty as defined in 10 U.S.C. 101(d)(1) for at least a 30-day period, except that—

(i) Active duty includes active State duty for members of the National Guard under which a Governor activates National Guard personnel based on State statute or policy and the activities of the National Guard are paid for with State funds;

(ii) Active duty includes full-time National Guard duty under which a Governor is authorized, with the approval of the President or the U.S. Secretary of Defense, to order a member to State active duty and the activities of the National Guard are paid for with Federal funds;

(iii) Active duty does not include active duty for training or attendance at a service school; and

(iv) Active duty does not include employment in a full-time, permanent position in the National Guard unless the borrower employed in such a position is reassigned to active duty under paragraph (i)(2)(i) of this section or full-time National Guard duty under paragraph (i)(2)(ii) of this section.

(3) If the borrower returns to enrolled student status on at least a half-time basis during the grace period or the 13-month deferment period, the deferment expires at the time the borrower returns to enrolled student status on at least a half-time basis.

(4) If a borrower qualifies for both a military service deferment and a post-active duty student deferment, the 180-day post-demobilization military service deferment period and the 13-month post-active duty student deferment period apply concurrently.

(j) *Additional deferments for Direct Loan borrowers with FFEL Program loans made before July 1, 1993.* If, at the time of application for a borrower's first Direct Loan, a borrower has an outstanding balance of principal or interest owing on any FFEL Program loan that was made, insured, or guaranteed prior to July 1, 1993, the borrower is eligible for a deferment during—

(1) The periods described in paragraphs (b) through (i) of this section; and

(2) The periods described in 34 CFR 682.210(b), including those periods that apply to a ''new borrower'' as that term is defined in 34 CFR 682.210(b)(7).

(Approved by the Office of Management and Budget under control number 1845–0021)

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 89. Section 685.205 is amended by:

■ A. In paragraph (a)(4), removing the word ''or'' that appears after the punctuation ''\;''.

■ B. Revising paragraph (a)(5).

■ C. Adding new paragraphs (a)(8) and (a)(9).

■ D. In paragraph (b)(2), removing the words ''authorized deferment period'' and adding, in their place, the words ''authorized deferment or forbearance period''.

The additions read as follows:

§ 685.205 Forbearance.

(a) * * *

(5)(i) The borrower is performing the type of service that would qualify the borrower for loan forgiveness under the requirements of the teacher loan forgiveness program in § 685.217.

(ii) Before a forbearance is granted under § 685.205(a)(5)(i), the borrower must—

(A) Submit documentation for the period of the annual forbearance request showing the beginning and ending dates that the borrower is expected to perform, for that year, the type of service described in § 685.217(c); and

(B) Certify the borrower's intent to satisfy the requirements of § 685.217(c).

(iii) The Secretary grants forbearance under paragraph (a)(5) of this section only if the Secretary believes, at the time of the borrower's annual request, that the expected forgiveness amount under § 685.217(d) will satisfy the anticipated remaining outstanding balance on the borrower's loan at the time of the expected forgiveness;

* * * * *

(8)(i) The Secretary may grant a forbearance to permit a borrower or endorser to resume honoring the agreement to repay the debt after default. The terms of the forbearance agreement in this situation must include a new agreement to repay the debt signed by the borrower or endorser or a written or oral affirmation of the borrower's or endorser's obligation to repay the debt.

(ii) If the forbearance is based on the borrower's or endorser's oral affirmation of the obligation to repay the debt, the forbearance period is limited to 120 days, such a forbearance is not granted consecutively, and the Secretary will—

(A) Orally review with the borrower the terms and conditions of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower;

(B) Send a notice to the borrower or endorser that confirms the terms of the forbearance and the borrower's or endorser's affirmation of the obligation to repay the debt and that includes information on all other repayment options available to the borrower; and

(C) Retain a record of the terms of the forbearance and affirmation in the borrower's or endorser's file.

(iii) For purposes of this section, an ''affirmation'' means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation may include, but is not limited to, the borrower's or endorser's—

(A) New signed repayment agreement or schedule, or another form of signed agreement to repay the debt;

(B) Oral acknowledgement and agreement to repay the debt documented by the Secretary in the borrower's or endorser's file and confirmed by the Secretary in a notice to the borrower; or

(C) A payment made on the loan by the borrower or endorser.

(9)(i) The borrower is performing the type of service that would qualify the borrower for a partial repayment of his or her loan under the Student Loan Repayment Programs administered by the Department of Defense under 10 U.S.C. 2171, 2173, 2174, or any other student loan repayment programs administered by the Department of Defense.

(ii) To receive a forbearance under this paragraph, the borrower must submit documentation showing the time period during which the Department of Defense considers the borrower to be eligible for a partial repayment of his or her loan under a student loan repayment program.

* * * * *

§ 685.206 [Amended]

■ 90. Section 685.206 is amended by:

■ A. In the introductory text of paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. In paragraph (b)(1), removing the word ''shall'' and adding, in its place, the word ''must''.

■ C. In paragraph (b)(2), removing the word ''shall'' and adding, in its place, the word ''must''.

■ D. In paragraph (c)(1)(iv), removing the words ''Credit bureau'' and adding, in their place, the words ''Consumer reporting agency''.

■ E. In paragraph (c)(2)(iii), removing the words ''credit bureaus'' and adding, in their place, the words ''consumer reporting agencies''.

■ 91. Section 685.207 is amended by:

■ A. Revising paragraph (a)(2).

■ B. Adding a new paragraph (a)(3).

■ C. In paragraph (b)(1)(ii), removing the citation ''§ 685.204'' and adding, in its place, the citation ''§ 685.204(b)''.

■ D. Revising paragraph (b)(3).

The revisions and addition read as follows:

§ 685.207 Obligation to repay.

(a) * * *

(2) The borrower's repayment of a Direct Loan may also be subject to the deferment provisions in § 685.204, the forbearance provisions in § 685.205, the discharge provisions in § 685.212, and the loan forgiveness provisions in §§ 685.217 and 685.219.

(3) A borrower's first payment on a Direct Loan is due within 60 days of the beginning date of the repayment period as determined in accordance with

paragraph (b), (c), (d), or (e) of this section.

(b) * * *

(3)(i) A borrower is not obligated to pay interest on a Direct Subsidized Loan during periods when the borrower is enrolled at an eligible school on at least a half-time basis unless the borrower is required to make payments on the loan during those periods under paragraph (b)(1) of this section.

(ii) Except as provided in paragraph (b)(3)(iii) of this section, a borrower is not obligated to pay interest on a Direct Subsidized Loan during grace periods.

(iii) In the case of a Direct Subsidized Loan for which the first disbursement is made on or after July 1, 2012 and before July 1, 2014, a borrower is responsible for the interest that accrues during the grace period.

* * * * *

§ 685.208 [Amended]

■ 92. Section 685.208 is amended by:

■ A. In paragraph (a)(5), removing the words ''income contingent'' and adding, in their place, the words ''income-contingent''.

■ B. In paragraph (j)(1), removing the word ''then'' and adding, in its place, the word ''than''.

■ C. In paragraph (m)(1), adding the words ''or, for a new borrower as of July 1, 2014, as defined in § 685.221(a)(4), 10 percent'' immediately after the words ''15 percent''.

■ 93. Section 685.210 is amended by:

■ A. Revising paragraph (a)(2).

■ B. Revising the introductory text of paragraph (b)(1).

■ C. Revising paragraph (b)(1)(i).

■ D. In paragraph (b)(2)(i), removing the words ''income contingent'' and adding, in their place, the words ''income-contingent''.

The revisions read as follows:

§ 685.210 Choice of repayment plan.

(a) * * *

(2) If a borrower does not select a repayment plan, the Secretary designates the standard repayment plan described in § 685.208(b) or (c) for the borrower, as applicable.

(b) * * *

(1) A borrower may change repayment plans at any time after the loan has entered repayment by notifying the Secretary. However, a borrower who is repaying a defaulted loan under an income-contingent repayment plan or the income-based repayment plan in accordance with § 685.211(d)(3)(ii), or who is repaying a Direct Consolidation Loan under the income-contingent repayment plan or the income-based repayment plan in accordance with § 685.220(d)(1)(ii)(A)(*3*) may not change to another repayment plan unless—

(i) The borrower was required to and did make a payment under the income-contingent repayment plan or income-based repayment plan in each of the prior three months; or

* * * * *

■ 94. Section 685.211 is amended by:

■ A. In paragraph (d)(3)(i), removing the words ''national credit bureaus'' and adding, in their place, the words ''nationwide consumer reporting agencies''.

■ B. In paragraph (d)(3)(ii), removing the words ''income contingent'' and adding, in their place, the words ''income-contingent''.

■ C. Revising paragraph (f).

The revision reads as follows:

§ 685.211 Miscellaneous repayment provisions.

* * * * *

(f) *Rehabilitation of defaulted loans.* (1) A defaulted Direct Loan, except for a loan on which a judgment has been obtained, is rehabilitated if the borrower makes 9 voluntary, reasonable and affordable monthly payments within 20 days of the due date during 10 consecutive months. The Secretary determines the amount of a borrower's reasonable and affordable payment on the basis of a borrower's total financial circumstances.

(i) The Secretary initially considers the borrower's reasonable and affordable payment amount to be an amount equal to 15 percent of the amount by which the borrower's AGI exceeds 150 percent of the poverty guideline amount applicable to the borrower's family size and State, divided by 12, except that if this amount is less than $5, the borrower's monthly rehabilitation payment is $5.

(ii) The Secretary may calculate the payment amount based on information provided orally by the borrower or the borrower's representative and provide the borrower with a rehabilitation agreement using that amount. The Secretary requires the borrower to provide documentation to confirm the borrower's AGI and family size. If the borrower does not provide the Secretary with any documentation requested by the Secretary to calculate or confirm the reasonable and affordable payment amount within a reasonable time deadline set by the Secretary, the rehabilitation agreement provided is null and void.

(iii) A reasonable and affordable payment amount is not—

(A) A required minimum loan payment amount (*e.g.,* $50) if the Secretary determines that a smaller amount is reasonable and affordable;

(B) A percentage of the borrower's total loan balance; or

(C) Based on other criteria unrelated to the borrower's total financial circumstances.

(iv) Within 15 business days of the Secretary's determination of the borrower's loan rehabilitation payment amount, the Secretary provides the borrower with a written rehabilitation agreement which includes the borrower's reasonable and affordable payment amount, a prominent statement that the borrower may object orally or in writing to the reasonable and affordable payment amount with the method and timeframe for raising such an objection, a statement that the rehabilitation is null and void if the borrower does not provide the documentation required to calculate the reasonable and affordable payment amount, and an explanation of any other terms and conditions applicable to the required series of payments that must be made. To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the Secretary. The Secretary does not impose any other conditions unrelated to the amount or timing of the rehabilitation payments in the rehabilitation agreement. The written rehabilitation agreement informs the borrower of the effects of having the loans rehabilitated (*e.g.,* removal of the record of default from the borrower's credit history and return to normal repayment).

(2) The Secretary provides the borrower with a written statement confirming the borrower's reasonable and affordable payment amount, as determined by the Secretary, and explaining any other terms and conditions applicable to the required series of payments that must be made before the borrower's account can be rehabilitated. The statement informs the borrower that the borrower may object to the terms and conditions of the rehabilitation agreement, and explains the method and timeframe for objecting to the terms and conditions of the rehabilitation agreement.

(3) If the borrower objects to the monthly payment amount determined under paragraph (f)(1) of this section, the Secretary recalculates the payment based solely on information provided on a form approved by the Secretary and, if requested, supporting documentation from the borrower and other sources, and considers—

(i) The borrower's, and if applicable, the spouse's current disposable income, including public assistance payments,

and other income received by the borrower and the spouse, such as welfare benefits, Social Security benefits, Supplemental Security Income, and workers' compensation. Spousal income is not considered if the spouse does not contribute to the borrower's household income;

(ii) Family size as defined in § 685.221(a)(3); and

(iii) Reasonable and necessary expenses, which include—

(A) Food;

(B) Housing;

(C) Utilities;

(D) Basic communication expenses;

(E) Necessary medical and dental costs;

(F) Necessary insurance costs;

(G) Transportation costs;

(H) Dependent care and other work-related expenses;

(I) Legally required child and spousal support;

(J) Other title IV and non-title IV student loan payments; and

(K) Other expenses approved by the Secretary.

(4) The Secretary provides the borrower with a new written rehabilitation agreement confirming the borrower's recalculated reasonable and affordable payment amount. To accept the agreement, the borrower must sign and return the agreement or accept the agreement electronically under a process provided by the Secretary.

(5) The Secretary includes any payment made under paragraph (1) of the definition of ''satisfactory repayment arrangement'' in § 685.102(b) in determining whether the 9 out of 10 payments required under paragraph (f)(1) of this section have been made.

(6) A borrower may request that the monthly payment amount be adjusted due to a change in the borrower's total financial circumstances only upon providing the documentation specified in paragraph (f)(3) of this section.

(7) During the rehabilitation period, the Secretary limits contact with the borrower on the loan being rehabilitated to collection activities that are required by law or regulation and to communications that support the rehabilitation.

(8) If a defaulted loan is rehabilitated, the Secretary instructs any consumer reporting agency to which the default was reported to remove the default from the borrower's credit history.

(9) A defaulted Direct Loan on which a judgment has been obtained may not be rehabilitated.

(10) A Direct Loan obtained by fraud for which the borrower has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance may not be rehabilitated.

(11)(i) If a borrower's loan is being collected by administrative wage garnishment while the borrower is also making monthly payments on the same loan under a loan rehabilitation agreement, the Secretary continues collecting the loan by administrative wage garnishment until the borrower makes five qualifying monthly payments under the rehabilitation agreement, unless the Secretary is otherwise precluded from doing so.

(ii) After the borrower makes the fifth qualifying monthly payment, the Secretary, unless otherwise directed by the borrower, suspends the garnishment order issued to the borrower's employer.

(iii) A borrower may only obtain the benefit of a suspension of administrative wage garnishment while also attempting to rehabilitate a defaulted loan once.

(12) Effective for any defaulted Direct Loan that is rehabilitated on or after August 14, 2008, the borrower cannot rehabilitate the loan again if the loan returns to default status following the rehabilitation.

* * * * *

§ 685.212 [Amended]

■ 95. Section 685.212 is amended by:

■ A. In paragraph (a)(3), removing the words ''Direct PLUS Consolidation Loan'' and adding, in their place, the words ''Direct Consolidation Loan''.

■ B. In paragraph (b), removing the citation ''§ 685.213(c)'' and adding, in its place, the citation ''§ 685.213''.

■ 96. Section 685.214 is amended by:

■ A. Revising paragraph (a)(2)(ii).

■ B. Revising paragraph (b)(4).

■ C. Revising paragraph (c).

■ D. In paragraph (d)(1), removing the word ''shall'' each time it appears and adding, in its place, the word ''must''.

■ E. In paragraph (f)(1), removing the number and words ''90 days'' and adding, in their place, the number and words ''120 days''.

The revisions read as follows:

§ 685.214 Closed school discharge.

(a) * * *

(2) * * *

(ii) ''School'' means a school's main campus or any location or branch of the main campus, regardless of whether the school or its location or branch is considered eligible.

(b) * * *

(4) The Secretary reports the discharge of a loan under this section to all consumer reporting agencies to which the Secretary previously reported the status of the loan, so as to delete all adverse credit history assigned to the loan.

(c) *Borrower qualification for discharge.* (1) In order to qualify for discharge of a loan under this section, a borrower must submit to the Secretary a written request and sworn statement, and the factual assertions in the statement must be true. The statement need not be notarized but must be made by the borrower under penalty of perjury. In the statement, the borrower must—

(i) State that the borrower (or the student on whose behalf a parent borrowed)—

(A) Received the proceeds of a loan, in whole or in part, on or after January 1, 1986 to attend a school;

(B) Did not complete the program of study at that school because the school closed while the student was enrolled, or the student withdrew from the school not more than 120 days before the school closed. The Secretary may extend the 120-day period if the Secretary determines that exceptional circumstances related to a school's closing justify an extension. Exceptional circumstances for this purpose may include, but are not limited to: the school's loss of accreditation; the school's discontinuation of the majority of its academic programs; action by the State to revoke the school's license to operate or award academic credentials in the State; or a finding by a State or Federal government agency that the school violated State or Federal law; and

(C) Did not complete the program of study through a teach-out at another school or by transferring academic credits or hours earned at the closed school to another school;

(ii) State whether the borrower (or student) has made a claim with respect to the school's closing with any third party, such as the holder of a performance bond or a tuition recovery program, and, if so, the amount of any payment received by the borrower (or student) or credited to the borrower's loan obligation; and

(iii) State that the borrower (or student)—

(A) Agrees to provide to the Secretary upon request other documentation reasonably available to the borrower that demonstrates that the borrower meets the qualifications for discharge under this section; and

(B) Agrees to cooperate with the Secretary in enforcement actions in accordance with paragraph (d) of this section and to transfer any right to recovery against a third party to the Secretary in accordance with paragraph (e) of this section.

(2) The Secretary may discharge a loan under this section without an application from the borrower if the Secretary determines, based on information in the Secretary's possession, that the borrower qualifies for the discharge.

* * * * *

■ 97. Section 685.215 is amended by:
■ A. In paragraph (a)(1)(iv), removing the citation ''§ 682.402(e)(14)'' and adding, in its place, the words ''paragraph (c)(4)(ii) of this section''.
■ B. Revising paragraph (b)(5).
■ C. In the introductory text of paragraph (c), removing the word ''shall'' each time it appears and adding, in its place, the word ''must''.
■ D. In the introductory text of paragraph (c)(1), removing the word ''shall'' and adding, in its place, the word ''must''.
■ E. In the introductory text of paragraph (c)(2), removing the word ''shall'' and adding, in its place, the word ''must''.
■ F. In the introductory text of paragraph (c)(3), removing the word ''shall'' and adding, in its place, the word ''must''.
■ G. Revising paragraph (c)(4).
■ H. In paragraph (c)(5), removing the word ''shall'' and adding, it its place, the word ''must''.
■ I. In the introductory text of paragraph (c)(6), removing the word ''shall'' and adding, in its place, the word ''must''.

The revisions read as follows:

§ 685.215 Discharge for false certification of student eligibility or unauthorized payment.

* * * * *

(b) * * *

(5) The Secretary reports the discharge under this section to all consumer reporting agencies to which the Secretary previously reported the status of the loan, so as to delete all adverse credit history assigned to the loan.

(c) * * *

(4) *Identity theft.* (i) In the case of an individual whose eligibility to borrow was falsely certified because he or she was a victim of the crime of identity theft and is requesting a discharge, the individual must—

(A) Certify that the individual did not sign the promissory note, or that any other means of identification used to obtain the loan was used without the authorization of the individual claiming relief;

(B) Certify that the individual did not receive or benefit from the proceeds of the loan with knowledge that the loan had been made without the authorization of the individual;

(C) Provide a copy of a local, State, or Federal court verdict or judgment that conclusively determines that the individual who is named as the borrower of the loan was the victim of a crime of identity theft; and

(D) If the judicial determination of the crime does not expressly state that the loan was obtained as a result of the crime of identity theft, provide—

(*1*) Authentic specimens of the signature of the individual, as provided in paragraph (c)(2)(ii) of this section, or of other means of identification of the individual, as applicable, corresponding to the means of identification falsely used to obtain the loan; and

(*2*) A statement of facts that demonstrate, to the satisfaction of the Secretary, that eligibility for the loan in question was falsely certified as a result of the crime of identity theft committed against that individual.

(ii)(A) For purposes of this section, identity theft is defined as the unauthorized use of the identifying information of another individual that is punishable under 18 U.S.C. 1028, 1028A, 1029, or 1030, or substantially comparable State or local law.

(B) Identifying information includes, but is not limited to—

(*1*) Name, Social Security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, and employer or taxpayer identification number;

(*2*) Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation;

(*3*) Unique electronic identification number, address, or routing code; or

(*4*) Telecommunication identifying information or access device (as defined in 18 U.S.C. 1029(e)).

* * * * *

§ 685.216 [Amended]

■ 98. Section 685.216(b)(2) is amended by removing the word ''credit'' and adding, in its place, the word ''consumer''.

■ 99. Section 685.217 is amended by:
■ A. Revising paragraph (a)(1).
■ B. In the last sentence of paragraph (a)(2)(i), adding the word ''for'' immediately before the words ''an eligible educational service agency''.
■ C. In paragraph (a)(2)(iii), removing the word ''at'' each time it appears and adding, in its place, the word ''for''.
■ D. In paragraph (a)(3), removing the words ''FFEL and Direct Loan'' and adding, in their place, the words ''Direct Loan and FFEL''.
■ E. In the introductory text of paragraph (a)(4), removing the words ''FFEL and Direct Loan'' and adding, in their place, the words ''Direct Loan and FFEL''.
■ F. In paragraph (a)(4)(i), removing the word ''at'' the second time it appears and adding, in its place, the word ''by''.
■ G. In paragraph (a)(4)(ii), adding the words ''by an eligible'' immediately before the words ''educational service agency''.
■ H. In the introductory text of paragraph (c)(1), adding the word ''by'' immediately before the words ''an educational service agency''.
■ I. In paragraph (c)(1)(iii), removing the last sentence.
■ J. Redesignating paragraphs (c)(2) through (c)(11) as paragraphs (c)(3) through (c)(12), respectively.
■ K. Adding a new paragraph (c)(2).
■ L. In redesignated paragraph (c)(4)(ii)(A), removing the word ''at'' the second time it appears and adding, in its place, the word ''for''.
■ M. In redesignated paragraph (c)(4)(ii)(B), adding the words ''for an eligible'' immediately before the words ''educational service agency''.
■ N. In redesignated paragraph (c)(4)(iii), removing the word ''at'' each time it appears and adding, in its place, the word ''for''.
■ O. In redesignated paragraph (c)(5)(i), adding the words ''for an eligible'' immediately before the words ''educational service agency''.
■ P. In redesignated paragraph (c)(5)(ii)(A), removing the word ''at'' the second time it appears and adding, in its place, the word ''for''.
■ Q. In redesignated paragraph (c)(5)(ii)(B), adding the words ''for an eligible'' immediately before the words ''educational service agency''.
■ R. In redesignated paragraph (c)(5)(iii), removing the word ''at'' each time it appears and adding, in its place, the word ''for''.
■ S. Revising the introductory text of redesignated paragraph (c)(7).
■ T. Revising redesignated paragraph (c)(9).
■ U. Revising redesignated paragraph (c)(10).
■ V. Adding a new paragraph (c)(13).
■ W. Revising paragraph (d)(1).
■ X. In paragraph (d)(2), removing the words ''paragraphs (c)(3)(ii) or (c)(4)(ii)'' and adding, in their place, the words ''paragraph (c)(4)(ii) or (c)(5)(ii)''.

The revisions and addition read as follows:

§ 685.217 Teacher loan forgiveness program.

(a) * * *

(1) The teacher loan forgiveness program is intended to encourage

individuals to enter and continue in the teaching profession. For new borrowers, the Secretary repays the amount specified in this paragraph (a) on the borrower's Direct Subsidized Loans, Direct Unsubsidized Loans, Subsidized and Unsubsidized Federal Stafford Loans, and in certain cases, Direct Consolidation Loans or Federal Consolidation Loans. The forgiveness program is only available to a borrower who has no outstanding loan balance under the Direct Loan Program or the FFEL Program on October 1, 1998, or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998.

* * * * *

(c) * * *

(2) The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Education (BIE) or operated on Indian reservations by Indian tribal groups under contract with the BIE to qualify as schools serving low-income students.

* * * * *

(7) For teacher loan forgiveness applications received by the Secretary on or after July 1, 2006, a teacher in a private, non-profit elementary or secondary school who is exempt from State certification requirements (unless otherwise applicable under State law) may qualify for loan forgiveness under paragraphs (c)(4)(ii) or (c)(5) of this section if—

* * * * *

(9) A borrower's period of postsecondary education, qualifying FMLA condition, or military active duty as described in paragraph (c)(8) of this section, including the time necessary for the borrower to resume qualifying teaching no later than the beginning of the next regularly scheduled academic year, does not constitute a break in the required five consecutive years of qualifying teaching service.

(10) A borrower who was employed as a teacher at more than one qualifying school, for more than one qualifying educational service agency, or a combination of both during an academic year and demonstrates that the combined teaching was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools or educational service agencies involved, is considered to have completed one academic year of qualifying teaching.

* * * * *

(13) A borrower may request forbearance during each of the five years of qualifying teaching service in accordance with § 685.205(a)(5).

(d) * * *

(1) A qualified borrower is eligible for forgiveness of up to $5,000, or up to $17,500 if the borrower meets the requirements of paragraph (c)(4)(ii) or (c)(5)(ii) of this section. The forgiveness amount is deducted from the aggregate amount of the borrower's Direct Subsidized Loan or Direct Unsubsidized Loan or Direct Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as described in paragraph (c) of this section. Only the outstanding portion of the Direct Consolidation Loan that was used to repay an eligible Direct Subsidized Loan, an eligible Direct Unsubsidized Loan, or an eligible Subsidized or Unsubsidized Federal Stafford Loan qualifies for loan forgiveness under this section.

* * * * *

■ 100. Section 685.218 is amended by:

■ A. In paragraph (b)(4), removing the words ''FFEL or Direct'' and adding, in their place, the words ''Direct or FFEL''.

■ B. Revising paragraph (d)(3).

■ C. In paragraph (d)(6), removing the words ''a Perkins Loan, a FFEL Program loan, or another Direct Loan'' and adding, in their place, the words ''another Direct Loan, a FFEL Program Loan, or a Perkins Loan''.

■ D. In paragraph (d)(7), removing the words ''a FFEL Program Loan or another Direct Loan'' and adding, in their place, ''another Direct Loan or a FFEL Program Loan''.

■ E. In paragraph (e)(1)(ii), removing the number and word ''24 hours'' each time they appear and adding, in their place, the number and word ''72 hours''.

■ F. Revising paragraph (f)(4)(iii).

■ G. In paragraph (g)(2)(i), removing the words ''Direct Loans'' and adding, in their place, the words ''Direct Loan''.

The revisions read as follows:

§ 685.218 Discharge of student loan indebtedness for survivors of victims of the September 11, 2001, attacks.

* * * * *

(d) * * *

(3) If the individual owed a Direct Loan, a FFEL Program Loan, or a Perkins Loan at the time of the terrorist attacks on September 11, 2001, documentation that the individual's loans were discharged by the Secretary, the lender, or the institution due to death may be substituted for the original or certified copy of a death certificate.

* * * * *

(f) * * *

(4) * * *

(iii) Copies of approved joint Direct Loan or FFEL Consolidation Loan applications or an approved Direct or FFEL PLUS Loan application.

* * * * *

■ 101. Section 685.220 is revised to read as follows:

§ 685.220 Consolidation.

(a) *Direct Consolidation Loans.* A borrower may consolidate education loans made under certain Federal programs into a Direct Consolidation Loan. Loans consolidated into a Direct Consolidation Loan are discharged when the Direct Consolidation Loan is originated.

(b) *Loans eligible for consolidation.* The following loans may be consolidated into a Direct Consolidation Loan:

(1) Subsidized Federal Stafford Loans.

(2) Guaranteed Student Loans.

(3) Federal Insured Student Loans (FISL).

(4) Direct Subsidized Loans.

(5) Direct Subsidized Consolidation Loans.

(6) Federal Perkins Loans.

(7) National Direct Student Loans (NDSL).

(8) National Defense Student Loans (NDSL).

(9) Federal PLUS Loans.

(10) Parent Loans for Undergraduate Students (PLUS).

(11) Direct PLUS Loans.

(12) Direct PLUS Consolidation Loans.

(13) Federal Consolidation Loans.

(14) Unsubsidized Federal Stafford Loans.

(15) Federal Supplemental Loans for Students (SLS).

(16) Direct Unsubsidized Loans.

(17) Direct Unsubsidized Consolidation Loans.

(18) Auxiliary Loans to Assist Students (ALAS).

(19) Health Professions Student Loans (HPSL) and Loans for Disadvantaged Students (LDS) made under subpart II of part A of title VII of the Public Health Service Act.

(20) Health Education Assistance Loans (HEAL).

(21) Nursing loans made under subpart II of part B of title VIII of the Public Health Service Act.

(c) *Components of Direct Consolidation Loans.* (1) *Subsidized component of Direct Consolidation Loans.* The term ''Direct Subsidized Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to—

(i) The loans identified in paragraphs (b)(1) through (b)(5) of this section; and

(ii) The portion of a Federal Consolidation Loan under paragraph

(b)(13) of this section that is eligible for interest benefits during a deferment period under section 428C(b)(4)(C) of the Act.

(2) *Unsubsidized component of Direct Consolidation Loans.* Except as provided in paragraph (c)(3) of this section, the term ''Direct Unsubsidized Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to—

(i) The loans identified in paragraphs (b)(6) through (b)(12) of this section;

(ii) The portion of a Federal Consolidation Loan under paragraph (b)(13) of this section that is not eligible for interest benefits during a deferment period under section 428C(b)(4)(C) of the Act; and

(iii) The loans identified in paragraphs (b)(14) through (b)(21) of this section.

(3) *PLUS component of Direct Consolidation Loans.* In the case of a Direct Consolidation Loan made before July 1, 2006, the term ''Direct PLUS Consolidation Loan'' refers to the portion of a Direct Consolidation Loan attributable to the loans identified in paragraphs (b)(9) through (b)(12) of this section.

(d) *Eligibility for a Direct Consolidation Loan.* (1) A borrower may obtain a Direct Consolidation Loan if the borrower meets the following requirements:

(i) The borrower consolidates at least one Direct Loan Program or FFEL Program loan.

(ii) On the loans being consolidated, the borrower is—

(A) At the time the borrower applies for the Direct Consolidation Loan—

(*1*) In the grace period;

(*2*) In a repayment period but not in default; or

(*3*) In default but has made satisfactory repayment arrangements in accordance with paragraph (2) of the definition of that term in § 685.102(b);

(B) Not subject to a judgment secured through litigation, unless the judgment has been vacated; or

(C) Not subject to an order for wage garnishment under section 488A of the Act, unless the order has been lifted.

(iii) The borrower agrees to notify the Secretary of any change in address.

(2) A borrower may not consolidate a Direct Consolidation Loan or a Federal Consolidation Loan into a new consolidation loan under this section unless at least one additional eligible loan is included in the consolidation, except that a borrower may consolidate a Federal Consolidation Loan into a new consolidation loan under this section without including any additional loans if—

(i) The borrower has a Federal Consolidation Loan that is in default or has been submitted to the guaranty agency by the lender for default aversion, and the borrower wants to consolidate the Federal Consolidation Loan into the Direct Loan Program for the purpose of obtaining an income-contingent repayment plan or an income-based repayment plan; or

(ii) The borrower has a Federal Consolidation Loan and the borrower wants to consolidate that loan into the Direct Loan Program for the purpose of using the Public Service Loan Forgiveness Program or the no accrual of interest benefit for active duty service.

(3) Eligible loans received before or after the date a Direct Consolidation Loan is made may be added to a subsequent Direct Consolidation Loan.

(e) *Application for a Direct Consolidation Loan.* To obtain a Direct Consolidation Loan, a borrower must submit a completed application to the Secretary. A borrower may add eligible loans to a Direct Consolidation Loan by submitting a request to the Secretary within 180 days after the date on which the Direct Consolidation Loan is originated.

(f) *Origination of a consolidation loan.* (1)(i) The holder of a loan that a borrower wishes to consolidate into a Direct Loan must complete and return the Secretary's request for certification of the amount owed within 10 business days of receipt or, if it is unable to provide the certification, provide to the Secretary a written explanation of the reasons for its inability to provide the certification.

(ii) If the Secretary approves an application for a consolidation loan, the Secretary pays to each holder of a loan selected for consolidation the amount necessary to discharge the loan.

(iii) For a Direct Loan Program or FFEL Program loan that is in default, the Secretary limits collection costs that may be charged to the borrower to a maximum of 18.5 percent of the outstanding principal and interest amount of the defaulted loan. For any other defaulted Federal education loan, all collection costs that are owed may be charged to the borrower.

(2) Upon receipt of the proceeds of a Direct Consolidation Loan, the holder of a consolidated loan must promptly apply the proceeds to fully discharge the borrower's obligation on the consolidated loan. The holder of a consolidated loan must notify the borrower that the loan has been paid in full.

(3) The principal balance of a Direct Consolidation Loan is equal to the sum of the amounts paid to the holders of the consolidated loans.

(4) If the amount paid by the Secretary to the holder of a consolidated loan exceeds the amount needed to discharge that loan, the holder of the consolidated loan must promptly refund the excess amount to the Secretary to be credited against the outstanding balance of the Direct Consolidation Loan.

(5) If the amount paid by the Secretary to the holder of the consolidated loan is insufficient to discharge that loan, the holder must notify the Secretary in writing of the remaining amount due on the loan. The Secretary promptly pays the remaining amount due.

(g) *Interest rate.* The interest rate on a Direct Subsidized Consolidation Loan or a Direct Unsubsidized Consolidation Loan is the rate established in § 685.202(a)(10)(i). The interest rate on a Direct PLUS Consolidation Loan is the rate established in § 685.202(a)(10)(ii).

(h) *Repayment plans.* A borrower may choose a repayment plan for a Direct Consolidation Loan in accordance with § 685.208, and may change repayment plans in accordance with § 685.210(b).

(i) *Repayment period.* (1) Except as noted in paragraph (i)(4) of this section, the repayment period for a Direct Consolidation Loan begins on the day the loan is disbursed.

(2)(i) *Borrowers who entered repayment before July 1, 2006.* The Secretary determines the repayment period under § 685.208(i) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraphs (i)(3)(i), (ii), and (iii) of this section.

(ii) Borrowers entering repayment on or after July 1, 2006. The Secretary determines the repayment period under § 685.208(j) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraphs (i)(3)(i) through (iii) of this section.

(3)(i) The total amount of outstanding balances on the other education loans used to determine the repayment period under §§ 685.208(i) and (j) may not exceed the amount of the Direct Consolidation Loan.

(ii) The borrower may not be in default on the other education loan unless the borrower has made satisfactory repayment arrangements with the holder of the loan.

(iii) The lender of the other educational loan may not be an individual.

(4) A Direct Consolidation Loan that was made based on an application received before July 1, 2006 receives a grace period if it includes a Direct Loan Program or FFEL Program loan for which the borrower was in an in-school period at the time of consolidation. The repayment period begins the day after the grace period ends.

(j) *Repayment schedule.* (1) The Secretary provides a borrower of a Direct Consolidation Loan a repayment schedule before the borrower's first payment is due. The repayment schedule identifies the borrower's monthly repayment amount under the repayment plan selected.

(2) If a borrower adds an eligible loan to the consolidation loan under paragraph (e) of this section, the Secretary makes appropriate adjustments to the borrower's monthly repayment amount and repayment period.

(k) *Refunds and returns of title IV, HEA program funds received from schools.* If a lender receives a refund or return of title IV, HEA program funds from a school on a loan that has been consolidated into a Direct Consolidation Loan, the lender must transmit the refund or return and an explanation of the source of the refund or return to the Secretary within 30 days of receipt.

(l) *Special provisions for joint consolidation loans.* The provisions of paragraphs (l)(1) through (3) of this section apply to a Direct Consolidation Loan obtained by two married borrowers in accordance with the regulations that were in effect for consolidation applications received prior to July 1, 2006.

(1) *Deferment.* To obtain a deferment on a joint Direct Consolidation Loan under § 685.204, both borrowers must meet the requirements of that section.

(2) *Forbearance.* To obtain forbearance on a joint Direct Consolidation Loan under § 685.205, both borrowers must meet the requirements of that section.

(3) *Discharge.* (i) If a borrower dies and the Secretary receives the documentation described in § 685.212(a), the Secretary discharges an amount equal to the portion of the outstanding balance of the consolidation loan, as of the date of the borrower's death, attributable to any of that borrower's loans that were repaid by the consolidation loan.

(ii) If a borrower meets the requirements for total and permanent disability discharge under § 685.212(b), the Secretary discharges an amount equal to the portion of the outstanding balance of the consolidation loan, as of the date the borrower became totally and permanently disabled, attributable to any of that borrower's loans that were repaid by the consolidation loan.

(iii) If a borrower meets the requirements for discharge under § 685.212(d), (e), or (f) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary discharges the portion of the consolidation loan equal to the amount of the loan that would be eligible for discharge under the provisions of § 685.212(d), (e), or (f) as applicable, and that was repaid by the consolidation loan.

(iv) If a borrower meets the requirements for loan forgiveness under § 685.212(h) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary repays the portion of the outstanding balance of the consolidation loan attributable to the loan that would be eligible for forgiveness under the provisions of § 685.212(h), and that was repaid by the consolidation loan.

(Approved by the Office of Management and Budget under control number 1845–0021)

(Authority: 20 U.S.C. 1078–8, 1087a *et seq.*)

■ 102. Section 685.300 is amended by:
■ A. Revising paragraph (a).
■ B. In the introductory text of paragraph (b), removing the word ''shall'' each time it appears and adding, in its place, the word ''must''.
■ C. Removing paragraph (b)(8).
■ D. Redesignating paragraphs (b)(5), (6), and (7) as paragraphs (b)(6), (7), and (8), respectively.
■ E. Adding a new paragraph (b)(5).
■ F. Revising paragraph (c).

The revisions and addition read as follows:

§ 685.300 Agreements between an eligible school and the Secretary for participation in the Direct Loan Program

(a) *General.* Participation of a school in the Direct Loan Program means that eligible students at the school may receive Direct Loans. To participate in the Direct Loan Program, a school must—

(1) Demonstrate to the satisfaction of the Secretary that the school meets the requirements for eligibility under the Act and applicable regulations; and

(2) Enter into a written program participation agreement with the Secretary.

(b) * * *

(5) On a monthly basis, reconcile institutional records with Direct Loan funds received from the Secretary and Direct Loan disbursement records submitted to and accepted by the Secretary;

* * * * *

(c) *Origination.* A school that originates loans in the Direct Loan Program must originate loans to eligible students and parents in accordance with part D of the Act. The note or evidence of the borrower's obligation on the loan originated by the school is the property of the Secretary.

* * * * *

■ 103. Section 685.301 is revised to read as follows:

§ 685.301 Origination of a loan by a Direct Loan Program school.

(a) *Determining eligibility and loan amount.* (1) A school participating in the Direct Loan Program must ensure that any information it provides to the Secretary in connection with loan origination is complete and accurate. A school must originate a Direct Loan while the student meets the borrower eligibility requirements of § 685.200. Except as provided in 34 CFR part 668, subpart E, a school may rely in good faith upon statements made by the borrower and, in the case of a parent Direct PLUS Loan borrower, the student and the parent borrower.

(2) A school must provide to the Secretary borrower information that includes but is not limited to—

(i) The borrower's eligibility for a loan, as determined in accordance with § 685.200 and § 685.203;

(ii) The student's loan amount; and

(iii) The anticipated and actual disbursement date or dates and disbursement amounts of the loan proceeds, as determined in accordance with § 685.303(d).

(3) Before originating a Direct PLUS Loan for a graduate or professional student borrower, the school must determine the borrower's eligibility for a Direct Subsidized and a Direct Unsubsidized Loan. If the borrower is eligible for a Direct Subsidized or Direct Unsubsidized Loan, but has not requested the maximum Direct Subsidized or Direct Unsubsidized Loan amount for which the borrower is eligible, the school must—

(i) Notify the graduate or professional student borrower of the maximum Direct Subsidized or Direct Unsubsidized Loan amount that he or she is eligible to receive and provide the borrower with a comparison of—

(A) The maximum interest rate for a Direct Subsidized Loan and a Direct Unsubsidized Loan and the maximum interest rate for a Direct PLUS Loan;

(B) Periods when interest accrues on a Direct Subsidized Loan and a Direct Unsubsidized Loan, and periods when interest accrues on a Direct PLUS Loan; and

(C) The point at which a Direct Subsidized Loan and a Direct Unsubsidized Loan enters repayment, and the point at which a Direct PLUS Loan enters repayment; and

(ii) Give the graduate or professional student borrower the opportunity to request the maximum Direct Subsidized or Direct Unsubsidized Loan amount for which the borrower is eligible.

(4) A school may not originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan, or a combination of loans, for an amount that—

(i) The school has reason to know would result in the borrower exceeding the annual or maximum loan amounts in § 685.203; or

(ii) Exceeds the student's estimated cost of attendance less—

(A) The student's estimated financial assistance for that period; and

(B) In the case of a Direct Subsidized Loan, the borrower's expected family contribution for that period.

(5)(i) A school determines a Direct Subsidized or Direct Unsubsidized Loan amount in accordance with § 685.203.

(ii) When prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school originates the loan.

(6) The date of loan origination is the date a school creates the electronic loan origination record.

(7) If a student has received a determination of need for a Direct Subsidized Loan that is $200 or less, a school may choose not to originate a Direct Subsidized Loan for that student and to include the amount as part of a Direct Unsubsidized Loan.

(8) A school may refuse to originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the borrower in writing, and if—

(i) The determination is made on a case-by-case basis;

(ii) The documentation supporting the determination is retained in the student's file; and

(iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income.

(9) A school may not assess a fee for the completion or certification of any Direct Loan Program forms or information or for the origination of a Direct Loan.

(10)(i) The minimum period of enrollment for which a school may originate a Direct Loan is—

(A) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, or that has terms that are substantially equal in length with no term less than nine weeks in length, a single academic term (e.g., a semester or quarter); or

(B) Except as provided in paragraph (a)(10)(ii) or (iii) of this section, at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length, the lesser of—

(*1*) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining) at the school; or

(*2*) The academic year as defined by the school in accordance with 34 CFR 668.3.

(ii) For a student who transfers into a school from another school and the prior school originated a loan for a period of enrollment that overlaps the period of enrollment at the new school, the new school may originate a loan for the remaining portion of the program or academic year. In this case the school may originate a loan for an amount that does not exceed the remaining balance of the student's annual loan limit.

(iii) For a student who completes a program at a school, where the student's last loan to complete that program had been for less than an academic year, and the student then begins a new program at the same school, the school may originate a loan for the remainder of the academic year. In this case the school may originate a loan for an amount that does not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program.

(iv) The maximum period for which a school may originate a Direct Loan is—

(A) Generally an academic year, as defined by the school in accordance with 34 CFR 668.3, except that the school may use a longer period of time corresponding to the period to which the school applies the annual loan limits under § 685.203; or

(B) For a defaulted borrower who has regained eligibility, the academic year in which the borrower regained eligibility.

(b) *Promissory note handling.* (1) The Secretary provides promissory notes for use in the Direct Loan Program. A school may not modify, or make any additions to, the promissory note without the Secretary's prior written approval.

(2) A school that originates a loan must ensure that the loan is supported by a completed promissory note as proof of the borrower's indebtedness.

(c) *Reporting to the Secretary.* The Secretary accepts a student's Payment Data that is submitted in accordance with procedures established through publication in the **Federal Register,** and that contains information the Secretary considers to be accurate in light of other available information including that previously provided by the student and the institution. (Approved by the Office of Management and Budget under control number 1845–0021)

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 104. Section 685.303 is amended by:

■ A. In paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. Revising paragraph (b)(1).

■ C. Redesignating paragraphs (b)(2) through (b)(4) as paragraphs (b)(3) through (b)(5), respectively.

■ D. Adding a new paragraph (b)(2).

■ E. Revising redesignated paragraph (b)(3)(i).

■ F. Revising redesignated paragraph (b)(3)(ii).

■ G. Revising redesignated paragraph (b)(5)(i) introductory text.

■ H. In redesignated paragraph (b)(5)(i)(A)(*1*), removing the citation ''(b)(4)(i)(A)(*2*)'' and adding, in its place, the citation ''(b)(5)(i)(A)(*2*)''.

■ I. Revising redesignated paragraph (b)(5)(ii).

■ J. In redesignated paragraph (b)(5)(iii), removing the citation ''(b)(4)(i)(B)'' and adding, in its place, the citation ''(b)(5)(i)(B)''.

■ K. In paragraph (c), removing the word ''shall'' and adding, in its place, the word ''must''.

■ L. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g), respectively.

■ M. Adding a new paragraph (d).

■ N. Adding a new paragraph (e).

■ O. Revising redesignated paragraph (g).

■ P. Adding an authority citation after the OMB control number parenthetical at the end of the section.

The revisions and additions read as follows:

§ 685.303 Processing loan proceeds.

* * * * *

(b) * * *

(1) A school may not disburse loan proceeds to a borrower unless the borrower has executed a legally enforceable promissory note.

(2) The Secretary provides Direct Loan funds to a school in accordance with 34 CFR 668.162.

(3)(i) Except in the case of a late disbursement under paragraph (f) of this section, or as provided in paragraph (b)(3)(iii) of this section, a school may disburse loan proceeds only to a student, or a parent in the case of a Direct PLUS Loan obtained by a parent borrower, if the school determines the student has continuously maintained eligibility in accordance with the provisions of § 685.200 from the beginning of the loan period for which the loan was intended.

(ii) If a student delays attending school for a period of time, the school may consider that student to have maintained eligibility for the loan from the first day of the period of enrollment. However, the school must comply with the requirements under paragraph (b)(4) of this section.

* * * * *

(5)(i) If a student is enrolled in the first year of an undergraduate program of study and has not previously received a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Subsidized or Unsubsidized Federal Stafford Loan, or a Federal Supplemental Loan for Students, a school may not disburse the proceeds of a Direct Subsidized or Direct Unsubsidized Loan until 30 days after the first day of the student's program of study unless—

* * * * *

(ii) Paragraphs (b)(5)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (b)(5)(i)(A) or (B) of this section, as applicable.

* * * * *

(d) *Determining disbursement dates and amounts.* (1) Before disbursing a loan, a school must determine that all information required by the promissory note has been provided by the borrower and, if applicable, the student.

(2) An institution must disburse the loan proceeds on a payment period basis in accordance with 34 CFR 668.164(b).

(3) Unless paragraph (d)(4) or (d)(6) of this section applies—

(i) If a loan period is more than one payment period, the school must disburse loan proceeds at least once in each payment period; and

(ii) If a loan period is one payment period, the school must make at least two disbursements during that payment period.

(A) For a loan originated under § 685.301(a)(10)(i)(A), the school may not make the second disbursement until the calendar midpoint between the first and last scheduled days of class of the loan period.

(B) For a loan originated under § 685.301(a)(10)(i)(B), the school may not make the second disbursement until the student successfully completes half of the number of credit hours or clock hours and half of the number of weeks of instructional time in the payment period.

(4)(i) If one or more payment periods have elapsed before a school makes a disbursement, the school may include in the disbursement loan proceeds for completed payment periods.

(ii) If the loan period is equal to one payment period and more than one-half of it has elapsed, the school may include in the disbursement loan proceeds for the entire payment period.

(5) The school must disburse loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.

(6)(i) A school is not required to make more than one disbursement if—

(A)(*1*) The loan period is not more than one semester, one trimester, one quarter, or, for non term-based schools or schools with non-standard terms, 4 months; and

(*2*)(*i*) Except as provided in paragraph (d)(6)(i)(A)(*2*)(*ii*) of this section, the school has a cohort default rate, calculated under subpart M of 34 CFR part 668 of less than 10 percent for each of the three most recent fiscal years for which data are available; or

(*ii*) For loan disbursements made on or after October 1, 2011, the school in which the student is enrolled has a cohort default rate, calculated under either subpart M or subpart N of 34 CFR part 668, of less than 15 percent for each of the three most recent fiscal years for which data are available; or

(B) The school is an eligible home institution originating a loan to cover the cost of attendance in a study abroad program and has a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, of less than five percent for the single most recent fiscal year for which data are available.

(ii) Paragraphs (d)(6)(i)(A) and (B) of this section do not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in paragraph (d)(6)(i)(A) or (B) of this section, as applicable.

(iii) Paragraph (d)(6)(i)(B) of this section does not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M or subpart N of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph.

(e) *Annual loan limit progression based on completion of an academic year.* (1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

* * * * *

(g) *Treatment of excess loan proceeds.* Before the disbursement of any Direct

Subsidized Loan, Direct Unsubsidized Loan, or Direct PLUS Loan proceeds, if a school learns that the borrower will receive or has received financial aid for the period of enrollment for which the loan was intended that exceeds the amount of assistance for which the student is eligible (except for Federal Work-Study Program funds up to $300), the school must reduce or eliminate the overaward by either—

(1) Using the student's Direct Unsubsidized Loan, Direct PLUS Loan, or State-sponsored or another non-Federal loan to cover the expected family contribution, if not already done; or

(2) Reducing one or more subsequent disbursements to eliminate the overaward.

* * * * *

(Authority: 20 U.S.C. 1087a *et seq.*)

■ 105. Section 685.304 is amended by:

■ A. Revising paragraph (a)(1).

■ B. In paragraph (a)(2), removing the words ''prior Direct PLUS Loan or Federal PLUS Loan'' and adding, in their place, the words ''prior student Direct PLUS Loan or student Federal PLUS Loan''.

■ C. In paragraph (a)(7)(i)(A), removing the word ''or'' the first time it appears and adding, in its place, the word ''of''.

■ D. Revising paragraph (a)(7)(iii).

■ E. Revising paragraph (a)(7)(iv).

■ F. Revising paragraph (b)(3).

■ G. In paragraph (b)(4)(ii), removing the words ''income contingent repayment plans'' and adding, in their place, the words ''income-contingent repayment''.

■ H. Adding a new paragraph (b)(8).

The revisions and addition read as follows:

§ 685.304 Counseling borrowers.

(a) * * *

(1) Except as provided in paragraph (a)(8) of this section, a school must ensure that entrance counseling is conducted with each Direct Subsidized Loan or Direct Unsubsidized Loan student borrower prior to making the first disbursement of the proceeds of a loan to a student borrower unless the student borrower has received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Subsidized or Unsubsidized Federal Stafford Loan, or Federal SLS Loan.

* * * * *

(7) * * *

(iii) For a graduate or professional student Direct PLUS Loan borrower who has received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Subsidized Federal Stafford Loan, or Unsubsidized Federal Stafford Loan, provide the information specified in § 685.301(a)(3)(i)(A) through (a)(3)(i)(C); and

(iv) For a graduate or professional student Direct PLUS Loan borrower who has not received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Subsidized Federal Stafford Loan, or Unsubsidized Federal Stafford Loan, provide the information specified in paragraph (a)(6)(i) through paragraph (a)(6)(xii) of this section.

* * * * *

(b) * * *

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, exit counseling must, within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required, be provided either through interactive electronic means, by mailing written counseling materials to the student borrower at the student borrower's last known address, or by sending written counseling materials to an email address provided by the student borrower that is not an email address associated with the school sending the counseling materials.

* * * * *

(8)(i) For students who have received loans under both the FFEL Program and the Direct Loan Program for attendance at a school, the school's compliance with the exit counseling requirements in paragraph (b) of this section satisfies the exit counseling requirements in 34 CFR 682.604(a) if the school ensures that the exit counseling also provides the borrower with the information described in 34 CFR 682.604(a)(2)(i) and (ii).

(ii) A student's completion of electronic interactive exit counseling offered by the Secretary satisfies the requirements of paragraph (b) of this section and, for students who have also received FFEL Program loans for attendance at the school, 34 CFR 682.604(a).

* * * * *

§ 685.305 [Amended]

■ 106. Section 685.305 is amended by:

■ A. In paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. In paragraph (b), removing the word ''shall'' and adding, in its place, the word ''must''.

■ C. In paragraph (c), removing the word ''shall'' and adding, it its place, the word ''must''.

§ 685.306 [Amended]

■ 107. Section 685.306 is amended by:

■ A. In paragraph (a)(1), removing the word ''Shall'' and adding, in its place, the word ''Must''.

■ B. In paragraph (a)(2), removing the word ''Shall'' and adding, in its place, the word ''Must''.

■ C. In paragraph (b), removing the word ''shall'' and adding, in its place, the word ''must''.

§ 685.307 [Amended]

■ 108. Section 685.307(b) is amended by removing the word ''shall'' and adding, in its place, the word ''must''.

■ 109. Section 685.309 is amended by:

■ A. In the introductory text of paragraph (a), removing the word ''shall'' and adding, in its place, the word ''must''.

■ B. Revising paragraph (b).

■ C. In paragraph (c), removing the word ''shall'' and adding, in its place, the word ''must''.

■ D. In paragraph (d), removing the word ''shall'' and adding, in its place, the word ''must''.

■ E. In paragraph (e), removing the word ''shall'' and adding, in its place, the word ''must''.

■ F. In paragraph (f), removing the word ''shall'' and adding, in its place, the word ''must''.

■ G. In paragraph (g), removing the words ''Except for funds paid to a school under section 452(b)(1) of the Act, funds'' and adding, in their place, the word ''Funds''.

The revision reads as follows:

§ 685.309 Administrative and fiscal control and fund accounting requirements for schools participating in the Direct Loan Program.

* * * * *

(b) *Enrollment reporting process.* (1) Upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary—

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe prescribed by the Secretary.

(2) Unless it expects to submit its next updated enrollment report to the Secretary within the next 60 days, a school must notify the Secretary within 30 days after the date the school discovers that—

(i) A loan under title IV of the Act was made to or on behalf of a student who was enrolled or accepted for enrollment at the school, and the student has ceased to be enrolled on at least a half-time basis or failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(ii) A student who is enrolled at the school and who received a loan under title IV of the Act has changed his or her permanent address.

* * * * *

Subpart D [Removed and Reserved]

■ 110. Subpart D of part 685 is removed and reserved.

[FR Doc. 2013–25331 Filed 10–31–13; 8:45 am]

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