

**DEPARTMENT OF EDUCATION**

**34 CFR Parts 674, 675, 676, 682, 685, 686, 690, 692, and 694**

[Docket ID ED–2019–OPE–0081]

RIN 1840–AD40, 1840–AD44

**Federal Perkins Loan Program, Federal Work-Study Programs, Federal Supplemental Educational Opportunity Grant Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, Teacher Education Assistance for College and Higher Education Grant Program, Federal Pell Grant Program, Leveraging Educational Assistance Partnership Program, and Gaining Early Awareness and Readiness for Undergraduate Programs**

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In response to the United States Supreme Court decision in *Trinity Lutheran Church of Columbia, Inc. v. Comer*, and the United States Attorney General's October 7, 2017 Memorandum on Federal Law Protections for Religious Liberty pursuant to Executive Order No. 13798, the Department of Education (Department) proposes revising the current regulations regarding the eligibility of faith-based entities to participate in the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA), and the eligibility of students to obtain certain benefits under those programs. The Secretary is also proposing to simplify the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program requirements to minimize the number of TEACH Grants that are converted to Federal Direct Unsubsidized Loans, and to update, strengthen, and clarify other areas of the TEACH Grant Program regulations.

**DATES:** We must receive your comments on or before January 10, 2020.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

If you are submitting comments electronically, we strongly encourage you to submit any comments or

attachments in Microsoft Word format. If you must submit a comment in Adobe Portable Document Format (PDF), we strongly encourage you to convert the PDF to print-to-PDF format or to use some other commonly used searchable text format. *Please do not submit the PDF in a scanned format.* Using a print-to-PDF format allows the Department to electronically search and copy certain portions of your submissions.

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Help."

- *Postal Mail, Commercial Delivery, or Hand Delivery:* The Department strongly encourages commenters to submit their comments electronically. However, if you mail or deliver your comments about the proposed regulations, address them to Mr. Jean-Didier Gaina, U.S. Department of Education, 400 Maryland Ave. SW, Mail Stop 294–20, Washington, DC 20202.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:**

For information related to faith-based issues, contact Lynn Mahaffie at (202) 453–7862 or by email at [Lynn.Mahaffie@ed.gov](mailto:Lynn.Mahaffie@ed.gov).

For information related to the TEACH Grant Program, contact Sophia McArdle at (202) 453–6318 or by email at [Sophia.McArdle@ed.gov](mailto:Sophia.McArdle@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*

In response to the Supreme Court's decision in *Trinity Lutheran Church of Columbia, Inc. v. Comer* (137 S. Ct. 2012 (2017)), Executive Order Number 13798 (Exec. Order No. 13798 section 4, 82 FR 21675 (May 4, 2017)), and the Attorney General's October 6, 2017 Memorandum (U.S. Att'y Gen. Memorandum on Federal Law Protections for Religious Liberty (October 6, 2017, <https://www.justice.gov/opa/pressrelease/file/>

[1001891/download](https://www.justice.gov/opa/pressrelease/file/1001891/download))), the Department engaged in a full review of its regulations related to title IV, HEA programs in order to identify provisions that may discriminate against otherwise eligible students and faith-based entities by disqualifying them from title IV, HEA programs due to their religious beliefs in violation of the Free Exercise Clause of the First Amendment to the United States Constitution. To ensure that students and faith-based entities are not discriminated against due to their religious beliefs, the Department proposes to:

- Ensure that members of religious orders are not denied access to title IV funding or benefits under the title IV programs, including the Federal Pell Grant Program, the Federal Perkins Loan Program, the Federal Work-Study Program (FWSP), the Federal Supplemental Educational Opportunity Grant (FSEOG) Program, the Federal Family Education Loan (FFEL) Program, and the William D. Ford Federal Direct Loan (Direct Loan) Program.

- Under certain circumstances, allow borrowers working as full-time volunteers to defer repayment of Federal Perkins Loans, National Defense Student Loans (NDSLs), and FFELs if those borrowers also engage in giving religious instruction, conducting worship services, engaging in religious proselytizing, or engaging in fundraising to support religious activities as part of their assigned volunteer duties.

- Provide an interpretation of the Public Service Loan Forgiveness (PSLF) regulations that permit borrowers who work for employers that engage in religious instruction, worship services, or proselytizing to qualify for PSLF so long as they meet the applicable standard for full-time employment when those religious activities are excluded from their work hours.

- Eliminate arbitrary limitations on the ability of private secondary and postsecondary faith-based educational institutions to participate in the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP).

In addition, during its review, the Department discovered language that is inconsistent with the statute in both the Leveraging Educational Assistance Partnership Program (LEAP) and FWSP regulations. The provisions in both programs relate to allowable employment-related activities for program participants. In these cases, the Department proposes to include the statutory language in the regulations.

These proposed regulations would also make changes to the TEACH Grant Program requirements. In exchange for receiving a TEACH Grant, a grant

recipient must agree to complete a teaching service obligation and must regularly provide documentation of his or her progress toward satisfying the service obligation. If a grant recipient fails to complete the service obligation or does not meet requirements for documenting the service obligation, the TEACH Grants that the individual received are converted to a Direct Unsubsidized Loan that must be repaid, with interest charged from the date of each TEACH Grant disbursement. The proposed regulations would simplify program requirements to make it easier for TEACH Grant recipients to document their progress toward satisfying the service obligation, thereby reducing the number of TEACH Grants that are converted to Direct Unsubsidized Loans. The proposed regulations would also establish a process for a TEACH Grant recipient to request reconsideration of the conversion of the grant to a loan if the recipient believes that his or her TEACH Grant was converted to a loan in error, expand and strengthen counseling requirements for TEACH Grant recipients, expand the conditions under which a TEACH Grant recipient may receive a temporary suspension of the period for completing the teaching service obligation, and strengthen, update, and clarify other areas of the TEACH Grant Program regulations.

#### *Summary of the Major Provisions of This Regulatory Action*

To restore religious liberty to faith-based institutions and religious students, we propose new regulations that would—

- Restore the ability of members of religious orders, who also are pursuing courses of study at institutions of higher education, to participate in the title IV, HEA programs by eliminating regulatory provisions that treat members of religious orders as having no financial need in certain circumstances.
- Allow certain borrowers, who serve as full-time volunteers in tax-exempt organizations and give religious instruction, conduct worship service, proselytize, or fundraise to support religious activities as part of their official duties, to defer repayment of Federal Perkins Loans, NDSLs, and FFELs.
- Provide an interpretation of the PSLF regulations, which permit borrowers who work for employers that engage in religious instruction, worship services, or proselytizing to qualify for PSLF so long as they meet the applicable standard for full-time employment when those religious

activities are excluded from their work hours.

- Clarify requirements for private secondary and postsecondary faith-based institutions' participation in the GEAR UP program.
  - Conform language in the LEAP and FWSP regulations regarding allowable program activities to statutory language.
- For the TEACH Grant Program, we propose new regulations that would—
- Clarify that grant recipients may satisfy the TEACH Grant service obligation by teaching for an educational service agency that serves low-income students.
  - Clarify the beginning date of the eight-year period for completing the TEACH Grant service obligation.
  - Revise the definition of "highly qualified."
  - Update and expand the conditions under which a TEACH Grant recipient may satisfy the TEACH Grant service obligation by teaching in a high-need field listed in the Department's annual Teacher Shortage Area Nationwide Listing (Nationwide List).
  - Clarify the service obligation requirements for TEACH Grant recipients who withdraw from the institution where they received a TEACH Grant before completing the program for which they received the grant, then later re-enroll in the same program or in a different TEACH Grant eligible program at the same academic level.
  - Expand the information that is provided to TEACH Grant recipients during initial, subsequent, and exit counseling, and add a new conversion counseling requirement for grant recipients whose TEACH Grants are converted to Direct Unsubsidized Loans.
  - Add new conditions under which a TEACH Grant recipient may receive a temporary suspension of the eight-year period for completing the service obligation.
  - Remove the current regulatory requirement for TEACH Grant recipients to certify, within 120 days of completing the program for which they received TEACH Grants, that they have begun qualifying teaching service, or that they have not yet begun teaching, but they intend to satisfy the service obligation.
  - Simplify the regulations specifying the conditions under which TEACH Grants are converted to Direct Unsubsidized Loans so that for all grant recipients, loan conversion will occur only if the recipient asks the Secretary to convert his or her TEACH Grants to loans, or if the recipient fails to begin or maintain qualifying teaching service within a timeframe that would allow the recipient to satisfy the service obligation

within the eight-year service obligation period.

- Specify that the Secretary will send grant recipients, at least annually, a notice containing detailed information about the TEACH Grant service obligation requirements, a summary of the grant recipient's progress toward satisfying the service obligation, and an explanation of the process by which a grant recipient whose TEACH Grants are converted to Direct Unsubsidized Loans may request reconsideration of the conversion if he or she believes that the grants were converted in error.
- Describe the actions that the Secretary will take if a grant recipient's request for reconsideration of the conversion of the grant to a loan is approved or denied.
- Specify that the Secretary will notify a grant recipient in advance of the date by which he or she will be subject to loan conversion for failure to begin or maintain qualifying teaching service within a timeframe that would allow the recipient to complete the service obligation within the eight-year service obligation period, and inform the recipient of the final date by which he or she must provide documentation of teaching service to avoid having his or her grants converted to loans.
- Incorporate statutory changes and update, simplify, and clarify various areas of the TEACH Grant Program regulations.

Please refer to the *Summary of Proposed Changes* section of this notice of proposed rulemaking (NPRM) for more details on the major provisions contained in this NPRM.

#### **Costs and Benefits**

As discussed in the *Regulatory Impact Analysis* section of this document, the Department does not estimate that these proposed regulations would result in any significant costs. Changes regarding faith-based institutions and religious students would have minimal impacts on financial aid costs to the Federal government, because these provisions will affect few students and borrowers. Changes regarding the PSLF program would similarly have minimal impact, as the consensus language largely aligns with historical Department practice. Changes regarding the GEAR UP program would have no estimated costs as participation in the Department's competitive grant programs is voluntary and the program currently serves small numbers of religiously affiliated schools. While changes to the TEACH Grant Program would likely improve the reporting and documentation process for recipients and increase the number of teaching positions in which TEACH

grant recipients could satisfy their service obligations, we do not estimate that the changes would result in a sizable increase in the number of grant recipients.

*Invitation to Comment:* We invite you to submit comments regarding these proposed regulations.

To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses, and provide relevant information and data whenever possible, even when there is no specific solicitation of data and other supporting materials in the request for comment. We also urge you to arrange your comments in the same order as the proposed regulations. Please do not submit comments that are outside the scope of the specific proposals in this NPRM, as we are not required to respond to such comments.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect all public comments about the proposed regulations by accessing *Regulations.gov*. You may also inspect the comments in person at 400 Maryland Ave. SW, Washington, DC, between 8:30 a.m. and 4 p.m., Eastern Time, Monday through Friday of each week except Federal holidays. To schedule a time to inspect comments, please contact one of the persons listed under **FOR FURTHER INFORMATION CONTACT**.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:* On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed regulations. To schedule an appointment for this type of accommodation or auxiliary aid, please contact one of the persons listed under **FOR FURTHER INFORMATION CONTACT**.

## Background

The Secretary proposes to amend parts 674, 675, 676, 682, 685, 686, 690, 692, and 694 of title 34 of the Code of Federal Regulations (CFR). The

regulations in 34 CFR part 674 pertain to the Federal Perkins Loan Program. The regulations in 34 CFR part 675 pertain to FWSP. The regulations in 34 CFR part 676 pertain to the FSEOG. The regulations in 34 CFR part 682 pertain to FFEL. The regulations in 34 CFR part 685 pertain to Direct Loans. The regulations in 34 CFR part 686 pertain to the TEACH Grant Program. The regulations in 34 CFR part 690 pertain to the Federal Pell Grant Program. The regulations in 34 CFR part 692 pertain to LEAP. The regulations in 34 CFR part 694 pertain to GEAR UP.

We are proposing these amendments to: (1) Ensure that students and faith-based organizations are not prevented from participating in title IV programs because of their religious views; (2) codify the statutory language about allowable forms of employment for both the FWSP and the LEAP program; (3) ensure that GEAR UP providers that serve students attending private schools are employed independently of the private school; (4) eliminate a redundant provision that prohibits the commingling of Federal and non-Federal funds used to provide services to GEAR UP students attending private institutions; and (5) eliminate the prohibition against pervasively sectarian institutions of higher education from serving as fiscal agents for GEAR UP grantees.

Throughout this NPRM, when the Department refers to a "generally available benefit program," the Department is referring to programs that meet the Supreme Court's characterization of "neutral and generally available benefit programs" in *Trinity Lutheran*.<sup>1</sup>

In 2007, Congress established the TEACH Grant Program to help increase the number of teachers in high-need fields in low-income schools. The TEACH Grant Program provides up to \$4,000 per year to undergraduate and graduate students enrolling in coursework to become a teacher. In exchange for receiving a TEACH Grant, a recipient must agree to teach in a high-need field such as reading, mathematics, or science, at a low-income school, for at least four years in an eight-year period and annually certify that he or she intends to meet this requirement. If a recipient does not meet the grant requirements or the annual certification requirements, the grant converts to a Federal Direct Unsubsidized Loan with interest charged from the date of each TEACH Grant disbursement.

A 2015 Government Accountability Office (GAO) report found that around

36,000 out of more than 112,000 TEACH Grant recipients had not fulfilled TEACH Grant requirements and had their grants converted to loans (GAO, 2015).<sup>2</sup> GAO's analysis also found that 2,252 TEACH Grants were improperly converted to loans as of September 2014. GAO concluded that due to the number of incorrectly converted grants, the Department should better understand the reasons teachers do not meet program requirements, and program management should be improved, especially with respect to the grant-to-loan conversion dispute process. These proposed regulations help to address GAO's concerns.

A 2018 study conducted for the Department by the American Institutes for Research (U.S. Department of Education, 2018)<sup>3</sup> found that as of June 2016, 63 percent of TEACH Grant recipients who started their eight-year service obligation period before July 2014 had their grants converted to unsubsidized loans because they did not meet the service obligation requirements or the annual certification requirements. More specifically, this study found that the factors associated with recipients not meeting the grant requirements included those related to the recipient's employment (including teaching in a position that did not qualify for TEACH Grant service (39 percent) and not working as a certified teacher (33 percent)), the recipient not understanding the service obligation requirements, and factors related to the recipient providing the annual certification (not providing the certification because the recipient did not know about the annual certification process (19 percent) and not providing the certification because the recipient experienced challenges related to the certification process (13 percent)).

To address the concerns raised by these studies, we are proposing amendments that we believe will reduce the number of TEACH Grants that are converted to Direct Unsubsidized Loans by simplifying the requirements for TEACH Grant recipients to show that they are meeting the service obligation requirements; ensure that TEACH Grant recipients are better informed of program requirements by expanding and strengthening counseling and notifications; make it easier for TEACH

<sup>2</sup> Government Accountability Office. 2015. Higher Education: Better Management of Federal Grant and Loan Forgiveness Programs for Teachers Needed to Improve Participant Outcomes (GAO 15-314). Washington, DC: United States Government Accountability Office.

<sup>3</sup> U.S. Department of Education. (2018). Study of the Teacher Education Assistance for College and Higher Education (TEACH) Program.

<sup>1</sup> 137 S. Ct. 2012 (2017).

Grant recipients to satisfy the service obligation by establishing additional conditions under which the period for completing the required teaching service may be temporarily suspended, and by expanding the options for satisfying the service obligation by teaching in a high-need field listed in the Department's Nationwide List; provide a process for TEACH Grant recipients to request reconsideration of the conversion of their TEACH Grant to a loan if they believe that the grant was converted to a loan in error; and update, simplify, and clarify various areas of the TEACH Grant regulations.

### Public Participation

On July 31, 2018, we published a notice in the **Federal Register** (83 FR 36814) announcing our intent to establish a negotiated rulemaking committee under section 492 of the HEA to develop proposed regulations related to a number of higher education practices and issues, including (1) accreditation; (2) distance learning and educational innovation; (3) TEACH Grants; and (4) participation by faith-based educational entities. We also announced three public hearings at which interested parties could comment on the topics suggested by the Department and suggest additional topics for consideration for action by the negotiated rulemaking committee. Those hearings took place on September 6, 2018, in Washington, DC, on September 11, 2018, in New Orleans, Louisiana, and on September 13, 2018, in Sturtevant, Wisconsin. We invited parties to comment and submit topics for consideration in writing as well. Transcripts from the public hearings are available at: [www2.ed.gov/policy/highered/reg/hearulemaking/2018/index.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/2018/index.html).

Written comments submitted in response to the July 31, 2018 **Federal Register** notice may be viewed through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov), within docket ID ED-2018-OPE-0076. Instructions for finding comments are also available on the site under "How to Use *Regulations.gov*" in the "Help" section.

### Negotiated Rulemaking

Section 492 of the HEA, 20 U.S.C. 1098a, requires the Secretary to obtain public involvement in the development of proposed regulations affecting programs authorized by title IV of the HEA. After obtaining extensive input and recommendations from the public, including individuals and representatives of groups involved in the title IV, HEA programs, the Secretary in most cases must subject the

proposed regulations to a negotiated rulemaking process. If negotiators reach consensus on the proposed regulations, the Department agrees to publish without alteration a defined group of regulations on which the negotiators reached consensus unless the Secretary reopens the process or provides a written explanation to the participants stating why the Secretary has decided to depart from the agreement reached during negotiations. Further information on the negotiated rulemaking process can be found at: [www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html).

On October 15, 2018, the Department published a notice in the **Federal Register** (83 FR 51906) announcing its intention to establish a negotiated rulemaking committee—the Accreditation and Innovation Committee—to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the HEA. The notice set forth a schedule for the committee meetings and requested nominations for individual negotiators to serve on the negotiating committee. We also announced the creation of three subcommittees—the Distance Learning and Educational Innovation Subcommittee, Faith-Based Entities Subcommittee, and the TEACH Grants Subcommittee—and requested nominations for individuals with pertinent expertise to participate on the subcommittees.

The Department sought negotiators to represent the following groups for the Accreditation and Innovation Committee: Students; legal assistance organizations that represent students; financial aid administrators at postsecondary institutions; national accreditation agencies; regional accreditation agencies; programmatic accreditation agencies; institutions of higher education primarily offering distance education; institutions of higher education eligible to receive Federal assistance under title III, parts A, B and F, and title V of the HEA, which include Historically Black Colleges and Universities (HBCUs), Hispanic-Serving Institutions (HSIs), American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA; two-year public institutions of higher education; four-year public institutions of higher education; faith-based institutions of higher education; private, nonprofit institutions of higher education; private, proprietary

institutions of higher education; employers; and veterans.

The Department sought individuals to represent the following groups for the Faith-Based Entities Subcommittee: Students; faith-based entities eligible for title IV, HEA programs; officers of institution-based GEAR UP grantees; institutions of higher education with knowledge of faith-based entities' participation in the title IV, HEA programs; institutions of higher education with knowledge of faith-based entities' participation in the title IV, HEA programs that also are eligible to receive Federal financial assistance under title III, parts A, B, and F, and title V of the HEA, which include HBCUs, HSIs, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA; accrediting agencies; associations or organizations that focus on issues related to faith-based entities or the participation of faith-based entities in Federal programs; and financial aid administrators at postsecondary institutions.

The Department sought individuals with expertise in teacher education programs, student financial aid, and high-need teacher education programs to serve as members of the TEACH Grant Subcommittee: Students who are or have been TEACH Grant recipients; legal assistance organizations that represent students; financial aid administrators at postsecondary institutions; State primary and secondary education executive officers; institutions of higher education that award or have awarded TEACH grants and that are eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which include HBCUs, HSIs, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA; two-year institutions of higher education that award or have awarded TEACH grants; four-year institutions of higher education that award or have awarded TEACH grants; organizations or associations that represent the interests of students who participate in title IV programs; and organizations or associations that represent financial aid administrators.

The Accreditation and Innovation negotiating committee included the following members:

Susan Hurst, Ouachita Baptist University, and Karen McCarthy (alternate), National Association of Student Financial Aid Administrators, representing financial aid administrators at postsecondary institutions.

Robyn Smith, Legal Aid Foundation of Los Angeles, and Lea Wroblewski (alternate), Legal Aid of Nebraska, representing legal assistance organizations that represent students.

Ernest McNealey, Allen University, and Erin Hill Hart (alternate), North Carolina A & T State University, representing institutions of higher education that award or have awarded TEACH grants and that are eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which include HBCUs, HSIs, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.

David Dannenberg, University of Alaska, Anchorage, and Tina Falkner (alternate), University of Minnesota, representing four-year public institutions of higher education.

Terry Hartle, American Council on Education, and Ashley Ann Reich (alternate), Liberty University, representing private, nonprofit institutions of higher education.

Jillian Klein, Strategic Education, Inc., and Fabian Fernandez (alternate), Schiller International University, representing private, proprietary institutions of higher education.

William Pena, Southern New Hampshire University, and M. Kimberly Rupert (alternate), Spring Arbor University, representing institutions of higher education primarily offering distance education.

Christina Amato, Sinclair College, and Daniel Phelan (alternate), Jackson College, representing two-year public institutions of higher education.

Barbara Gellman-Danley, Higher Learning Commission, and Elizabeth Sibolski (alternate), Middle States Commission on Higher Education, representing regional accreditation agencies.

Laura King, Council on Education for Public Health, and Janice Knebl (alternate), American Osteopathic Association Commission on Osteopathic College Accreditation, representing programmatic accreditation agencies.

Michale S. McComis, Accrediting Commission of Career Schools and Colleges, and India Y. Tips (alternate), Accrediting Bureau of Health Education Schools, representing national accreditation agencies.

Steven M. Sandberg, Brigham Young University, and David Altshuler (alternate), San Francisco Theological Seminary, representing faith-based institutions of higher education.

Joseph Verardo, National Association of Graduate-Professional Students, and John Castellaw (alternate), University of Arizona, representing students.

Edgar McCulloch, IBM Corporation, and Shaun T. Kelleher (alternate), BAM Technologies, representing employers.

Daniel Elkins, Enlisted Association of the National Guard of the U.S., and Elizabeth

Bejar (alternate), Florida International University, representing veterans.

Annmarie Weisman, U.S. Department of Education, representing the Department.

The Faith-Based Entities Subcommittee

included the following members:

Gregory Bruner, Olivet Nazarene University, representing financial aid administrators at postsecondary institutions.

Andrew Bramson, College Crusade of Rhode Island, representing officers of institution-based GEAR UP grantees.

Emmanuel Guillory, United Negro College Fund, Inc., representing institutions of higher education eligible to receive Federal assistance under title III, parts A, B, F, and title V of the HEA, which include HBCUs, HSIs, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.

Stephen Eck, Oklahoma Christian University, representing faith-based entities eligible for title IV, HEA programs.

Thomas Dunne, Fordham University, representing institutions of higher education with knowledge of faith-based entities' participation in the title IV, HEA programs.

William Hathaway, Regent University, representing accrediting agencies.

Richard Katskee, Americans United for Separation of Church and State, and Kimberlee Wood Colby, Center for Law and Religious Freedom, representing associations or organizations that focus on issues related to faith-based entities or the participation of faith-based entities in Federal programs.

Haven Herrin, Soulforce, representing students.

Lynn Mahaffie, U.S. Department of Education.

The TEACH Grants Subcommittee included the following members:

Debbi Braswell, Belhaven University, and Stephen Payne, National Association of Student Financial Aid Administrators, representing financial aid administrators at postsecondary institutions.

Kyra Taylor, Legal Services Center at Harvard Law School, representing legal assistance organizations that represent students.

Willis W. Walter, Virginia State University, representing institutions of higher education that award or have awarded TEACH Grants and that are eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which includes HBCUs, HSIs, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.

Alyssa Dobson, Slippery Rock University, and David T. Cantaffa, State University of New York, representing four-year institutions of higher education that award or have awarded TEACH Grants.

Deborah Koolbeck, American Association of Colleges for Teacher Education, representing organizations or associations that represent the interests of students who participate in the title IV programs.

Sophia McArdle, U.S. Department of Education.

The negotiated rulemaking committee met to develop proposed regulations on January 14–16, 2019; February 19–22, 2019; March 25–28, 2019; and April 1–3, 2019.

At the first meeting of the Committee, the Department received a petition for membership from David Tandberg, Vice President of Policy Research and Strategic Initiatives at the State Higher Education Executive Officers Association, to represent State higher education executive officers. The negotiated rulemaking committee voted to include Dr. Tandberg on the full committee.

During its first meeting, the negotiating committee also reached agreement on its protocols and proposed agenda. The protocols provided, among other things, that the committee would operate by consensus. Consensus means that there must be no dissent by any member for the committee to have reached agreement. Under the protocols, the Department would use the consensus-based language in its proposed regulations for each bucket, as described in more detail below, on which final consensus was achieved. Furthermore, the Department would not substantively alter the consensus-based language of its proposed regulations unless the Department reopened the negotiated rulemaking process or provided a written explanation to the committee members regarding why it decided to depart from that language.

During the first meeting, the negotiating committee agreed to negotiate an agenda of issues related to accreditation and student financial aid. Under the protocols, the issues were placed into three “buckets” upon which a final consensus would have to include consensus on all issues within that bucket. The first bucket included issues related to accreditation in 34 CFR parts 600, 602, 603, and 668, as well as the Robert C. Byrd Scholarship Program in 34 CFR part 654. The second bucket included issues related to the TEACH Grant Program in 34 CFR part 686 and the treatment of faith-based entities in student aid and grant programs in 34 CFR parts 674, 675, 676, 682, 685, 690, 692, and 694. The third bucket included issues related to distance learning and educational innovation in 34 CFR parts 600 and 668. The committee reached consensus on each of the three buckets.

The Department plans to issue separate NPRMs and final regulations for each bucket of issues. This NPRM addresses issues related to the treatment of faith-based entities and TEACH

Grants. During the committee meetings, the Department explained that it would consider early implementation of the provisions of the final TEACH grant regulations in order to reduce the number of conversions of grants to loans by simplifying program requirements.

During committee meetings, the committee reviewed and discussed the Department's drafts of regulatory language and the committee members' alternative language and suggestions. At the final meeting on April 3, 2019, the committee reached consensus on regulatory language. For this reason, and according to the committee's protocols, committee members and the organizations that they represent have agreed to refrain from commenting negatively on the consensus-based regulatory language. For more information on the negotiated rulemaking sessions, please visit: <https://www2.ed.gov/policy/highered/reg/hearulemaking/2018/index.html>.

### Summary of Proposed Changes

With respect to issues discussed by the Faith-Based Subcommittee, the proposed regulations would—

- Amend §§ 674.9, 675.9, 676.9, 682.301, 685.200, and 690.75 by removing language that presumes that a member of a religious order has no financial need when determining eligibility for the Pell Grant Program, the Federal Perkins Loan Program, the FWSP, the FSEOG Program, the FFEL Program, and the Direct Loan Program, respectively.

- Delete language in §§ 674.35, 674.36, and 682.210 that would prohibit borrowers with Federal Perkins Loans made before July 1, 1993, NDSLs made on or after October 1, 1980, but before July 1, 1993, or FFELs made before July 1, 1993, from obtaining deferment of their loans during periods of otherwise eligible full-time volunteer work that includes providing religious instruction, conducting religious services, proselytizing, or engaging in fundraising to support religious activities.

- Amend §§ 675.20 and 692.30 to conform regulatory provisions in the FWSP and LEAP Program to statutory provisions that prohibit work study employment from involving the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.

- Amend § 685.219 by deleting provisions that would exclude borrowers who are otherwise eligible for PSLF from receiving forgiveness, because they are working for organizations engaged in activities

relating to religious instruction, worship services, or proselytizing.

- Modify § 694.6(b) by replacing language related to the provision of GEAR UP services and providers at private religious schools with language requiring that providers of GEAR UP services be employed or contracted independently of a private school and its affiliated organizations. The Department proposes to delete the word “religious” before the word “organization” to clarify that employment must be independent of organizations affiliated with the school, regardless of whether those organizations are religious in nature.

- Delete § 694.6(c), which prohibits the commingling of Federal and non-Federal funds used to provide GEAR UP services to students attending private schools.

- Amend § 694.10 to delete language indicating that the fiscal agent of a GEAR UP grant may not be pervasively sectarian.

For the TEACH Grant Program, the proposed regulations would—

- Where needed throughout the regulations, add references to educational service agencies, replace “agreement to serve” with “agreement to serve or repay,” and revise the references to Direct Unsubsidized Loans for consistency with the terminology used in the Direct Loan Program regulations.

- Amend § 686.1 by expanding the information included in the description of the scope and purpose of the TEACH Grant Program.
- Revise § 686.2 by adding a cross-reference to the definition of “Free Application for Federal Student Aid (FAFSA)” in 34 CFR part 668, adding definitions of “educational service agency” and “Teacher Shortage Area Nationwide Listing (Nationwide List),” and revising the definitions of “Agreement to serve,” “highly qualified,” “school serving low-income students (low-income school),” and “TEACH Grant-eligible program.”

- Modify §§ 686.10 and 686.11 by replacing references to submitting a TEACH Grant application with references to submitting the FAFSA and making additional conforming changes.

- Amend § 686.12 by (1) changing “agreement to serve” to “agreement to serve or repay”; (2) expanding the description of the contents of the agreement to serve or repay; (3) clarifying the requirements for completion of more than one service obligation, and adding language to explain the service obligation requirements for grant recipients who withdraw from an institution prior to

completing the program for which TEACH Grants were received and later re-enroll; and (4) updating the conditions under which a TEACH Grant recipient may satisfy the service obligation by teaching in a high-need field listed in the Department's Nationwide List.

- Make minor changes to § 686.21 to be more consistent with the corresponding statutory language.

- Amend § 686.32 by expanding and revising the information that TEACH Grant recipients receive during initial, subsequent, and exit counseling, and by adding a new conversion counseling requirement for grant recipients whose TEACH Grants are converted to Direct Unsubsidized Loans.

- Modify § 686.40 by (1) removing the requirement for grant recipients to confirm their status within 120 days of ceasing enrollment in a program for which they received a TEACH Grant; (2) eliminating the current rule stating that a grant recipient may not satisfy the service obligation by teaching in a geographic region of a State or in a specific grade level not associated with a high-need field that has been designated as a teacher shortage area in the Department's Nationwide List; and (3) adding a new circumstance under which teaching for less than a complete academic year may be counted as a full year of qualifying teaching service.

- Revise § 686.41 by adding new conditions under which a grant recipient may receive a temporary suspension of the period for completing the service obligation.

- Amend § 686.42 by updating the requirements and procedures for receiving a discharge of the TEACH Grant service obligation based on a total and permanent disability (TPD).

- Revise § 686.43 by (1) simplifying the rules for conversion of TEACH Grants to Direct Unsubsidized Loans to provide that for all grant recipients, conversion will occur only if the grant recipient requests conversion, or if the recipient fails to begin or maintain qualifying teaching service within a timeframe that would allow the recipient to complete the service obligation within the eight-year service obligation period; (2) adding language describing a notice that the Secretary will send to grant recipients at least annually to remind them of the service obligation requirements; (3) specifying that the Secretary will notify grant recipients in advance of the final date by which they must submit documentation of qualifying teaching service to avoid loan conversion; and (4) describing the information that the Secretary will provide to a grant

recipient whose grants are converted to loans, including information about the process by which a grant recipient may request reconsideration of the conversion.

### Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

#### *Faith-Based Significant Proposed Regulations*

##### Student Eligibility (§ 674.9)

*Statute:* Parts E (§ 461, *et seq.*) and F (§ 471, *et seq.*) of the HEA govern the Federal Perkins Loan Program and need analysis, respectively.

*Current Regulations:* Section 674.9(c) provides that a member of a religious order pursuing a course of study in an institution of higher education has no financial need for purposes of the Federal Perkins Loan Program if the order has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; requires its members to forego monetary or other support substantially beyond the support it provides; and directs the member to pursue the course of study or provides subsistence support to its members.

*Proposed Regulations:* We propose to revise § 674.9(c) to remove the language that provides that a member of a religious order is considered to have no financial need.

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral toward religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>4</sup> The Department determined that the current regulations may violate the Free Exercise Clause by categorically denying individuals from participation in generally available benefit programs, based on a person's religious views. The Department believes that otherwise eligible students should not be denied participation in title IV programs based solely on their membership in a religious order or the particular attributes of that order. It is not necessary and is in violation of the Free Exercise Clause to single out and exclude from participation in title IV programs individuals who are members of religious orders. Accordingly, the

Department proposes to delete this provision.

Deferment of Repayment—Federal Perkins Loans Made Before July 1, 1993 (§ 674.35)

*Statute:* Parts E (§ 461, *et seq.*) and F (§ 471, *et seq.*) of the HEA govern the Federal Perkins Loan Program and need analysis, respectively.

*Current Regulations:* Section 674.35(c)(5)(iv) denies deferment of repayment for Federal Perkins loan borrowers working as volunteers if their volunteer duties include giving religious instruction, conducting worship services, proselytizing, or fundraising to support religious activities.

*Proposed Regulations:* We propose to delete § 674.35(c)(5)(iv).

*Reasons:* We believe that the current provision may violate the Free Exercise Clause of the First Amendment. Many religious organizations offer services such as providing food to impoverished people as part of their religious worship and outreach. Those organizations may not be able to separate the provision of secular and non-secular services, as they are intertwined in their faith and belief systems. Volunteers should be able to enjoy membership in a religious organization and obtain loan deferments (a generally available benefit). Accordingly, the Department proposes to delete this provision.

Deferment of Repayment—NDSLs Made on or After October 1, 1980, but Before July 1, 1993 (§ 674.36)

*Statute:* Section 464 of the HEA governs the terms of Perkins Loans.

*Current Regulations:* Section 674.36(c)(4)(iv) denies deferment of repayment for NDSL borrowers working as volunteers if their duties include giving religious instruction, conducting worship service, proselytizing, or fundraising to support religious activities.

*Proposed Regulations:* We propose to delete § 674.36(c)(4)(iv).

*Reasons:* We believe that the current regulation may violate the Free Exercise Clause of the First Amendment. Many religious organizations offer services such as providing food to impoverished people as part of their religious worship and outreach. Those organizations may not be able to separate the provision of secular and non-secular services, as they are intertwined in their faith and belief systems. Volunteers should be able to enjoy membership in a religious organization and obtain loan deferments (a generally available benefit). Accordingly, the Department proposes to delete this provision.

Student Eligibility (§ 675.9)

*Statute:* HEA part C (§ 441, *et seq.*) governs the FWSP and HEA part F (§ 471, *et seq.*) governs need analysis.

*Current Regulations:* Section 675.9(c) provides that a member of a religious order pursuing a course of study in an institution of higher education has no financial need for purposes of the FWSP if the order has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; requires its members to forego monetary or other support substantially beyond the support it provides; and directs the member to pursue the course of study or provides subsistence support to its members.

*Proposed Regulations:* We propose to revise § 675.9(c) to remove the language that provides that a member of a religious order is considered to have no financial need.

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral and generally applicable without regard to religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>5</sup> The Department determined that the current regulations may violate the Free Exercise Clause by categorically denying individuals from participation in neutral and generally available benefit programs based on their membership in a religious order. Other non-discriminatory methods exist for determining a student's cost of attendance when a third party is providing housing, sustenance, or other support to the student. It is not necessary and is in violation of the Free Exercise Clause to single out and exclude from participation in title IV programs individuals who are members of religious orders. Accordingly, the Department proposes to delete this provision.

Eligible Employers and General Conditions and Limitation on Employment (§ 675.20)

*Statute:* Section 443(b)(1)(C) of the HEA states that work performed under the FWSP may “not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.”

*Current Regulations:* Section 675.20(c)(2)(iv) provides that FWSP employment may not “involve the construction, operation, or maintenance of any part of a facility used or to be

<sup>4</sup> 137 S. Ct. at 2021–25.

<sup>5</sup> 137 S. Ct. at 2021–25.



used for religious worship or sectarian instruction.”

*Proposed Regulations:* We propose to amend the regulation to be consistent with the statutory text.

*Reasons:* On college campuses, chapels and other religious structures may be part of larger multi-use facilities. The current regulations are not clear as to when FWSP employment may include the construction, operation, or maintenance of a larger, multi-use facility that includes space that is used for religious worship or sectarian instruction. The current regulatory language also has departed from the statute in precluding certain employment activities from *any part* of a facility used or to be used for religious worship or sectarian instruction. To provide clarity and to ensure adherence to the statute, the Faith-Based Entities Subcommittee suggested that we conform the regulatory language to the statutory provision, and the committee reached consensus on amending the provision as proposed by the subcommittee.

#### Student Eligibility (§ 676.9)

*Statute:* Section 413C and Part F (§ 471, *et seq.*) of the HEA govern the selection of recipients for the FSEOG Program and need analysis, respectively.

*Current Regulations:* Section 676.9(c) states that a member of a religious order pursuing a course of study in an institution of higher education has no financial need for purposes of the FSEOG Program if the order has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; requires its members to forego monetary or other support substantially beyond the support it provides; and directs the member to pursue the course of study or provides subsistence support to its members.

*Proposed Regulations:* We propose to revise § 676.9(c) to remove the language that provides that a member of a religious order is considered to have no financial need.

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral to religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>6</sup> The Department determined that the current regulations may violate the Free Exercise Clause by categorically denying individuals from participating in generally available benefit programs based on their membership in a

religious order. The Department believes that otherwise eligible students who are members of religious orders should not be required to disavow their religious beliefs in order to participate in title IV programs. Other non-discriminatory methods exist for determining a student's cost of attendance when a third party is providing housing, sustenance, or other support to the student. It is not necessary and is in violation of the Free Exercise Clause to single out and exclude from participation in title IV programs individuals who are members of religious orders. Accordingly, the Department proposes to delete this provision.

#### Deferment (§ 682.210)

*Statute:* Section 427(a)(2)(c) of the HEA as it was in effect on July 2, 1992 governs deferments that were available to borrowers with loans issued before July 1, 1993.

*Current Regulations:* Section 682.210(m)(1)(iv) denies deferment of repayment for FFEL borrowers working as volunteers if their duties include giving religious instruction, conducting worship service, proselytizing, or fundraising to support religious activities.

*Proposed Regulations:* During negotiations, we developed proposed changes to § 682.210(m)(1)(iv) that would deny deferment of repayment for FFEL borrowers working as volunteers only for that portion of their duties spent participating in religious instruction, worship services, or any form of proselytizing. However, this proposed revision is inconsistent with the other provisions regarding deferment in which consensus was reached. Similar provisions in other regulations were simply deleted. Because this would be inconsistent with our other proposed regulatory changes, we seek comment from the public on whether we should instead remove § 682.210(m)(1)(iv).

*Reasons:* We believe that the current regulatory provision may violate the Free Exercise Clause of the First Amendment. Many religious organizations offer services such as providing food to impoverished people as part of their religious worship and outreach. Those organizations may not be able to separate the provision of secular and non-secular services, as they are intertwined as part of their faith and belief system. Volunteers should be able to enjoy membership in a religious organization and obtain loan deferments (a generally available benefit). Accordingly, the Department proposes to revise this provision.

Eligibility of Borrowers for Interest Benefits on Stafford and Consolidation Loans (§ 682.301)

*Statute:* Section 428 of the HEA governs Federal payments to reduce student interest costs.

*Current Regulations:* Section 682.301(a)(2) provides that a member of a religious order pursuing a course of study in an institution of higher education has no financial need for purposes of the FFEL Program if the order has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; requires its members to forego monetary or other support substantially beyond the support it provides; and directs the member to pursue the course of study or provides subsistence support to its members.

*Proposed Regulations:* We propose to delete § 682.301(a)(2).

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral to religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>7</sup> The Department determined that the current regulations may violate the Free Exercise Clause by categorically denying individuals from participation in generally available benefit programs based on their membership in a religious order. The Department believes that otherwise eligible students who are members of religious orders should not be required to disavow their religious beliefs in order to participate in title IV programs. Other non-discriminatory methods exist for determining a student's cost of attendance when a third party is providing housing, sustenance, or other support to the student. It is not necessary to single out and exclude from participation in title IV programs individuals who are members of religious orders and singling out these individuals for exclusion may violate the Free Exercise Clause. Accordingly, the Department proposes to delete this provision.

#### Borrower Eligibility (§ 685.200)

*Statute:* Section 451, *et seq.* of the HEA governs the Direct Loan program.

*Current Regulations:* Section 685.200(a)(2)(ii) provides that a member of a religious order, group, community, society, agency or other organization pursuing a course of study in an institution of higher education has no financial need for purposes of the Direct

<sup>6</sup> 137 S. Ct. at 2021–25.

<sup>7</sup> 137 S. Ct. at 2021–25.



Loan Program if the order has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; requires its members to forego monetary or other support substantially beyond the support it provides; and directs the member to pursue the course of study or provides subsistence support to its members.

*Proposed Regulations:* We propose to delete § 685.200(a)(2)(ii).

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral to religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>8</sup> The Department determined that the current regulations may violate the Free Exercise Clause by categorically denying individuals from participating in generally available benefit programs based on their membership in a religious order. The Department believes that otherwise eligible students who are members of religious orders should not be required to disavow their religious beliefs in order to participate in title IV programs. Other non-discriminatory methods exist for determining a student's cost of attendance when a third party is providing housing, sustenance, or other support to the student. It is not necessary to single out and exclude from participation in title IV programs individuals who are members of religious orders and singling out these individuals for exclusion may violate the Free Exercise Clause. Accordingly, the Department proposes to delete this provision.

PSLF Program (§ 685.219)

*Statute:* HEA section 455 governs the PSLF Program.

*Current Regulations:* The definition of “public service organization” in § 685.219(b) excludes a non-profit organization engaged in religious activities unless the qualifying activities are unrelated to religious instruction, worship services, or any form of proselytizing. The Department has not historically interpreted this regulation to categorically prohibit borrowers who work for employers that engage in religious instruction, worship services, or proselytizing from qualifying for the PSLF Program and proposes to revise this regulation.

*Proposed Regulations:* The Department initially proposed to delete the provision in § 685.219(b) that defines a public service organization as a non-profit organization that is “not

engaged in religious activities, unless the qualifying activities are unrelated to religious instruction, worship services, or any form of proselytizing.” The Department is concerned that denying certain borrowers the same generally available benefit as a result of the borrowers' choice to work for a non-profit engaged in religious activities may violate the Free Exercise Clause.<sup>9</sup> During negotiations, the Committee reached consensus to revise the definition of “public service organization” to provide that borrowers who work for employers that engage in religious instruction, worship services, or proselytizing qualify for the PSLF Program so long as they can meet the applicable standard for full-time employment when those religious activities are excluded from their work hours.

*Reasons:* Currently, borrowers or other members of the public who read the Department's regulations may not understand how they can qualify for the PSLF Program, if they are employed by an organization that engages in religious instruction, worship services, or any form of proselytizing. The proposed modification to the definition of “public service organization” constitutes a compromise that the Department reached with the Committee. This revision does not categorically deny borrowers the opportunity to qualify for the PSLF Program if they choose to work for a non-profit organization that is engaged in religious activities. The Department seeks comment on this revision, including whether and how borrowers may exclude religious activities from their work hours if their religious activities may be intertwined with their secular work. The Department also seeks comment on whether this revision may substantially burden a person's exercise of religion under the Religious Freedom Restoration Act, 42 U.S.C. 2000bb, *et seq.*

Determination of Eligibility for Payment (§ 690.75)

*Statute:* Section 401 of the HEA governs Pell Grants.

*Current Regulations:* Section 690.75(d) states that a member of a religious order, community, society, agency, or organization who is pursuing a course of study in an institution of higher education is considered to have an expected family contribution amount at least equal to the maximum authorized award amount for the award year if that religious order has as a primary objective the promotion of

ideals and beliefs regarding a Supreme Being and provides subsistence support to its members, or has directed the member to pursue the course of study.

*Proposed Regulations:* We propose to delete § 690.75(d).

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral to religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>10</sup> The Department determined that the current regulations may violate the Free Exercise Clause by categorically denying individuals from participating in generally available benefit programs based on their membership in a religious order, community, society, agency, or organization. The Department believes that otherwise eligible students who are members of religious orders should not be required to disavow their religious beliefs in order to participate in title IV programs. Other non-discriminatory methods exist for determining a student's cost of attendance when a third party is providing housing, sustenance, or other support to the student. It is not necessary to single out and exclude from participation in title IV programs individuals who are members of religious orders and singling out such individuals for exclusion may violate the Free Exercise Clause. Accordingly, the Department proposes to delete this provision.

How does a State administer its community service-learning job program? (§ 692.30)

*Statute:* Section 415C of the HEA provides that grants for community service-learning jobs must be made in accordance with the requirements of the FWSP. Under those FWSP requirements in Section 443(b)(1)(C) of the HEA, work performed may “not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.”

*Current Regulations:* Section 692.30(c)(5) states that each community service-learning job must “not involve the construction, operation, or maintenance of any part of a facility used or to be used for religious worship or sectarian instruction.”

*Proposed Regulations:* We propose replacing the regulatory text with the statutory text.

*Reasons:* On college campuses, chapels and other religious structures may be part of larger multi-use facilities.

<sup>8</sup> 137 S. Ct. at 2021–25.

<sup>9</sup> *Trinity Lutheran*, 137 S. Ct. at 2021–22.

<sup>10</sup> 137 S. Ct. at 2021–25.

The current regulations are not clear as to when a community service-learning job may include the construction, operation, or maintenance of a larger multi-use facility that includes space that is used for religious worship or sectarian instruction. The current regulatory language also departs from the statutory language. To provide clarity and to adhere to the statute, the Faith-Based Entities Subcommittee agreed to conform the regulatory language to the statutory provision.

Who may provide GEAR UP services to students attending private schools? (§ 694.6)

*Statute:* Section 404 *et seq.* of the HEA governs the GEAR UP program.

*Current Regulations:* Section 694.6(b) states that, in providing GEAR UP services to students attending private schools, the employee, individual, association, agency, or organization must be independent of the private school that the students attend, and of any religious organization affiliated with the school, and that employment or contract must be under the control and supervision of the public agency.

*Proposed Regulations:* We propose to change this provision to state that, when providing GEAR UP services to students attending private schools, the employee, individual, association, agency, or organization must be employed or contracted independently of the private school that the students attend, and of any other organization affiliated with the school, and that employment or contract must be under the control and supervision of the public agency.

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral to religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>11</sup> The current regulatory provision is written in a way that singles out and disfavors religious organizations and, thus, may violate the Free Exercise Clause. The Faith-Based Entities Subcommittee proposed, and the negotiating committee agreed to, language that provides needed safeguards without singling out religious organizations.

*Statute:* Section 404, *et seq.* of the HEA governs the GEAR UP program.

*Current Regulations:* Section 694.6(c) states that Federal funds used to provide GEAR UP services to students attending private schools may not be commingled with non-Federal funds.

*Proposed Regulations:* We propose to delete this provision.

*Reasons:* The current regulatory provision duplicates broader requirements in the Education Department General Administrative Regulations (EDGAR) and corresponding Office of Management and Budget Circulars that prohibit the comingling of any Federal and non-Federal funds, not just funds used to provide services to students attending private schools. Because the current regulatory provision duplicates other requirements, it is unnecessary. Furthermore, because the current provision is limited to funds used to serve students in private schools, it may mislead grantees to believe that Federal and non-Federal funds used for other purposes may be comingled. Grantees could also misinterpret the provision to believe that the requirements for the management of Federal and non-Federal funds is different for the GEAR UP program than for other discretionary grant programs administered by the Department. We believe that all regulatory provisions relating to the management of Federal and non-Federal funds should be in the EDGAR regulations that apply to all grant programs administered by the Department rather than including a narrow provision out of context in the GEAR UP program regulations.

What are the requirements that a Partnership must meet in designating a fiscal agent for its project under this program? (§ 694.10)

*Statute:* Section 404 *et seq.* of the HEA governs the GEAR UP program.

*Current Regulations:* Section 694.10 states that a Partnership must designate a local educational agency (LEA) or an “institution of higher education that is not pervasively sectarian” to serve as its fiscal agent.

*Proposed Regulations:* We propose to delete the phrase “that is not pervasively sectarian” so that any otherwise qualified institution of higher education can serve as the fiscal agent of a GEAR UP grant.

*Reasons:* In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that laws and policies may provide benefits in a way that is neutral to religion, but policies that single out the religious for disfavored treatment violate the Free Exercise Clause.<sup>12</sup> The Department determined that the current regulations may categorically deny entities from participating in a generally available benefit program based on their religious status. It is not necessary to single out institutions that are pervasively sectarian from serving as

fiscal agents for GEAR UP grants and singling out such institutions for exclusion may violate the Free Exercise Clause. Accordingly, the Department proposes to delete this provision.

#### *TEACH Grant Program*

Scope and Purpose (§ 686.1)

*Statute:* HEA sections 420L through 420P establish the terms and conditions of the TEACH Grant Program.

*Current Regulations:* Section 686.1 states that the TEACH Grant Program awards grants to students who intend to teach, to help meet the cost of their postsecondary education. In exchange for receiving a grant, a student must agree to serve as a full-time teacher in a high-need field in a low-income school for at least four academic years within eight years of completing the program of study for which the grant was received. The current regulations further provide that if the grant recipient does not satisfy the service obligation, the amounts of the TEACH Grants received are treated as a Direct Unsubsidized Loan that must be repaid with interest.

*Proposed Regulations:* The Department proposes to revise and expand § 686.1 by—

- Adding language stating that a student can receive a TEACH Grant by agreeing to serve as a full-time teacher in a high-need field for an educational service agency serving low-income students;
- Replacing the current language stating that a student must agree to teach for at least four academic years within eight years of completing the program of study for which he or she received the grant with language stating that the student must agree to complete the required years of teaching within eight years of ceasing enrollment at the institution where the student received the TEACH grant or, in the case of a student who receives a TEACH Grant at one institution and subsequently transfers to another institution and enrolls in another TEACH Grant-eligible program, within eight years of ceasing enrollment at the other institution;
- Adding language stating that the eight-year period for completing the required four years of teaching does not include periods of suspension in accordance with § 686.41;
- Adding language to clarify that interest is charged from the date of each TEACH Grant disbursement if the TEACH Grant recipient does not satisfy the service obligation requirements and his or her TEACH Grants are converted into a Direct Unsubsidized Loan that must be repaid with interest; and

<sup>11</sup> 137 S. Ct. at 2021–25.

<sup>12</sup> 137 S. Ct. at 2021–25.

- Adding language stating the conditions under which a TEACH Grant that has been converted to a Direct Unsubsidized Loan can be reconverted to a grant.

*Reasons:* We are proposing to add a reference to educational service agencies in § 686.1 to reflect the change made by the Higher Education Opportunity Act of 2008 (Pub. L. 110–315) (HEOA) that amended section 465(a)(2)(A) of the HEA to include educational service agencies in the description of a low-income school for purposes of the title IV student financial assistance programs, including the TEACH Grant Program.

For consistency with proposed changes discussed in more detail later in this preamble, we propose to amend § 686.1 to state that the eight-year period for completing the service obligation begins when a student ceases enrollment at the institution where he or she received a TEACH Grant, rather than when the student completes the program of study for which the student received the grant. Further, because the current TEACH Grant regulations do not address the starting date of the eight-year service obligation period for students who receive a TEACH Grant at one institution and later transfer to a different institution, we propose to clarify in § 686.1 that in such cases the eight-year period would begin when the student ceases enrollment at the transfer institution. This is consistent with other proposed changes, discussed later in this preamble, that provide that a grant recipient will have a single service obligation associated with all TEACH Grants received while the recipient is at the same academic level.

The TEACH Grant subcommittee recommended that we expand § 686.1 to clarify that the eight-year period for completing the service obligation does not include periods of suspension granted under § 686.41, that interest is charged on a converted TEACH Grant from the date of each TEACH Grant disbursement, and that a TEACH Grant that has been converted to a Direct Unsubsidized Loan can be reconverted to a grant only if the Secretary determines that the grant was improperly converted to a loan. Subcommittee members believed that it was particularly important for TEACH Grant recipients to understand these specific provisions of the TEACH Grant Program and urged the Department to include them in § 686.1 for the benefit of grant recipients who may only read the “scope and purpose” section of the regulations.

We agreed with the recommendations to expand the content of § 686.1, but

instead of adding language stating that a TEACH Grant that has been converted to a loan can be reconverted to a grant only if the Secretary determines that the grant was improperly converted to a loan, we propose to say that a loan can be reconverted to a grant only in accordance with § 686.43. The reason for proposing this alternative language is that under certain circumstances as described in proposed § 686.43, a TEACH Grant that was converted to a loan can be reconverted to a grant even though the conversion to a loan was not improper.

#### *Definitions (§ 686.2)*

**Free Application for Federal Student Aid (FAFSA)**

*Statute:* HEA section 420N(b) requires that teacher candidates must file an application to receive a TEACH Grant.

*Current Regulations:* There is no current definition of a TEACH Grant application.

*Proposed regulations:* In § 686.2(b), we propose to add a cross-reference to the term “Free application for Federal student aid (FAFSA)” in 34 CFR part 668.

*Reasons:* This is a conforming change to reflect proposed changes in § 686.10 that replace references to an application for a TEACH Grant with references to the FAFSA. The FAFSA serves as the application for a TEACH Grant.

**Agreement To Serve or Repay**

*Statute:* Section 420N(b) of the HEA requires that an application for a TEACH Grant contain or be accompanied by an agreement to serve.

*Current Regulations:* Section 686.2(d) defines “Agreement to serve (ATS)” as an agreement under which a TEACH Grant recipient commits to meet the service obligation described in § 686.12 and to comply with program requirements.

*Proposed Regulations:* We propose to change the name of the agreement signed by a TEACH Grant recipient from “Agreement to serve (ATS)” to “Agreement to serve or repay” and to clarify that the agreement requires the TEACH Grant recipient to commit to meet the service obligation or repay the loan.

*Reasons:* We are proposing the changes described above because the current term “Agreement to serve (ATS)” and the definition of that term do not clearly convey the consequences of failing to meet the service obligation requirements. This change would clarify that signing the agreement to serve or repay commits the TEACH Grant recipient to either meet the service obligation or repay the loan.

**Educational Service Agency**

*Statute:* The HEOA amended section 465(a)(2)(A) of the HEA to include educational service agencies in the description of a low-income school and added a new section 481(f) stating that “educational service agency” has the meaning given the term in section 9101 of the ESEA.

*Current Regulations:* Current regulations do not define “educational service agency.”

*Proposed Regulations:* We propose to add the term “educational service agency” in § 686.2(d) and to include in the regulations the definition of that term from section 9101 of the ESEA. An educational service agency is a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to LEAs.

*Reasons:* The Department proposes to add a definition of “educational service agency” to reflect the statutory change made by the HEOA to section 465(a)(2)(A) of the HEA to include educational service agencies in the description of a low-income school, and added a new section 481(f) that provides that “educational service agency” has the meaning given the term in section 9101 of the ESEA.

**High-Need Field**

*Statute:* Section 420N(b)(1)(C) of the HEA describes high-need fields as mathematics, science, foreign languages, bilingual education, special education, reading specialist, or another field documented as high-need by the Federal Government, State government, or LEA, and approved by the Secretary.

*Current Regulations:* Section 686.2(d) defines “high-need field” as including the following—

- (1) Bilingual education and English language acquisition;
- (2) Foreign language;
- (3) Mathematics;
- (4) Reading specialist;
- (5) Science;
- (6) Special education; and
- (7) Another field documented as high-need by the Federal Government, a State government or an LEA, and approved by the Secretary and listed in the Department’s annual Teacher Shortage Area Nationwide Listing (Nationwide List) in accordance with 34 CFR 682.210(q).

*Proposed Regulations:* We propose to clarify that “science” includes computer science. In addition, we propose to remove the cross-reference to 34 CFR 682.210(q) from paragraph (7) of the current definition and incorporate this reference into the proposed definition of the term “Teacher Shortage Area Nationwide Listing (Nationwide List).”

*Reasons:* While the Department has traditionally considered “science” to include “computer science,” non-Federal negotiators believed that institutions and students might not be aware of this, and therefore felt it was important to clarify this policy in the regulations. The Department agreed.

The cross-reference to 34 CFR 682.210(q) in current paragraph (7) is no longer needed because it will be included in a proposed stand-alone definition of “Teacher Shortage Area Nationwide Listing (Nationwide List),” as discussed below.

#### Highly Qualified

*Statute:* Section 420N(b)(1)(E) of the HEA provides that, as a condition of receiving a TEACH Grant, an applicant must agree to comply with the requirements for being a highly qualified teacher as defined in section 9101 of the ESEA.

Sections 428J(g)(3) and 460(g)(3) of the HEA describe how private school teachers who are exempt from State certification requirements may be considered highly qualified teachers for purposes of meeting the eligibility requirements for teacher loan forgiveness in the FFEL and Direct Loan programs.

*Current Regulations:* Section 686.2(d) states that “highly-qualified” has the meaning set forth in section 9101(23) of the ESEA or in section 602(10) of the Individuals with Disabilities Education Act.

*Proposed Regulations:* In § 686.2(d) we propose to replace the current definition of “highly-qualified” with the full text of the statutory definition of “highly qualified” from section 9101(23) of the ESEA. In addition, we propose to add to paragraph (4) of the definition provisions that describe how a public or other non-profit private, elementary or secondary school teacher who is exempt from State certification requirements can meet the “highly qualified” requirement.

*Reasons:* The Every Student Succeeds Act (ESSA) removed the “highly qualified” definition from the law for ESEA purposes. However, section 9214(a) of the ESSA provides that, for purposes of the title IV, HEA Federal student aid programs, including the TEACH Grant Program, the term “highly qualified” as it was defined in the ESEA as of the day before the enactment of the ESEA continues to apply. Therefore, TEACH Grant recipients must still meet the highly qualified teacher standards to satisfy their service obligation. To clarify that the highly qualified teacher requirements continue to apply for purposes of the TEACH Grant Program

and to ensure that grant recipients understand those requirements, we believe it is appropriate to add the definition of “highly qualified” in its entirety to the TEACH Grant regulations.

The definition of “highly qualified” in the ESEA does not address private school teachers. However, teaching in qualified non-profit private schools can be qualifying service for a TEACH Grant recipient. To clarify the requirements for private school teachers and to be consistent with the requirements that apply to teachers seeking loan forgiveness in the Direct Loan and FFEL Programs, we propose to expand the definition of “highly qualified” to include the language from sections 428J(g)(3) and 460(g)(3) of the HEA that describes how private school teachers who are exempt from State certification requirements can meet the highly qualified teacher standards for teacher loan forgiveness purposes.

School or Educational Service Agency Serving Low-Income Students (Low-Income School)

*Statute:* Section 420N(b)(1)(B) of the HEA provides that an applicant for a TEACH Grant must agree to teach in a “low-income school” as described in section 465(a)(2)(A) of the HEA. Under that section such a school is—

(1) A public or other nonprofit private elementary school or secondary school, which has been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the school is located) to be a school in which the number of children meeting a measure of poverty under section 1113(a)(5) of the ESEA, exceeds 30 percent of the total number of children enrolled in such school, and is in the school district of an LEA which is eligible in such year for assistance pursuant to part A of title I of the ESEA; or

(2) A public, or nonprofit private, elementary school or secondary school or location operated by an educational service agency that has been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the educational service agency operates) to be a school or location at which the number of children taught who meet a measure of poverty under section 1113(a)(5) of the ESEA, exceeds 30 percent of the total number of children taught at such school or location.

*Current Regulations:* Section 686.2(d) defines “school serving low-income

students (low-income school)” as an elementary or secondary school that—

(1) Is in the school district of an LEA that is eligible for assistance pursuant to title I of the ESEA;

(2) Has been determined by the Secretary to be a school in which more than 30 percent of the school’s total enrollment is made up of children who qualify for services provided under title I of the ESEA; and

(3) Is listed in the Department’s Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits.

The current definition of “low-income school” further provides that the Secretary considers all elementary and secondary schools operated by the Bureau of Indian Education (BIE) in the Department of the Interior or operated on Indian reservations by Indian Tribal groups under contract or grant with the BIE to qualify as schools serving low-income students.

*Proposed Regulations:* We propose to revise the current definition of “low-income school” to include educational service agencies in addition to elementary and secondary schools. We also propose to remove paragraphs (1) and (2) of the current definition and to replace “Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits” with “Teacher Cancellation Low-Income (TCLI) Directory.” The revised definition would state that a low-income school is an elementary school, secondary school, or educational service agency that is listed in the Department’s TCLI Directory. We propose to retain the current language related to schools operated by the BIE, with the addition of a reference to educational service agencies.

*Reasons:* We are proposing to add references to educational service agencies to the definition of “low-income school” to reflect the statutory change made by the HEOA to section 465(a)(2)(A) of the HEA that allows a TEACH Grant recipient to satisfy his or her service obligation by teaching in an educational service agency that serves low-income students. To simplify the definition of “low-income school,” we propose to delete current paragraphs (1) and (2), which explain the requirements that a school or educational service agency must meet to be included in the TCLI Directory. Since grant recipients must teach at a low-income school that is listed in the TCLI Directory, we believe it is sufficient to simply state that requirement, without including the TCLI eligibility criteria. Finally, we propose to replace “Annual Directory of Designated Low-Income Schools for

Teacher Cancellation Benefits” with “Teacher Cancellation Low-Income (TCLI) Directory” to reflect the current name of the Directory.

#### TEACH Grant-Eligible Program

*Statute:* The HEA does not define “TEACH Grant-eligible program.”

*Current Regulations:* The current regulations define “TEACH Grant-eligible program” as an eligible program for Federal student financial aid purposes, as defined in 34 CFR 686.8, that is a program of study designed to prepare an individual to teach as a highly qualified teacher in a high-need field and which leads to a baccalaureate or master’s degree, or is a post-baccalaureate program of study. A two-year program of study acceptable for full credit toward a baccalaureate degree is considered to be a program of study that leads to a baccalaureate degree.

*Proposed Regulations:* We propose to add language to the current definition stating that a TEACH Grant-eligible program is a program of study “at a TEACH Grant-eligible institution.”

*Reasons:* For greater clarity, the TEACH Grant subcommittee recommended that we specify in the definition that a program is TEACH Grant-eligible only if it is offered at an institution that participates in the TEACH Grant Program. This would make it clear that if an undergraduate TEACH Grant recipient transfers to a different institution prior to completing the program for which he or she received a TEACH Grant and enrolls in a baccalaureate program at the new institution that could qualify as TEACH Grant-eligible, the recipient would be eligible to have the starting date of the eight-year service obligation period adjusted, as discussed later in this preamble, only if the new institution participates in the TEACH Grant Program.

#### Teacher Shortage Area Nationwide Listing (Nationwide List)

*Statute:* The HEA does not define “Teacher Shortage Area Nationwide Listing (Nationwide List).”

*Current Regulations:* Current regulations do not define “Teacher Shortage Area Nationwide Listing (Nationwide List).”

*Proposed Regulations:* The Department proposes to add to § 686.2(d) the term “Teacher Shortage Area Nationwide Listing (Nationwide List),” which we would define as a list of teacher shortage areas in each State as defined under 34 CFR 682.210(q)(8)(vii).

*Reasons:* The term “Teacher Shortage Area Nationwide Listing (Nationwide

List)” is used in various sections of the proposed regulations, but we have not previously defined it. Therefore, we are proposing to add a definition for this term.

#### Application (§ 686.10)

*Statute:* Section 420N of the HEA provides that the Secretary must periodically set dates by which a teacher candidate who wishes to receive a TEACH Grant for any year must file an application that contains information showing that the candidate meets the eligibility requirements in section 420N(a)(2).

*Current regulations:* Section 686.10(a)(1) provides that to receive a TEACH Grant, a student must complete and submit an application designated by the Secretary. Section 686.10(a)(2) states that a TEACH Grant applicant must complete and sign an agreement to serve and promise to repay, and § 686.10(a)(3) requires a TEACH Grant applicant to provide any additional information and assurances requested by the Secretary.

Section 686.10(b) requires the student to submit the application by sending the completed application to the Secretary, or by providing the application, signed by all appropriate family members, to the institution that the student attends or plans to attend, so that the institution can transmit the application information to the Secretary electronically.

Section 686.10(c) requires the student to provide the address of his or her residence.

Finally, § 686.10(d) provides that for each award year, the Secretary, through publication in the **Federal Register**, establishes deadline dates for submitting the application and additional information, and for making corrections to the information provided.

*Proposed Regulations:* We propose to redesignate § 686.10(a)(1) as § 686.10(a) and revise the redesignated paragraph to state that to receive a TEACH Grant, a student must complete and submit the FAFSA in accordance with the instructions in the FAFSA.

We further propose to redesignate § 686.10(a)(2) and (3) as § 686.10(b) and (c), respectively, amend the redesignated paragraphs, and remove § 686.10(b), (c), and (d).

In redesignated § 686.10(b), we propose to replace “agreement to serve and promise to pay” with “agreement to serve or repay,” and to specify that the TEACH Grant applicant must complete and sign the agreement to serve or repay in accordance with § 686.12.

In redesignated § 686.10(c), we propose to remove the requirement for the applicant to provide any assurances requested by the Secretary, and to

specify that in addition to being required to provide any additional information requested by the Secretary, the applicant must also provide any additional information requested by the institution.

*Reasons:* We are proposing to replace references to submitting an application as designated by the Secretary with a reference to submitting the FAFSA, and to remove other current provisions related to submitting the application, because the FAFSA is the application for the TEACH Grant Program. There is no separate application for the TEACH Grant Program.

We also propose to remove the requirement for the TEACH Grant applicant to provide assurances because any required assurances are included in the agreement to serve or repay. We further propose to add a provision stating that a TEACH Grant applicant must provide any additional information requested by the institution. TEACH Grant subcommittee members recommended adding this provision because there are institutions that require potential TEACH Grant recipients to submit information showing that they meet the program eligibility requirements of the TEACH Grant-eligible program that are specific to that institution.

#### Eligibility To Receive a Grant (§ 686.11)

*Statute:* Section 420N(a) of the HEA provides student eligibility requirements for the TEACH Grant Program.

*Current Regulations:* Section 686.11(a) sets forth the TEACH Grant student eligibility requirements common to all students who are enrolled in undergraduate, post-baccalaureate, and graduate programs. All students must meet the student eligibility requirements for Federal student financial aid in 34 CFR part 668, subpart C; have submitted a completed application along with a signed service agreement; and be enrolled in a TEACH Grant-eligible institution in a TEACH Grant-eligible program. All students must also complete coursework and other requirements necessary to begin a career in teaching or plan to do so before graduating and meet specific academic requirements.

Section 686.11(b) sets forth the TEACH Grant student eligibility requirements for current or former teachers and retirees. A current or former teacher or retiree must meet the student eligibility requirements for Federal student financial aid in 34 CFR part 668, subpart C, have submitted a completed application along with a signed service agreement, and have

applied for a TEACH Grant to obtain a master's degree. The applicant must be a teacher or retiree or be a current or former teacher pursuing certification through a high-quality alternative certification route. Applicants must be enrolled in a TEACH Grant eligible-program at a TEACH Grant-eligible institution during the time period required for completion of a master's degree. Section 686.11(c) provides the eligibility requirements to receive a grant for transfer students.

*Proposed Regulations:* We are proposing to revise § 686.11(a)(1)(i) to specify that, instead of submitting a completed application, a student must meet the application requirements in proposed § 686.10, and to delete § 686.11(a)(1)(ii). We would also redesignate § 686.11(a)(1)(iii) through (v) as § 686.11(a)(1)(iii) through (iv), respectively.

We propose to revise the introductory text in § 686.11(b) to refer to the application requirements in proposed § 686.10, consistent with the proposed change to § 686.11(a)(1)(i). We also propose to remove § 686.11(b)(1) and redesignate § 686.11(b)(2) and (3) as § 686.11(b)(1) and (2), respectively.

*Reasons:* We are proposing these changes to be consistent with the proposed cross-reference to § 686.10, which specifies that a student must complete the FAFSA, sign an agreement to serve or repay, and provide any additional information requested by the Secretary. Because the requirements under proposed § 686.10 incorporate the agreement to serve or repay, there is no need to repeat this language in proposed § 686.11 (a) or (b). The consensus language contained an edit to § 686.11(b)(1) that would change the term "agreement to serve" to "agreement to serve or repay." We have determined that § 686.11(b)(1) should instead be removed because, like § 686.11(a)(1)(ii), it is redundant as a result of the proposed change to refer to the application requirements in § 686.10 in the introductory text of § 686.11(b).

#### Agreement To Serve (§ 686.12)

*Statute:* Section 420N(b)(1) of the HEA provides that each TEACH Grant application must contain or be accompanied by an agreement by the applicant that he or she will—

(1) Serve as a full-time teacher for a total of not less than four academic years within eight years after completing the course of study for which the applicant received a TEACH Grant;

(2) Teach in a school described in section 465(a)(2)(A) of the HEA;

(3) Teach in any of the fields of mathematics, science, foreign language, bilingual education, special education, reading specialist, or another field documented as high-need by the Federal Government, State government, or LEA, and approved by the Secretary;

(4) Submit evidence of qualifying employment in the form of a certification by the chief administrative officer of the school upon completion of each year of service; and

(5) Comply with the requirements for being a highly qualified teacher as defined in section 9101 of the ESEA.

Section 420N(b)(2) of the HEA provides that if the applicant is determined to have failed or refused to carry out the service obligation, the sum of the amounts of any TEACH Grants received by the applicant will be treated as a loan and collected from the applicant in accordance with section 420N(c) of the HEA.

Section 420N(b)(3) of the HEA states that the agreement to serve must contain or be accompanied by a plain-language disclosure form developed by the Secretary that clearly describes the nature of the TEACH Grant award, the service obligation, and the loan repayment requirements that are the consequences of failure to complete the service obligation.

Section 420N(d)(1) of the HEA provides that if a recipient of an initial TEACH Grant has acquired an academic degree or expertise in a field that was, at the time of the recipient's application for that grant, designated as high-need by the Federal Government, State government, or LEA, and approved by the Secretary, but it is no longer designated as high-need, the grant recipient may fulfill the TEACH Grant service obligation by teaching in that field.

*Current Regulations:* Section 686.12(a) provides that a student who meets the eligibility requirements in § 686.11 may receive a TEACH Grant only after he or she signs an agreement to serve and receives counseling in accordance with § 686.32.

Section 686.12(b) describes the contents of the agreement to serve. Section 686.12(b) introductory text provides that for each TEACH Grant-eligible program for which a student received TEACH Grant funds, the grant recipient must fulfill a service obligation by performing creditable teaching service.

Section 686.12(b)(1) states that a grant recipient must perform the creditable teaching service by serving as a full-time teacher for a total of not less than four elementary or secondary academic years within eight calendar years after

completing the program or otherwise ceasing enrollment in the program for which the recipient received the TEACH Grant—

(1) In a low-income school;

(2) As a highly qualified teacher; and

(3) In a high-need field in the majority of classes taught during each elementary and secondary year.

Under § 686.12(b)(2), the agreement to serve requires the grant recipient to submit, upon completion of each year of service, documentation of the service in the form of a certification by a chief administrative officer of the school.

Under § 686.12(b)(3), the agreement to serve requires the grant recipient to comply with the terms, conditions, and other requirements consistent with §§ 686.40—686.43 that the Secretary determines to be necessary.

Section 686.12(c) addresses the completion of more than one service obligation. Section 686.12(c)(1) states that a grant recipient must complete a service obligation for each program of study for which he or she received TEACH Grants; specifies that each service obligation begins following the completion or other cessation of enrollment by the student in the TEACH Grant-eligible program for which the student received TEACH Grant funds; and clarifies that creditable teaching service, a suspension approved under § 686.41(a)(2), or a military discharge granted under § 686.42(c)(2) may apply to more than one service obligation.

Section 686.12(c)(2) provides that a grant recipient may request a suspension, in accordance with § 686.41, of the eight-year time period described in § 686.12(b)(1).

Section 686.12(d) describes the requirements for majoring and serving in a high-need field. The current regulations state that a grant recipient who completes a TEACH Grant-eligible program in a field that is listed in the Nationwide List cannot satisfy his or her service obligation to teach in that high-need field unless the high-need field in which he or she has prepared to teach is listed in the Nationwide List for the State in which the grant recipient begins teaching at the time the recipient begins teaching in that field.

Section 686.12(e) describes the requirement that the recipient repay the amount of TEACH Grants received plus interest if the recipient fails to complete the service obligation. Under § 686.12(e), if a grant recipient fails or refuses to carry out the required service obligation described in § 686.12(b), the TEACH Grants received by the recipient must be repaid and will be treated as a Federal Direct Unsubsidized Loan, with interest accruing from the date of each

TEACH Grant disbursement, in accordance with applicable sections of 34 CFR part 685, subpart B.

*Proposed Regulations:* The proposed regulations would change the title of § 686.12 to “Agreement to serve or repay,” and would make conforming changes where needed throughout the section.

The proposed regulations would redesignate the introductory text of § 686.12(b) as § 686.12(b)(1), redesignate § 686.12(b)(1) as (b)(1)(i), and redesignate § 686.12(b)(1)(i), (ii), and (iii) as § 686.12(b)(1)(ii), (iii), and (iv), respectively.

We propose to amend redesignated § 686.12(b)(1)(i) by changing “eight calendar years” to “eight years,” and by further revising the current language to provide that a grant recipient must complete the four-year service obligation within eight years after the date the recipient ceased to be enrolled at the institution where he or she received a TEACH Grant or, in the case of a student who receives a TEACH Grant at one institution and later transfers to another institution and enrolls in another TEACH Grant-eligible program, within eight years of ceasing enrollment at the other institution. In redesignated §§ 686.32(b)(1)(ii) and (iii), we propose to add cross-references to the definitions of “low-income school” and “highly qualified” teacher in § 686.2(d).

We propose to add new paragraphs § 686.12(b)(3) and (4), and redesignate current paragraph § 686.12(b)(3) as paragraph § 686.12(b)(5).

Under proposed new § 686.12(b)(3), the agreement to serve or repay would explain that the eight-year period for completing the service obligation does not include periods of suspension in accordance with § 686.41.

Under proposed new §§ 686.12(b)(4)(i) through (iii), the agreement to serve or repay would: (1) Explain the conditions under which a TEACH Grant may be converted to a Direct Unsubsidized Loan, as described in § 686.43; (2) explain that if a TEACH Grant is converted to a loan, the grant recipient must repay the loan in full, with interest charged from the date of each TEACH Grant disbursement; and (3) explain that to avoid further accrual of interest, a grant recipient who for any reason no longer intends to satisfy the service obligation may request that the Secretary convert his or her TEACH Grant to a loan that the grant recipient can begin repaying immediately.

We propose to change the heading for § 686.12(c) from “Completion of more than one service obligation” to “Completion of the service obligation.”

In addition, we propose to revise paragraph (c)(1) and add new paragraphs (c)(2) and (3). Current paragraph (c)(2) would be redesignated as paragraph (c)(4).

Proposed revised § 686.12(c)(1) would provide that a TEACH Grant recipient must complete one service obligation for all TEACH Grants received for undergraduate study, and one service obligation for all TEACH Grants received for graduate study, and would further specify that the eight-year period for completing the service obligation begins when the grant recipient ceases to be enrolled at the institution where he or she received a TEACH Grant or, in the case of a student who receives a TEACH Grant at one institution and later transfers to another institution and enrolls in another TEACH Grant-eligible program, when the recipient ceases enrollment at the other institution. Proposed revised § 686.12(c)(1) would continue to specify that creditable teaching service, an approved suspension, or a military discharge may apply to more than one service obligation.

Proposed new § 686.12(c)(2) would address the service obligation requirements for TEACH Grant recipients who withdraw from an institution before completing the program of study for which they received TEACH Grants, but later re-enroll at the same institution or at a different institution in the same or a different TEACH Grant-eligible program at the same academic level. Specifically, proposed new § 686.12(c)(2)(i) would provide that if a grant recipient withdraws from an institution before completing a baccalaureate or post-baccalaureate program, but later re-enrolls at the same or a different institution in either the same program or in a different baccalaureate or post-baccalaureate program and receives additional TEACH Grants, or the Secretary otherwise confirms that the recipient has re-enrolled in a TEACH Grant-eligible program, the Secretary would adjust the starting date of the eight-year service obligation period to begin when the recipient ceases enrollment at the institution where he or she has re-enrolled, except as provided in proposed new § 686.12(c)(3). Proposed new § 686.12(c)(2)(ii) would provide for the same treatment of a grant recipient who withdraws from and later re-enrolls in a TEACH Grant-eligible master’s degree program. Proposed § 686.12(c)(2)(i) and (ii) would apply only if the grant recipient re-enrolls before we convert the recipient’s TEACH Grants to Direct

Unsubsidized Loans in accordance with proposed § 686.43(a)(1)(ii).

Proposed new § 686.12(c)(3) would address the treatment of grant recipients covered under proposed § 686.12(c)(2)(i) or (ii) who complete one or more years of creditable teaching service during the period between their withdrawal and subsequent re-enrollment. Specifically, the proposed regulations would provide that if a grant recipient completed one or more complete academic years of creditable teaching service during the period between withdrawal and re-enrollment, those years of teaching would count toward satisfaction of the grant recipient’s service obligation, and the Secretary would not adjust the starting date of the eight-year period for completing the service obligation, unless the recipient requests an adjustment. Proposed new § 686.12(c)(3) would further provide that if a grant recipient continues to perform creditable teaching service after re-enrolling in a TEACH Grant-eligible program, qualifying teaching service performed while the recipient is concurrently enrolled in the TEACH Grant-eligible program may be applied toward satisfaction of the grant recipient’s service obligation only if the grant recipient does not request and receive a temporary suspension of the service obligation period under § 686.41(a)(1)(i).

We propose to change the heading of § 686.12(d) from “Majoring and serving in a high-need field” to “Teaching in a high-need field listed in the Nationwide List”. We propose to revise retitled § 686.12(d) to provide that for teaching service prior to July 1, 2010, teaching in a high-need field listed in the Nationwide List counts toward satisfaction of the service obligation as long as the high-need field in which the recipient prepared to teach is listed in the Nationwide List for the State in which the recipient teaches at the time the recipient begins teaching in that field, even if that field subsequently loses its high-need designation. For teaching service performed on or after July 1, 2010, the field must be listed in the Nationwide List at the time the grant recipient begins teaching in that field, even if the field later loses its high-need designation, or must have been listed at the time the grant recipient signed the agreement to serve or repay or received the TEACH Grant, even if that field is no longer designated as high-need when the recipient begins teaching in that field.

*Reasons:* We propose to change the title of § 686.12 from “agreement to serve” to “agreement to serve or repay” to better emphasize that, as a condition



for receiving a TEACH Grant, a student must agree to either complete the service obligation or repay the grant as a loan. For greater clarity, we also propose to restructure current § 686.12(b)(1) and add cross references to definitions in § 686.2(d).

To reflect our current practice, we propose to specify in § 686.12(b)(1)(i) that the eight-year period for completing the service obligation begins on the date the grant recipient ceases enrollment at the institution or at the transfer institution where he or she received a TEACH Grant, rather than on the date the recipient completes or otherwise ceases to be enrolled in the program of study for which the recipient received a TEACH Grant. Existing practice is to start the eight-year service obligation on the date we receive enrollment information indicating that a grant recipient has ceased enrollment at the institution, because we generally do not collect the dates on which students cease enrollment in specific educational programs.

Proposed revised § 686.12(b)(1)(i) would also specify that the grant recipient must complete the service obligation within “eight years” rather than within “eight calendar years” as in current § 686.12(b)(1). During the TEACH Grant subcommittee meetings, a subcommittee member asked the Department if a grant recipient would be considered to have completed the service obligation within the eight-year service obligation period if the recipient’s fourth academic year of qualifying teaching began less than eight calendar years from the starting date of the eight-year period, but did not end until more than eight calendar years had elapsed. The Department confirmed that, in this situation, the recipient would be considered to have satisfied the service obligation within the eight-year period. To make this clear in the regulations, the subcommittee member recommended that the Department replace “eight calendar years” with “eight years.” We agreed to propose this change.

We are proposing to add new paragraphs § 686.12(b)(3) and (4) to specify that the agreement to serve or repay will include certain information, as described earlier under “Proposed Regulations,” that subcommittee members believed was particularly important to ensure that students are better informed of the terms and conditions of the service obligation before they submit the agreement.

We propose to revise § 686.12(c) to cover certain circumstances that the current regulations do not address. Current § 686.12(c)(1) states that a grant

recipient must complete a service obligation for each program of study for which he or she received TEACH Grants, but it does not address the service obligation requirements for grant recipients who start out in one TEACH Grant-eligible program, but then change to a different TEACH Grant-eligible program at the same academic level and at the same institution, or for grant recipients who receive a TEACH Grant at one institution and later transfer to another institution. We believe that the simplest approach, and the approach that is most beneficial to grant recipients, is to require a grant recipient to complete one service obligation for all TEACH Grants received for undergraduate study at the same institution or at more than one institution, and to complete one service obligation for all TEACH Grants received for graduate study at the same institution or at more than one institution. This means, for example, that a grant recipient who receives TEACH Grants for undergraduate TEACH Grant-eligible Program A, but before completing that program changes to undergraduate TEACH Grant-eligible Program B at either the same institution or at a different institution, would have just one four-year service obligation associated with all TEACH Grants received for undergraduate study. This approach is consistent with section 420N(b)(1)(A) of the HEA, which requires a TEACH Grant recipient to complete a four-year service obligation after completing the course of study for which the individual received TEACH Grants.

Because current § 686.12(c)(1) also does not address the service obligation requirements for grant recipients who withdraw from an institution before completing the program for which they received TEACH Grants, but later re-enroll in the same or a different TEACH Grant-eligible program, we are proposing to add new paragraphs (c)(2) and (3) to describe the requirements that would apply in this circumstance. The regulations in proposed new (c)(2) and (3) are consistent with the concept of having one service obligation for all TEACH Grants received for undergraduate study, and one service obligation for all TEACH Grants received for graduate study, as described in proposed § 686.12(c)(1).

The following example illustrates how proposed § 686.12(c)(2)(i) would apply:

A TEACH Grant recipient withdraws from an institution in December 2019 before completing TEACH Grant-eligible baccalaureate Program A. The eight-year period for completing the TEACH Grant

service obligation begins on the student’s withdrawal date. In September 2020, the grant recipient re-enrolls in Program A and receives another TEACH Grant. The grant recipient completes Program A and graduates in June 2021. We adjust the starting date of the eight-year period for completing the service obligation to begin in June 2021.

Proposed § 686.12(c)(2)(ii) would provide for the same treatment as described in the above example in the case of a grant recipient who withdraws prior to completing a TEACH Grant-eligible master’s degree program and later re-enrolls in the same program or in a different TEACH Grant-eligible master’s degree program.

Proposed § 686.12(c)(3)(i) and (ii) would specify that if a grant recipient completes one or more academic years of qualifying teaching service during the period between withdrawal and re-enrollment, the completed teaching counts toward satisfaction of the recipient’s service obligation and the starting date of the period for completing the service obligation is not adjusted, unless the recipient requests an adjustment. The reason for not adjusting the service obligation period starting date in this circumstance is that if the starting date were adjusted to begin when the recipient ceases enrollment at the institution where he or she has re-enrolled, the period of completed teaching service for which the grant recipient is receiving credit would have been performed prior to the start of the service obligation period. Therefore, in this situation the starting date of the service obligation period will be the date the recipient withdrew prior to completing the program for which he or she received TEACH Grants. However, upon re-enrollment the grant recipient could request a temporary suspension of the period for completing the service obligation in accordance with proposed § 686.41(a)(1)(i). The non-Federal negotiators supported the provisions described in proposed new § 686.12(c)(2) and (3), but felt that a grant recipient who completed one or more years of qualifying teaching service during the period between withdrawal and re-enrollment should have the option of forfeiting credit for the completed teaching and instead have the starting date of the period for completing the service obligation adjusted to begin when the recipient ceases enrollment at the institution where he or she re-enrolled. This would provide the recipient with eight years to complete another four years of teaching. Some subcommittee members believed that for certain grant recipients it might be more beneficial to have a full eight

years to complete four years of teaching than to receive credit for the teaching that was completed during the period between withdrawal and re-enrollment and then have fewer than eight years to complete the remaining portion of the service obligation. The Department agreed to include this option in the proposed regulations.

Under proposed § 686.12(c)(3)(iii), if a grant recipient continues to perform qualifying teaching service after re-enrolling in a TEACH Grant-eligible program, the recipient may receive credit for that teaching service toward satisfaction of the service obligation only if the recipient does not request and receive a temporary suspension of the period for completing the service obligation under proposed § 686.41(a)(1)(i) based on re-enrollment in a TEACH Grant-eligible program. The reason for this limitation is that teaching service may be applied toward satisfaction of a grant recipient's service obligation only if the teaching is performed during the service obligation period. Since we exclude periods of suspension from the service obligation period, any teaching performed during a period when we suspend the service obligation period cannot be counted toward satisfaction of the service obligation.

The following example illustrates how proposed § 686.12(c)(3) would apply:

A TEACH Grant recipient withdraws from an institution before completing TEACH Grant-eligible master's degree Program A in June 2020. The recipient's eight-year period for completing the service obligation begins in June 2020. In September 2020, the recipient begins teaching in a high-need field in a low-income school and completes a full year of qualifying teaching during the 2020–2021 school year. In September 2021, the grant recipient stops teaching, re-enrolls in Program A, and completes the program, graduating in June 2022. The recipient requests and receives a temporary suspension of the eight-year service obligation period while completing Program A. Unless the recipient requests otherwise, the starting date of the eight-year period for completing the service obligation continues to be June 2020. The recipient would receive credit for the one year of teaching completed during the 2020–2021 school year, and now has seven years left to complete the remaining three years of the four-year service obligation. However, the recipient would have the option of asking the Secretary to adjust the starting date of the eight-year service obligation period to begin in June 2022, when the

recipient graduates after completing Program A. In that case, the recipient would receive no credit for the year of teaching completed during the 2020–2021 school year and would have eight years to complete four years of teaching, starting in June 2022.

Under proposed § 686.12(c)(3)(iii), if the grant recipient in the above example continued to perform qualifying teaching service after re-enrolling in Program A in September 2021 and completed an additional year of teaching during the 2021–2022 school year, the recipient could receive credit for the second year of teaching only if he or she did not request and receive a temporary suspension of the eight-year service obligation period after re-enrolling in Program A. In that case, after graduating in June 2022 the recipient would have six years left to complete the remaining two years of the four-year service obligation.

Finally, a non-Federal negotiator noted that the proposed changes in § 686.12(c) are not exclusively related to the completion of more than one service obligation. Accordingly, the Department agreed to change the heading of § 686.12(c) from “Completion of more than one service obligation” to “Completion of the service obligation.”

We propose to revise § 686.12(d) to reflect changes to section 420N(d)(1) of the HEA made by the HEOA. The changes made by the HEOA, as described earlier under “Proposed regulations,” are effective for teaching performed on or after July 1, 2010. We are also proposing to change the heading of § 686.12(d) from “Majoring and serving in a high-need field” to “Teaching in a high-need field listed in the Nationwide List” to describe the content of this section more accurately.

#### Calculation of a Grant (§ 686.21)

*Statute:* Section 420M(d)(1)(B) of the HEA provides that the total TEACH Grant amount that a teacher candidate may receive for undergraduate or postgraduate study may not exceed \$16,000. Section 420M(d)(2) of the HEA provides that the total TEACH Grant amount that a teacher candidate may receive for graduate study may not exceed \$8,000.

*Current Regulations:* Section 686.21(a)(2)(i) states that the aggregate amount a student may receive in TEACH Grants for undergraduate study may not exceed \$16,000, and § 686.21(a)(2)(ii) states that the aggregate amount a student may receive in TEACH Grants for a master's degree may not exceed \$8,000.

*Proposed Regulations:* We propose to change the word “aggregate” to “total”

in § 686.21(a)(2)(i) and (ii), and to replace “a master's degree” with “graduate study” in § 686.21(a)(2)(ii).

*Reasons:* We are proposing the changes described above to make the regulatory language more consistent with the statutory language.

#### Counseling Requirements (§ 686.32)

*Statute:* The HEA does not include any counseling requirements for TEACH Grant recipients.

*Current Regulations:* Section 686.32 requires initial, subsequent, and exit counseling for TEACH Grant recipients.

#### Initial Counseling

Section 686.32(a)(1) requires an institution to conduct initial counseling with each TEACH Grant recipient before making the first disbursement of the grant. Section 686.32(a)(2) states that the initial counseling must be in person, by audiovisual presentation, or by interactive electronic means, and that in each case the institution must ensure that an individual with expertise in the title IV, HEA programs is reasonably available shortly after the counseling to answer the student's questions. As an alternative method of counseling for students enrolled in a correspondence program or a study-abroad program, the current regulations allow for the student to be provided with written counseling materials before the grant is disbursed.

Under § 686.32(a)(3)(i) through (xi), initial counseling must—

- Explain the terms and conditions of the agreement to serve as described in § 686.12 (§ 686.32(a)(3)(i));
- Provide the grant recipient with information about how to identify low-income schools and high-need fields (§ 686.32(a)(3)(ii));
- Inform the grant recipient that, in order for teaching to count toward the service obligation, the high-need field in which he or she has prepared to teach must be one of the six high-need fields listed in § 686.2, or a high-need field listed in the Nationwide List at the time and for the State in which the grant recipient begins teaching in that field (§ 686.32(a)(3)(iii));
- Inform the grant recipient of the opportunity to request a suspension of the eight-year period for completing the agreement to serve and the conditions under which a suspension may be granted in accordance with § 686.41 (§ 686.32(a)(3)(iv));
- Explain to the grant recipient that conditions, such as conviction for a felony, could preclude the recipient from completing the service obligation (§ 686.32(a)(3)(v));
- Emphasize that if the grant recipient fails or refuses to complete the

service obligation contained in the agreement to serve or any other condition of the agreement to serve, the TEACH Grant must be repaid as a Federal Direct Unsubsidized Loan, and the recipient will be obligated to repay the full amount of each TEACH Grant and accrued interest from each disbursement date (§ 686.32(a)(3)(vi));

- Explain the circumstances, as described in § 686.43, under which a TEACH Grant will convert to a Federal Direct Unsubsidized Loan (§ 686.32(a)(3)(vii));
- Emphasize that once a TEACH Grant converts to a Federal Direct Unsubsidized Loan, it cannot reconvert to a grant (§ 686.32(a)(3)(viii));
- Review for the grant recipient information on the availability of the Department's Student Loan Ombudsman's office (§ 686.32(a)(3)(ix));
- Describe the likely consequences of loan default, including adverse credit reports, garnishment of wages, Federal offset, and litigation (§ 686.32(a)(3)(x)); and
- Inform the grant recipient of sample monthly payment amounts based on a range of student loan indebtedness (§ 686.32(a)(3)(xi)).

#### Subsequent Counseling

In accordance with § 686.32(b)(1), if a student receives more than one TEACH Grant, the institution must ensure that the student receives additional counseling before the disbursement of each subsequent TEACH Grant. Section 686.32(b)(2) provides that subsequent counseling may be conducted by the same means as allowed for initial counseling in § 686.32(a)(2).

Under § 686.32(b)(3)(i) through (v), subsequent counseling must—

- Review the terms and conditions of the agreement to serve as described in § 686.12 (§ 686.32(b)(3)(i));
- Emphasize that if the grant recipient fails or refuses to complete the service obligation contained in the agreement to serve or any other condition of the agreement to serve, the TEACH Grant must be repaid as a Federal Direct Unsubsidized Loan, and the recipient will be obligated to repay the full amount of each TEACH Grant and accrued interest from each disbursement date (§ 686.32(b)(3)(ii));
- Explain the circumstances, as described in § 686.43, under which a TEACH Grant will convert to a Federal Direct Unsubsidized Loan (§ 686.32(b)(3)(iii));
- Emphasize that once a TEACH Grant converts to a Federal Direct Unsubsidized Loan, it cannot reconvert to a grant (§ 686.32(b)(3)(iv)); and

- Review for the grant recipient information on the availability of the Department's Student Loan Ombudsman's office (§ 686.32(b)(3)(v)).

#### Exit Counseling

Section 686.32(c)(1) requires an institution to ensure that each grant recipient receives exit counseling before he or she ceases to attend the institution at a time determined by the institution. Section 686.32(c)(2) provides that subsequent counseling may be conducted by the same means as allowed for initial counseling in § 686.32(a)(2), except that in the case of a grant recipient enrolled in a correspondence program or in a study-abroad program, § 686.32(c)(2) states that the grant recipient may be provided with written counseling materials within 30 days after he or she completes the TEACH Grant-eligible program.

Section 686.32(c)(3) provides that within 30 days of learning that a grant recipient has withdrawn from the institution without the institution's knowledge, or from a TEACH Grant-eligible program, or failed to complete exit counseling as required, exit counseling must be provided either in-person, through interactive electronic means, or by mailing written counseling materials to the grant recipient's last known address.

Under § 686.32(c)(4)(i) through (xv), exit counseling must—

- Inform the grant recipient of the four-year service obligation that must be completed within the first eight calendar years after completing a TEACH Grant-eligible program in accordance with § 686.12 (§ 686.32(c)(4)(i));
- Inform the grant recipient of the opportunity to request a suspension of the eight-year period for completing the service obligation and the conditions under which a suspension may be granted in accordance with § 686.41 (§ 686.32(c)(4)(ii));
- Provide the grant recipient with information about how to identify low-income schools and high-need fields (§ 686.32(c)(4)(iii));
- Inform the grant recipient that, in order for teaching to count toward the service obligation, the high-need field in which he or she has prepared to teach must be one of the six high-need fields listed in § 686.2, or a high-need field listed in the Nationwide List at the time and for the State in which the grant recipient begins teaching in that field (§ 686.32(c)(4)(iv));
- Explain that the grant recipient will be required to submit to the Secretary each year written documentation of his or her status as a highly qualified

teacher in a high-need field at a low-income school, or of his or her intent to complete the service obligation, until the date the service obligation has been met or the date that the grant is converted to a loan, whichever occurs first (§ 686.32(c)(4)(v));

- Explain the circumstances, as described in § 686.43, under which a TEACH Grant will convert to a Federal Direct Unsubsidized Loan (§ 686.32(c)(4)(vi));
  - Emphasize that once a TEACH Grant converts to a loan it cannot be reconverted to a grant (§ 686.32(c)(4)(vii));
  - Inform the grant recipient of the average anticipated monthly repayment amount based on a range of student loan indebtedness if the TEACH Grants convert to a Federal Direct Unsubsidized Loan (§ 686.32(c)(4)(viii));
  - Review for the grant recipient available repayment options if the TEACH Grant converts to a Federal Direct Unsubsidized Loan, including the standard repayment, extended repayment, graduated repayment, income-contingent and income-based repayment plans, and loan consolidation (§ 686.32(c)(4)(ix));
  - Suggest debt-management strategies to the grant recipient that would facilitate repayment if the TEACH Grant converts to a loan (§ 686.32(c)(4)(x));
  - Explain to the grant recipient how to contact the Secretary (§ 686.32(c)(4)(xi));
  - Describe the likely consequences of loan default, including adverse credit reports, garnishment of wages, Federal offset, and litigation (§ 686.32(c)(4)(xii));
  - Review the conditions under which the grant recipient may defer or forbear repayment, obtain a full or partial discharge, or receive teacher loan forgiveness if the TEACH Grant converts to a loan (§ 686.32(c)(4)(xiii));
  - Review for the grant recipient information on the availability of the Department's Student Loan Ombudsman's office (§ 686.32(c)(4)(xiv)); and
  - Inform the grant recipient of the availability of title IV loan information in the National Student Loan Data System (NSLDS) (§ 686.32(c)(4)(xv)).
- Section 686.32(d) requires the institution to maintain documentation substantiating the institution's compliance with the TEACH Grant initial, subsequent, and exit counseling requirements for each TEACH Grant recipient.
- Proposed Regulations:* We propose to amend the initial, subsequent, and exit counseling requirements, and to add a new conversion counseling requirement in § 686.32(e). The Secretary would

provide conversion counseling to a TEACH Grant recipient at the time we convert a TEACH Grant to a Direct Unsubsidized Loan.

#### Initial and Subsequent Counseling

We propose to amend the current initial counseling requirement in § 686.32(a)(3)(iii) to require that the counseling explain to the recipient that for teaching to count toward a grant recipient's service obligation, the high-need field in which the grant recipient has prepared to teach must be one of the six high-need fields listed in § 686.2, or must be a high-need field listed in the Nationwide List for the State in which the grant recipient teaches—

(1) At the time the grant recipient begins teaching in that field, even if that field subsequently loses its high-need designation for that State; or

(2) For teaching service performed on or after July 1, 2010, at the time the recipient signed the agreement to serve or repay or received the TEACH Grant, even if that field subsequently loses its high-need designation for that State before the grant recipient begins teaching in that field.

We propose to redesignate current § 686.32(a)(3)(viii), in initial counseling, as (a)(3)(ix), and redesignate current § 686.32(b)(3)(iv), in subsequent counseling, as § 686.32(b)(3)(v), and to amend the redesignated paragraphs to state that the counseling must explain to the recipient that once a TEACH Grant converts to a Direct Unsubsidized Loan, it may reconvert to a grant only if—

(1) The Secretary determines that the grant converted to a loan in error; or

(2) In the case of a grant recipient whose TEACH Grant was converted to a Direct Unsubsidized Loan in accordance with proposed new § 686.43(a)(1)(ii), within one year of the conversion date the grant recipient provides documentation showing that he or she is satisfying the service obligation within the eight-year service obligation period.

Finally, we propose to add new § 686.32(a)(3)(viii)(A) and (B) in initial counseling, and new § 686.32(b)(3)(iv)(A) and (B) in subsequent counseling. Proposed new § 686.32(a)(3)(viii)(A) and (b)(3)(iv)(A) would provide that the counseling must explain to the recipient that to avoid further accrual of interest as described in proposed § 686.12(b)(4)(ii), a grant recipient who decides not to teach in a qualified school or field, or who for any other reason no longer intends to satisfy the service obligation, may request that the Secretary convert his or her TEACH Grant to a Direct Unsubsidized Loan that the recipient may begin repaying

immediately, instead of waiting for the TEACH Grant to be converted to a loan under the conditions described in proposed § 686.43(a)(1)(ii).

Proposed new § 686.32(a)(3)(viii)(B) and (b)(3)(iv)(B) would provide that the counseling must explain that if a grant recipient requests that a TEACH Grant be converted to a Direct Unsubsidized Loan in accordance with proposed § 686.43(a)(1)(i), the conversion of the grant to a loan cannot be reversed.

#### Exit Counseling

We propose to revise § 686.32(c)(4)(i) to provide that exit counseling must review the terms and conditions of the TEACH Grant agreement to serve or repay as described in § 686.12 and emphasize to the grant recipient that the four-year service obligation must be completed within the eight-year period described in § 686.12.

We propose to add to the exit counseling requirements new § 686.32(c)(4)(ii), which would state that exit counseling must explain the treatment of a grant recipient who withdraws from and then re-enrolls in a TEACH Grant-eligible program at a TEACH Grant-eligible institution as described in proposed § 686.12(c). We would redesignate current § 686.32(c)(4)(ii), (iii), and (iv) as (c)(4)(iii), (iv), and (v), respectively.

We propose to revise redesignated § 686.32(c)(4)(v) by making the same changes we are proposing to make in § 686.32(a)(3)(iii) for initial counseling, as described earlier.

The proposed regulations would remove current § 686.32(c)(4)(v) and add new § 686.32(c)(4)(vi) and (vii).

Proposed new § 686.32(c)(4)(vi) would specify that exit counseling must emphasize to the grant recipient that if he or she fails or refuses to complete the service obligation contained in the agreement to serve or repay or fails to meet any other condition of the agreement to serve or repay, the TEACH Grant must be repaid as a Direct Unsubsidized Loan, and the grant recipient will be obligated to repay the full amount of each grant and the accrued interest from each disbursement date.

Proposed new § 686.32(c)(4)(vii) would require exit counseling to explain to the grant recipient that the Secretary will, at least annually during the service obligation period, send the recipient the notice described in § 686.43(a)(2).

We propose to redesignate current § 686.32(c)(4)(vi) as (c)(4)(viii) and add new (c)(4)(ix). Proposed new (c)(4)(ix) would require exit counseling to provide grant recipients with the same information that we propose to include

in new § 686.32(a)(3)(viii) and (b)(3)(iv) for initial and subsequent counseling, respectively, as described earlier.

The proposed regulations would redesignate current § 686.32(c)(4)(vii) as (c)(4)(x) and revise the redesignated paragraph by making the same changes as described earlier for proposed redesignated § 686.32(a)(3)(ix) and (b)(3)(v) in the initial and subsequent counseling regulations, respectively.

Finally, we propose to remove current §§ 686.32(c)(4)(viii), (ix), and (x), retain current § 686.32(c)(4)(xi), and remove current §§ 686.32(c)(4)(xii), (xiii), (xiv), and (xv).

#### Conversion Counseling

We propose to add a conversion counseling requirement in new § 686.32(e). Under proposed § 686.32(e)(1), at the time a TEACH Grant recipient's TEACH Grant is converted to a Direct Unsubsidized Loan, the Secretary would conduct conversion counseling with the recipient by interactive electronic means and by mailing written counseling materials to the most recent address provided by the recipient.

Proposed § 686.32(e)(2)(i) through (xv) would specify that conversion counseling—

(1) Informs the borrower of the average anticipated monthly repayment amount based on the borrower's indebtedness (§ 686.32(e)(2)(i));

(2) Reviews for the borrower available repayment plan options, including standard, graduated, extended, income-contingent, and income-based repayment plans, with a description of the different features of each plan and the difference in interest paid and total payments under each plan (§ 686.32(e)(2)(ii));

(3) Explains to the borrower the options to prepay the loan, to pay the loan on a shorter schedule, and to change repayment plans (§ 686.32(e)(2)(iii));

(4) Provides information on the effects of loan consolidation including, at a minimum, the effects of consolidation on total interest to be paid and length of repayment, the effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities, and the options of the borrower to prepay the loan and to change repayment plans (§ 686.32(e)(2)(iv));

(5) Includes debt-management strategies that are designed to facilitate repayment (§ 686.32(e)(2)(v));

(6) Explains to the borrower the availability of Public Service Loan

Forgiveness (PSLF) and teacher loan forgiveness (§ 686.32(e)(2)(vi));

(7) Explains how the borrower may request reconsideration of the conversion of the TEACH Grant to a Direct Unsubsidized Loan if the borrower believes that the grant converted to a loan in error (§ 686.32(e)(2)(vii));

(8) Describes the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation (§ 686.32(e)(2)(viii));

(9) Informs the borrower of the grace period as described in § 686.43(c) (§ 686.32(e)(2)(ix));

(10) Provides a general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of the loan (including under the PSLF Program), defer repayment of the loan, or be granted a forbearance on repayment of the loan, and provides a copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA (§ 686.32(e)(2)(x));

(11) Requires the borrower to provide current information concerning their name, address, Social Security number, and driver's license number and State of issuance, as well as the borrower's permanent address (§ 686.32(e)(2)(xi));

(12) Reviews for the borrower information on the availability of the Student Loan Ombudsman's office (§ 686.32(e)(2)(xii));

(13) Informs the borrower of the availability of title IV loan information in the NSLDS and how NSLDS can be used to obtain title IV loan status information (§ 686.32(e)(2)(xiii));

(14) Provides a general description of the types of tax benefits that may be available to borrowers (§ 686.32(e)(2)(xiv)); and

(15) Informs the borrower of the amount of interest that has accrued on the converted TEACH Grants and explains that any unpaid interest will be capitalized at the end of the grace period (§ 686.32(e)(2)(xv)).

*Reasons:* To reflect the changes made by the HEOA to HEA section 420N(d)(1), as described earlier in this preamble, we are proposing to amend the current initial and exit counseling provisions that describe the conditions under which teaching in a high-need field may count towards satisfaction of the service obligation (§ 686.32(a)(3)(iii) for initial counseling, and redesignated § 686.32(c)(4)(v) for exit counseling). The proposed changes are consistent with the proposed changes in § 686.12(d).

We are proposing to add new § 686.32(a)(3)(viii), (b)(3)(iv), and (c)(4)(ix) to the initial, subsequent, and exit counseling regulations, respectively, in response to a recommendation from the TEACH Grant subcommittee. As explained in the discussions of the proposed changes to §§ 686.12 and 686.43, subcommittee members recommended that we include in the agreement to serve or repay and in the notice described in proposed § 686.43(a)(2) an explanation that if a grant recipient decides not to teach in a qualifying school or field, or for any other reason does not intend to satisfy the service obligation, the recipient can avoid further accrual of interest by asking the Secretary to convert the TEACH Grant to a Direct Unsubsidized Loan that the recipient can begin repaying immediately, instead of waiting for the grant to be converted later. If a grant recipient requests loan conversion as soon as the recipient decides that he or she no longer intends to satisfy the service obligation and begins repaying the loan, it would reduce the amount of interest the recipient must pay on the converted grant because interest would be charged from the date of each TEACH Grant disbursement. The subcommittee members believed it was important for a grant recipient to understand that if at any point he or she no longer intends to satisfy the service obligation, it may be in the recipient's best interest to immediately ask the Secretary to convert the TEACH Grant to a loan so that the recipient can begin repaying the loan. For the same reason, the subcommittee recommended that we provide this information to grant recipients during initial, subsequent, and exit counseling. The subcommittee further recommended that we add a requirement for initial, subsequent, and exit counseling to explain that if a grant recipient who no longer intends to satisfy the service obligation asks the Secretary to convert a TEACH Grant to a loan, the loan cannot be reconverted to a grant. The subcommittee believed it was important for grant recipients to understand that while it may be beneficial to request loan conversion as soon as they decide that they no longer intend to satisfy the service obligation, the conversion of a grant to a loan at a recipient's request is permanent and cannot be reversed. The main negotiating committee supported these recommendations.

Section 686.32(a)(3)(viii) (in the initial counseling regulations), (b)(3)(iv) (subsequent counseling), and (c)(4)(vii) (exit counseling) provide that once a

TEACH Grant is converted to a loan, the loan cannot be reconverted to a grant. For consistency with proposed changes in § 686.43, we initially proposed to revise these counseling provisions to state that once a TEACH Grant converts to a loan, it may reconvert to a grant if the grant converted to a loan in error. For the reasons explained in the discussion of the proposed changes to § 686.43, during the negotiated rulemaking process the Department proposed to further amend § 686.43 by adding new § 686.43(a)(5), which provides that if a grant recipient's TEACH Grant converts to a loan in accordance with § 686.43(a)(1)(ii), the Secretary will reconvert the loan to a grant if, within one year of the conversion date, the grant recipient provides the Secretary with documentation showing that he or she is satisfying the service obligation. The subcommittee and main committee supported this change and recommended that the information in proposed new § 686.43(a)(5) be provided to grant recipients during initial, subsequent, and exit counseling, so that grant recipients would understand the conditions under which a converted TEACH Grant can be reconverted to a loan before they receive a grant and before they begin the service obligation period. Accordingly, we are proposing to add the information contained in proposed § 686.43(a)(5) to the initial, subsequent, and exit counseling regulations.

In the exit counseling regulations, we propose to expand § 686.32(c)(4)(i) in response to a recommendation from the subcommittee that the main negotiating committee accepted. Specifically, the subcommittee believed that grant recipients would benefit from receiving a review of all the terms and conditions of the agreement to serve or repay during exit counseling, in addition to a reminder of the timeframe during which the four-year service obligation must be completed.

We are proposing to add new § 686.32(c)(4)(ii) to the exit counseling requirements because it is important for grant recipients who receive exit counseling prior to withdrawing from an institution to understand the terms and conditions that will apply if they later decide to return to school and re-enroll in the same or a different TEACH Grant-eligible program.

We are proposing to remove current § 686.32(c)(4)(v) from the exit counseling regulations for consistency with proposed changes in § 686.43 that eliminate the requirement for grant recipients to annually provide the Secretary with documentation of their

progress toward satisfying the service obligation or notice of their intent to satisfy the service obligation.

We propose to add new § 686.32(c)(4)(vi) based on the subcommittee’s recommendation that it would be important for exit counseling to explain to grant recipients in greater detail the consequences of failing or refusing to complete the service obligation as described in the agreement to serve or repay, so that they will understand those consequences before they begin the service obligation period.

We propose to add new § 686.32(c)(4)(vii) in response to a recommendation from the subcommittee, which was supported by the main committee, that exit counseling tell grant recipients about the notice from the Secretary that they will receive at least annually during the service obligation period, as described in proposed § 686.43(a)(2), so that the recipients will know what types of communications they can expect to receive from the Secretary during their service obligation period.

We propose to remove current § 686.32(c)(4)(viii) through (x) and (xii) through (xv) from the exit counseling requirements. These paragraphs require exit counseling to cover information that is relevant to a grant recipient only if a TEACH Grant is converted to a Direct Unsubsidized Loan, including, but not limited to, anticipated monthly loan payment amounts, available repayment options, debt management strategies, the consequences of defaulting on a loan, and loan deferment, forbearance, and forgiveness options. We propose to retain current § 686.32(c)(4)(xi), which states that exit counseling must explain to the grant recipient how to contact the Secretary.

The TEACH Grant subcommittee believed that it was not necessary to provide grant recipients with detailed information about loan terms and conditions unless and until their TEACH Grants convert to loans. If a grant recipient’s TEACH Grant later converts to a Direct Unsubsidized Loan, the conversion may not occur until several years after the exit counseling has been provided. Therefore, the subcommittee recommended that we remove from exit counseling the requirements to provide information that would apply only if a grant converts to a loan, and instead include this information, along with additional loan-specific information, as part of a new conversion counseling requirement. The subcommittee recommended that the Secretary provide conversion counseling to a grant recipient at the time of loan conversion, so that the recipient would be informed of important information about loan terms and conditions shortly before he or she must begin repayment on the loan.

For the reasons explained above, we are proposing to add a new conversion counseling requirement in § 686.32(e). Because the Secretary makes the determination to convert a TEACH Grant to a Direct Unsubsidized Loan, the Secretary would provide the conversion counseling when the recipient’s grant converts to a loan. Based on the recommendations of the subcommittee, we are proposing that the Secretary would provide conversion counseling through interactive electronic means and by mailing written counseling materials to the most recent address provided by the grant recipient. The subcommittee believed it was

important to mail written counseling materials to grant recipients, to ensure that recipients who fail to complete the interactive electronic counseling would still receive the conversion counseling information.

The subcommittee also believed that it would be appropriate to base the proposed new conversion counseling regulations on the current Direct Loan Program exit counseling regulations in 34 CFR 685.304(b), since Direct Loan exit counseling is intended to provide information that is important for borrowers to know as they prepare to begin repayment of their loans. Accordingly, the subcommittee recommended language that would require conversion counseling to provide grant recipients with much of the same information that is provided to Direct Loan borrowers during exit counseling, sometimes with minor modifications, and with additional information that is specific to grant recipients whose TEACH Grants have been converted to Direct Unsubsidized Loans. The proposed conversion counseling regulations would not include certain elements of the Direct Loan exit counseling regulations that are not relevant to TEACH Grant recipients whose grants have converted to loans. The proposed conversion counseling would include all the elements that we are proposing to remove from the current TEACH Grant exit counseling regulations, as explained earlier.

Proposed § 686.32(e)(2)(i) through (v), (viii), and (x) through (xiv), as described under “Proposed Regulations,” would mirror the corresponding Direct Loan exit counseling regulations in 34 CFR 685.304(b)(4)(i), as shown in the table below.

Proposed § 686.32(e)	Corresponding regulation in 34 CFR 685.304(b)
§ 686.32(e)(2)(i) .....	§ 685.304(b)(4)(i).
§ 686.32(e)(2)(ii) .....	§ 685.304(b)(4)(ii).
§ 686.32(e)(2)(iii) .....	§ 685.304(b)(4)(iii).
§ 686.32(e)(2)(iv) .....	§ 685.304(b)(4)(iv).
§ 686.32(e)(2)(v) .....	§ 685.304(b)(4)(v).
§ 686.32(e)(2)(viii) .....	§ 685.304(b)(4)(viii).
§ 686.32(e)(2)(x) .....	§ 685.304(b)(4)(ix).
§ 686.32(e)(2)(xi) .....	§ 685.304(b)(4)(xiv).
§ 686.32(e)(2)(xii) .....	§ 685.304(b)(4)(x).
§ 686.32(e)(2)(xiii) .....	§ 685.304(b)(4)(xi).
§ 686.32(e)(2)(xiv) .....	§ 685.304(b)(4)(xiii).

Generally, the language in the proposed TEACH Grant conversion counseling provisions listed in the table above is identical to the language in the corresponding Direct Loan exit counseling regulations. However, while the Direct Loan exit counseling

provision in 34 CFR 685.301(b)(4)(i) specifies that exit counseling must inform the borrower of the average anticipated monthly payment amount based on either the borrower’s indebtedness or on average student borrower indebtedness, the

corresponding regulation in proposed § 686.32(e)(2)(i) would specify that conversion counseling informs the borrower of the average anticipated monthly payment amount based only on the borrower’s indebtedness, as the subcommittee believed it would be most

helpful for borrowers to know what they can expect to pay each month based on their actual loan debt. In proposed § 686.32(e)(2)(x), we would specify that loan forgiveness options discussed in the counseling would include the PSLF Program. The corresponding Direct Loan exit counseling regulation includes only a general statement about the conditions under which a borrower may obtain forgiveness or discharge of a loan, without specifically mentioning PSLF. The subcommittee felt it was important to highlight the availability of the PSLF Program, since grant recipients whose TEACH Grants converted to loans could potentially have some of their Direct Loan debt forgiven in the future through the PSLF Program.

Based on the subcommittee's recommendations, we also propose to specify in § 686.32(e)(2)(vi), (vii), (ix), and (xv) that conversion counseling must explain the availability of PSLF and teacher loan forgiveness, explain how the borrower may request reconsideration of the conversion of the TEACH Grant to a loan if the borrower believes that the grant was converted to a loan in error, inform the borrower of the grace period as described in § 686.43(c), and inform the borrower of the amount of interest that has accrued on the converted TEACH Grant, with an explanation that any unpaid interest will be capitalized at the end of the grace period. The subcommittee believed that it was important to provide this additional information to grant recipients whose TEACH Grants have been converted to loans, so that they would know about the options for loan forgiveness, the opportunity to request reconsideration if they believe their grant was converted to a loan in error, and when they must begin repaying the converted TEACH Grant and how they can avoid capitalization of accrued interest.

#### Documenting the Service Obligation (§ 686.40)

*Statute:* HEA section 420N(b)(1)(D) requires a TEACH Grant applicant to agree to submit evidence of qualifying employment, in the form of a certification by the chief administrative officer of the school, upon completion of each year of service.

HEA section 420N(b)(1)(C) requires an applicant for a TEACH Grant to agree to teach in one of the fields of mathematics, science, foreign language, bilingual education, special education, reading specialist, or another field documented as high-need by the Federal Government, State government, or LEA, and approved by the Secretary.

HEA section 420N(b)(1)(B) requires a TEACH Grant applicant to agree to teach in a school described in HEA section 465(a)(2)(A). Section 465(c)(2) of the HEA provides that if a teacher performs service in a school that meets the requirements of section 465(a)(2)(A) of the HEA in any year, and in a subsequent year that school fails to meet the requirements of section 465(a)(2)(A), the teacher may continue to teach in the school and will be eligible for loan cancellation pursuant to section 465(a)(1) of the HEA.

The HEA does not address the treatment of TEACH Grant recipients who are unable to complete a full academic year of teaching service.

*Current Regulations:* Section 686.40(a) provides that unless a TEACH Grant recipient has qualified for a temporary suspension of the period for completing the service obligation under § 686.41 or a discharge of the agreement to serve under § 686.42, the recipient must, within 120 days of completing or otherwise ceasing enrollment in a program of study for which a TEACH Grant was received, confirm to the Secretary in writing that—

- (1) He or she is employed as a full-time teacher in accordance with the terms and conditions of the agreement to serve described in § 686.12; or
- (2) He or she is not yet employed as a full-time teacher but intends to meet the terms and conditions of the agreement to serve described in § 686.12.

Section 686.40(b) provides that if a grant recipient is performing full-time teaching service in accordance with the agreement to serve, the grant recipient must, upon completion of each of the four required years of teaching, provide to the Secretary documentation of that teaching service on a form approved by the Secretary and certified by the chief administrative officer of the school where the grant recipient is teaching. The documentation must show that the grant recipient is teaching in a low-income school.

Section 686.40(b) further provides that if the school where the grant recipient is employed meets the requirements of a low-income school in the first year of the recipient's four years of teaching, but fails to meet those requirements in subsequent years, those subsequent years of teaching qualify for purposes of satisfying the service obligation.

Section 686.40(c)(1) states that the documentation required under § 686.40(b) must also show that the grant recipient—

- (1) Taught a majority of classes during the period being certified in any of the

high-need fields of mathematics, science, a foreign language, bilingual education, English language acquisition, special education, or as a reading specialist; or

- (2) Taught a majority of classes during the period being certified in a State in another high-need field designated by that State and listed in the Nationwide List, except that teaching service does not satisfy the requirements of the agreement to serve if that teaching service is in a geographic region of a State or in a specific grade level not associated with a high-need field of a State designated in the Nationwide List as having a shortage of elementary or secondary school teachers.

Section 686.40(c)(2) provides that if a grant recipient begins qualified full-time teaching service in a State in a high-need field designated by that State and listed in the Nationwide List, and in subsequent years that high-need field is no longer designated by the State in the Nationwide List, the grant recipient will be considered to continue to perform qualified full-time teaching service in a high-need field of that State and to continue to fulfill the service obligation.

Section 686.40(d) specifies that the documentation of teaching service provided by a grant recipient must also include evidence that the recipient is a highly qualified teacher.

Section 686.40(e) provides that for purposes of completing the service obligation, an elementary or secondary academic year may be counted as one of the grant recipient's four complete academic years if the grant recipient completes at least one-half of the academic year and the grant recipient's school employer considers the grant recipient to have fulfilled his or her contract requirements for the academic year for the purposes of salary increases, tenure, and retirement if the grant recipient is unable to complete an academic year due to—

- (1) A condition that is a qualifying reason for leave under the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2612(a)(1) and (3)); or

- (2) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in 10 U.S.C. 10101, or 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 in connection with a war, military operation, or a national emergency.

Finally, § 686.40(f) provides that a grant recipient who taught in more than one qualifying school during an academic year and demonstrates that the combined teaching service was the



equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools involved, is considered to have completed one academic year of qualifying teaching.

*Proposed Regulations:* We propose to remove current § 686.40(a), which requires grant recipients to provide certain information to the Secretary within 120 days of ceasing enrollment in a program of study for which a TEACH Grant was received, and redesignate current § 686.40(b) as § 686.40(a). We further propose to—

- (1) Revise and restructure redesignated § 686.40(a) to include, with certain changes, the service obligation documentation requirements that are in current §§ 686.40(c) and (d);
- (2) Remove current § 686.40(c) and (d); and
- (3) Redesignate current § 686.40(e) and (f) as § 686.40(b) and (c), respectively.

We propose to remove the language in current § 686.40(c)(1)(ii) stating that teaching in a high-need field listed in the Nationwide List does not satisfy the service obligation requirements if that teaching service is in a geographic region of a State or in a specific grade level not associated with a high-need field of a State designated in the Nationwide List as having a shortage of elementary or secondary school teachers. We also propose to replace the information in current § 686.40(c)(2) with a cross-reference to § 686.12(d) in proposed new § 686.40(a)(2)(ii).

In the introductory text to redesignated § 686.40(b), we propose to retain the current provision stating that if a grant recipient completes at least one-half of an academic year of teaching and the grant recipient's school employer considers the grant recipient to have fulfilled his or her contract requirements for the academic year for the purposes of salary increases, tenure, and retirement, the partial year of teaching may be counted as one of the required four complete academic years of teaching if the grant recipient was unable to teach for the remainder of the year due to certain conditions described in proposed redesignated § 686.40(b)(1) through (3).

In redesignated § 686.40(b)(2), we propose that a call or order to Federal or State active duty, or active service as a member of a Reserve Component of the Armed Forces named in 10 U.S.C. 10101, or service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5), would be a condition that allows for less than a full school year of teaching to count as one year toward

satisfaction of the TEACH Grant service obligation, if the other requirements described in the introductory text to redesignated § 686.40(b) are met. We propose to eliminate the current requirement that National Guard service qualifies only under a call to active service in connection with a war, military operation, or a national emergency.

Finally, we propose to add, in § 686.40(b)(3), a new circumstance under which less than a full year of teaching may count as a full year toward satisfaction of the TEACH Grant service obligation. Specifically, proposed § 686.40(b)(3) would provide that a grant recipient who completes at least half of an academic year of qualifying teaching and who meets the other requirements described in the redesignated § 686.40(b) introductory text could have that partial year of teaching counted as one full year of the four required years of teaching if the recipient is unable to teach for the remainder of the academic year because he or she resides in or is employed in a federally declared major disaster area as defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

*Reasons:* We are proposing to eliminate current § 686.40(a) for consistency with changes proposed in § 686.43, and because we believe that requiring grant recipients to inform the Secretary of their status within 120 days of ceasing enrollment in a program for which a TEACH Grant was received adds unnecessary complexity to the requirements for documenting the service obligation.

To present service obligation documentation requirements more clearly and concisely, we are proposing to include in redesignated § 686.40(a) the provisions that are in current §§ 686.40(b), (c), and (d), and to cover the requirements related to teaching in a high-need field through a cross-reference to § 686.12(d) instead of repeating those requirements in § 686.40(a).

Further, we are proposing to eliminate the provision in current § 686.40(c)(1)(ii) that prohibits a TEACH Grant recipient from satisfying the service obligation by teaching in a geographic region of a State or in a specific grade level not associated with a high-need field for a State that is designated in the Nationwide List as having a shortage of elementary or secondary school teachers. Subcommittee members believed that this provision of the current regulations is inconsistent with the goal of the TEACH Grant Program to encourage

teachers to accept positions in low-income schools where there is an urgent need for teachers. The subcommittee members noted that in many parts of the country there is a general shortage of teachers in specific geographic regions, such as in rural areas, or in certain grade levels, without regard to subject areas taught. For example, a State might have an urgent need for elementary school teachers, or a need for teachers in all subject areas in a particular county. However, under the current TEACH Grant regulations a grant recipient may not satisfy the service obligation simply by teaching at a low-income elementary school in a State where there is a shortage of elementary school teachers as documented in the Nationwide List, or by teaching in a low-income school located in a particular geographic area of a State where there is a shortage of teachers as documented in the Nationwide List, unless the grant recipient is also teaching in a subject area that is a high-need field. The subcommittee members urged the full committee to eliminate the current regulatory limitation, to enable more grant recipients to teach where there is the greatest need for teachers. With the full committee having agreed to the subcommittee's recommendation, the Department proposes this change.

A non-Federal negotiator on the negotiated rulemaking committee representing the interests of military service members recommended that we make the changes in redesignated § 686.40(b)(2) to more accurately reflect current active duty provisions. We agreed to make the suggested changes.

We are proposing to add residing in or being employed in a federally declared major disaster area as another condition that would allow less than a full year of teaching to count as one full year toward satisfaction of the service obligation because we believe that grant recipients who teach for part of an academic year but who are unable to teach for the remainder of the year as a result of their home or place of employment being adversely affected by a natural disaster should receive credit for the partial year of qualifying teaching that was completed, assuming that the other conditions described in the introductory text of redesignated § 686.40(b) are met.

#### Periods of Suspension (§ 686.41)

*Statute:* The HEA does not address suspensions of the period for completing the TEACH Grant service obligation.

*Current Regulations:* Section 686.41(a)(1) provides that a grant recipient who has completed or who has

otherwise ceased enrollment in a program for which he or she received TEACH Grant funds may request a suspension of the eight-year period for completion of the service obligation based on—

(1) Enrollment in a program of study for which the recipient would be eligible for a TEACH Grant or in a program of study that has been determined by a State to satisfy the requirements for certification or licensure to teach in the State's elementary or secondary schools;

(2) A condition that is a qualifying reason for leave under the FMLA; or

(3) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in 10 U.S.C. 10101, or 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 in connection with a war, military operation, or a national emergency.

Section 686.41(a)(2) provides that a grant recipient may receive a suspension in one-year increments that—

(1) Does not exceed a combined total of three years for suspensions based on enrollment in a qualifying period of study or a condition that is a qualifying reason for leave under the FMLA; or

(2) Does not exceed a total of three years for suspensions based on qualifying military service.

Section 686.41(b) specifies that a grant recipient, or his or her representative in the case of a grant recipient who requests a suspension based on qualifying military service, must apply for a suspension in writing on a form approved by the Secretary prior to being subject to any of the conditions under § 686.43(a)(1) through (5) that would cause the recipient's TEACH Grant to be converted to a Federal Direct Unsubsidized Loan.

Section 686.41(c) requires a grant recipient, or his or her representative in the case of a grant recipient who requests a suspension based on qualifying military service, to provide the Secretary with documentation supporting the suspension request as well as current contact information including home address and telephone number.

*Proposed Regulations:* In § 686.41(a)(1), we propose to add three new circumstances that would qualify a TEACH Grant recipient for a temporary suspension of the eight-year service obligation period, and to amend current § 686.41(a)(1)(iii), which we propose to redesignate as § 686.41(a)(1)(iv).

We propose to redesignate current §§ 686.41(a)(1)(ii) and (iii) as (a)(1)(iii) and (iv), respectively, and add new § 686.41(a)(1)(ii), which would provide that a grant recipient may request a suspension of the eight-year service obligation period while he or she is receiving State-required instruction or otherwise fulfilling requirements for licensure to teach in a State's elementary or secondary schools.

We propose to revise redesignated § 686.41(a)(1)(iv) (current § 686.41(a)(1)(iii)) to provide that a grant recipient may request a suspension of the service obligation period based on a call to order to Federal or State active duty or active service as a member of the Reserve Component of the Armed Forces named in 10 U.S.C. 10101, or service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5). The proposed revisions to redesignated § 686.41(a)(1)(iv) would remove the current requirements that the active duty status must be for more than 30 days, and that a suspension based on service as a member of the National Guard on full-time Guard duty must be under a call to active service in connection with a war, military operation, or a national emergency.

Under proposed new § 686.41(a)(1)(v), a grant recipient could request a suspension of the eight-year period for completing the service obligation based on military orders for the recipient's spouse for deployment with a military unit or as an individual in support of a call to Federal or State active duty or active service, or a change of permanent duty station from a location in the continental United States to a location outside of the continental United States or from a location in a State to any location outside of that State.

Under proposed new § 686.41(a)(1)(vi), a grant recipient could request a suspension of the eight-year period for completing the service obligation due to residing in or being employed in a federally declared major disaster area as defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

We propose to revise § 686.41(a)(2) to specify the maximum periods of time for which a grant recipient may receive a suspension of the eight-year service obligation under the current and proposed new suspension conditions.

Revised § 686.41(a)(2) introductory text would continue to provide that for all suspension conditions, a grant recipient may receive suspensions in one-year increments.

Under proposed § 686.41(a)(2)(i), a grant recipient could receive

suspensions under §§ 686.41(a)(1)(i), (ii), and (iii) that do not exceed a combined total of three years. Current § 686.41(a)(2)(ii) would continue to provide that a grant recipient may receive suspensions under redesignated § 686.41(a)(2)(iv) (current § 686.41(a)(1)(iii)) that do not exceed a total of three years.

Proposed § 686.41(a)(2)(iii) and (v) would establish maximum three-year suspension limits for suspensions granted under proposed new § 686.41(a)(1)(v) and (vi), respectively.

We propose to revise § 686.41(b) and (c) to provide that, as is currently permitted for suspensions under current § 686.41(a)(1)(iii) (redesignated as § 686.41(a)(1)(iv)), a TEACH Grant's representative may request a suspension under proposed new § 686.41(a)(1)(vi) and provide the documentation supporting the suspension request on behalf of the recipient.

We propose to add § 686.41(d), which would provide that, on a case-by-case basis, the Secretary may grant a grant recipient a temporary suspension of the period for completing the service obligation if the Secretary determines that the recipient was unable to complete a full academic year of teaching or begin the next academic year of teaching due to exceptional circumstances significantly affecting the operation of the school or educational service agency where the grant recipient was employed or the grant recipient's ability to teach.

Finally, we propose to add § 686.41(e), which would provide that the Secretary notifies the grant recipient of the outcome of the application for a suspension.

*Reasons:* The Department proposes a new suspension condition that would allow a grant recipient to request a suspension of the service obligation period based on residing in or being employed in a federally declared major disaster area, because we believe it is appropriate to allow for suspensions in circumstances when a grant recipient is temporarily unable to perform qualifying teaching service due to being adversely affected by a federally declared disaster. The proposed new disaster suspension is consistent with actions previously taken by the Department under the authority granted by the U.S. Congress through the Bipartisan Budget Act of 2018 (Public Law 115–123) to waive or modify certain requirements of the HEA for the purpose of assisting individuals and institutions affected by hurricanes Harvey, Irma, and Maria. The Department used this authority to suspend the service obligation period

for TEACH Grant recipients in Puerto Rico and the U.S. Virgin Islands who were temporarily unable to teach due to extended hurricane-related closures of elementary and secondary schools. The proposed new suspension would provide the same benefit to TEACH Grant recipients affected by disasters in other parts of the United States. The Department further proposes that suspensions for this circumstance would be granted in one-year increments that do not exceed a total of three years. The TEACH Grant Subcommittee supported the Department's proposed new suspension condition, and also recommended additional suspension options to cover certain other common circumstances that could impact a grant recipient's ability to complete the service obligation within the eight-year period.

The subcommittee noted that in some cases a grant recipient who is certified to teach in one State may move to a different State and be unable to teach in that State until he or she has received State-required instruction provided by the State or otherwise fulfilled State-requirements for licensure to teach in that State's elementary or secondary schools. To ensure that the grant recipient would be able to complete the required four years of teaching within the eight-year service obligation period, the subcommittee members recommended that, in this circumstance, the grant recipient be allowed to receive a temporary suspension of the eight-year period while he or she is fulfilling the new State's teacher licensure requirements. Given that these requirements may vary from State to State, we invite comments on how to best formulate this proposed suspension condition.

We are proposing the changes in redesignated § 686.41(a)(1)(iv) in response to a recommendation by members of the main negotiating committee that we update the current regulatory language to better conform with the terminology used by the military.

The subcommittee recommended that we also provide a new suspension option for grant recipients who are military spouses to cover circumstances where the recipient's spouse receives military orders for deployment with a military unit or as an individual in support of a call to Federal or State active duty or active service, or receives orders for a change of permanent duty station from a location in the continental United States to a location outside of the continental United States or from a location in a State to any location outside that State.

Subcommittee members noted that if a grant recipient accompanies his or her spouse on a military reassignment, it may not be possible for the recipient to find a teaching position in a high-need field at a low-income school in the new location, and they felt that it would be unfair to the grant recipient to not allow for a temporary suspension of the service obligation period in this circumstance.

The current regulations at § 686.41(a)(2)(i) specify that periods of suspension based on enrollment in a qualifying program (§ 686.41(a)(1)(i)) or a condition that is a qualifying reason for leave under the FMLA (current § 686.41(a)(1)(ii), to be redesignated as § 686.41(a)(1)(iii)) may not exceed a combined total of three years. Subcommittee members recommended that this combined three-year limit should also include the proposed new suspension condition based on fulfilling requirements for licensure to teach in a State's elementary or secondary schools. The subcommittee did not believe it was necessary to establish a separate maximum time period for the proposed new suspension, because a recipient who needs to fulfill State requirements to teach would likely satisfy those requirements either by completing a program of study at an institution or through State-provided instruction, but not both. Thus, the subcommittee felt that it was reasonable to expand the existing combined three-year limit in § 686.41(a)(2)(i) to include the proposed new suspension.

Consistent with the current three-year maximum period for suspensions based on qualifying military service and with the Department's proposal to set a three-year maximum for the proposed new suspension for grant recipients who reside in or are employed in a federally declared major disaster area, the subcommittee recommended that the regulations set a three-year limit for the proposed new suspension for military spouses under § 686.41(a)(1)(v), and provide for the new military spouse suspension to be granted in one-year increments, the same as the regulations provide for all other suspensions.

Consistent with the existing regulatory provision that allows for a grant recipient's representative to submit a request for a suspension based on qualifying military service on behalf of the recipient and provide any required documentation, the subcommittee recommended that the same be allowed in the case of a grant recipient who qualifies for a suspension based on residing in or being employed in a federally declared major disaster area. As in the case of a grant recipient

who is performing military service, a grant recipient who is adversely affected by a disaster may find it difficult to submit a suspension request and any required supporting documentation. Allowing for a representative to submit the suspension request and documentation on the grant recipient's behalf would ease the burden on the recipient. The proposed changes in § 686.41(b) and (c) reflect this recommendation.

The subcommittee believed there could be other unforeseen circumstances that might temporarily prevent a grant recipient from fulfilling the service obligation requirements, and recommended adding a provision allowing the Secretary to grant temporary suspensions on a case-by-case basis if the Secretary determines that there are exceptional circumstances affecting the operation of the school or educational agency where a recipient teaches or the recipient's ability to teach.

Finally, to ensure that grant recipients are informed of the status of an application for suspension, the subcommittee recommended specifying in the regulations that the Secretary notifies the grant recipient regarding the outcome of an application for suspension.

#### Discharge of Agreement To Serve (§ 686.42)

*Statute:* Section 420N(d)(2) of the HEA provides for the Secretary to establish by regulation categories of extenuating circumstances under which a TEACH Grant recipient who is unable to fulfill all or part of the recipient's service obligation may be excused from fulfilling that portion of the service obligation.

*Current Regulations:* Current regulations provide for discharge of the TEACH Grant service obligation based on the grant recipient's death, TPD, or extended active duty military service.

#### Death Discharge

Current § 686.42(a)(1) contains the criteria under which the Secretary discharges an agreement to serve based on the death of a TEACH Grant recipient.

#### TPD Discharge

Current § 686.42(b)(1) provides that a grant recipient's agreement to serve is discharged if the recipient becomes totally and permanently disabled, as defined in 34 CFR 682.200(b), and the grant recipient applies for and satisfies the eligibility requirements for a TPD discharge in accordance with 34 CFR 685.213.

Current § 686.42(b)(2) specifies that the eight-year time period in which the grant recipient must complete the service obligation remains in effect during the conditional TPD discharge period described in 34 CFR 685.213(c)(2) unless the grant recipient is eligible for a suspension based on a condition that is a qualifying reason for leave under the FMLA.

Under current § 686.42(b)(3), interest continues to accrue on each TEACH Grant disbursement unless and until the TEACH Grant recipient's agreement to serve is discharged based on the recipient's TPD.

Current § 686.42(b)(4) provides that if the grant recipient satisfies the criteria for a TPD discharge during and at the end of the three-year conditional discharge period, the Secretary discharges the grant recipient's service obligation.

Finally, current § 686.42(b)(5) provides that if, at any time during or at the end of the three-year conditional discharge period, the Secretary determines that the grant recipient does not meet the eligibility criteria for a TPD discharge, the Secretary ends the conditional discharge period and the grant recipient is once again subject to the terms of the agreement to serve.

#### Military Service Discharge

Current § 686.42(c) provides that a TEACH Grant recipient who has completed or who has otherwise ceased enrollment in a program for which he or she received TEACH Grants and has exceeded the maximum period of time allowed for a military service suspension under § 686.41(a)(2)(ii) may qualify for a proportional discharge of his or her service obligation due to an extended call or order to active duty status. To apply for a military discharge, a grant recipient or his or her representative must submit a written request to the Secretary.

Current § 686.42(c)(2) provides that a grant recipient as described in current § 686.42(c)(1) may receive a—

(1) One-year discharge of the service obligation if a call or order to active duty status is for more than three years;

(2) Two-year discharge of the service obligation if a call or order to active duty status is for more than four years;

(3) Three-year discharge of the service obligation if a call or order to active duty status is for more than five years;

or

(4) Full discharge of the service obligation if a call or order to active duty status is for more than six years.

Current § 686.42(c)(3) requires a grant recipient or his or her representative to provide the Secretary with—

(1) A written statement from the grant recipient's commanding or personnel officer certifying that the grant recipient is on active duty in the Armed Forces of the United States and the dates on which the grant recipient's service began and is expected to end; or

(2) A copy of the grant recipient's official military orders, and a copy of the grant recipient's military identification.

Current § 686.42(c)(3) specifies that for military discharge purposes, the Armed Forces means the Army, Navy, Air Force, Marine Corps, and the Coast Guard.

Current § 686.42(d)(5) provides that based on a request for a military discharge from a grant recipient or his or her representative, the Secretary will notify the grant recipient or the representative of the outcome of the discharge request, and specifies that for the portion on the service obligation that remains, the grant recipient remains responsible for fulfilling the service obligation in accordance with § 686.12.

*Proposed Regulations:* In current § 686.42(b)(1), we propose to replace the cross-reference to the definition of "totally and permanently disabled" in 34 CFR 682.200(b) with a cross-reference to the definition of that term in § 685.102(b). We further propose to remove current §§ 686.42(b)(2) through (5) and add new §§ 686.42(b)(2) through (4).

New § 686.42(b)(2) would provide that if at any time the Secretary determines that the grant recipient does not meet the requirements of the three-year period following the discharge as described in 34 CFR 685.213(b)(7), the Secretary will notify the grant recipient that the grant recipient's obligation to satisfy the terms of the agreement to serve or repay is reinstated.

New § 686.42(b)(3) would provide that the Secretary's notification under § 686.42(b)(2) will: (1) Include the reason or reasons for the reinstatement; (2) provide information on how the grant recipient may contact the Secretary if the grant recipient has questions about the reinstatement or believes that the agreement to serve or repay was reinstated based on incorrect information; and (3) inform the grant recipient that he or she must satisfy the service obligation within the portion of the eight-year period that remained after the date of the discharge.

New § 686.42(b)(4) would provide that if the TEACH Grant made to a recipient whose TEACH Grant agreement to serve or repay is reinstated is later converted to a Direct Unsubsidized Loan, the recipient will not be required to pay interest that

accrued on the TEACH Grant disbursements from the date the agreement to serve or repay was discharged until the date the agreement to serve or repay was reinstated.

Finally, we propose to amend current § 686.42(c)(4) to provide that for military discharge purposes, the Armed Forces also includes a reserve component of the Armed Forces named in 10 U.S.C. 10101, or the National Guard.

*Reasons:* The current TPD provisions for TEACH Grants in § 686.42(b) were modeled on the Direct Loan Program TPD discharge regulations that were in effect when the original TEACH Grant regulations were issued. On November 1, 2012, we published final regulations (77 FR 66088) that made significant changes to the regulations governing the TPD discharge process in the Direct Loan, FFEL, and Perkins loan programs. As a result, the language in current § 686.42(b) is obsolete. We are proposing to amend the provisions authorizing the discharge of a TEACH Grant recipient's agreement to serve or repay based on a TPD to conform to the current Direct Loan TPD regulations.

We propose to amend current § 686.42(c)(4) for consistency with current § 686.41(a)(1)(iii). Under current § 686.41(a)(1)(iii), a TEACH Grant recipient may qualify for a temporary suspension of the eight-year service obligation period based on qualifying service as a member of Armed Forces named in 10 U.S.C. 10101 or as a member of National Guard. We believe that extended periods of the same type of military service should also qualify a TEACH Grant recipient for discharge of some or all of their service obligation.

#### Obligation To Repay the Grant (§ 686.43)

*Statute:* Section 420N(c) of the HEA provides that if a TEACH Grant recipient fails or refuses to comply with the service obligation in the agreement under section 420N(b) of the HEA, the sum of the amounts of any TEACH Grants received by the recipient will, upon a determination of the recipient's failure or refusal to comply with the service obligation, be treated as a Federal Direct Unsubsidized Loan under title IV, part D of the HEA, and will be subject to repayment, together with interest accrued from the date of the TEACH Grant award, in accordance with terms and conditions specified by the Secretary in regulations.

The HEA does not address the reconversion of a loan to a TEACH Grant following the conversion of a TEACH Grant to a loan.

*Current Regulations:* Current § 686.43(a) provides that the TEACH Grant amounts disbursed to a grant recipient will be converted into a Direct Unsubsidized Loan, with interest accruing from the date of each grant disbursement, and will be collected by the Secretary in accordance with the relevant provisions of 34 CFR part 685, subpart A under the conditions described in current §§ 686.43(a)(1) through (5).

Current § 686.43(a)(1) provides that a TEACH Grant will be converted to a Direct Unsubsidized Loan if the grant recipient, regardless of enrollment status, requests that the TEACH Grant be converted into a loan because he or she has decided not to teach in a qualified school or field or for any other reason.

Current § 686.43(a)(2) provides that a TEACH Grant will convert to a loan if, within 120 days of ceasing enrollment in the institution prior to completing the TEACH Grant-eligible program, the grant recipient has failed to notify the Secretary in accordance with § 686.40(a).

Current § 686.43(a)(3) provides that a TEACH Grant will be converted to a loan if, within one year of ceasing enrollment in the institution prior to completing the TEACH Grant-eligible program, the grant recipient has not been determined eligible for a suspension of the eight-year period for completion of the service obligation as provided in § 686.41, re-enrolled in a TEACH Grant-eligible program, or begun creditable teaching service as described in § 686.12(b).

Current § 686.43(a)(4) provides that a TEACH Grant will be converted to a loan if the grant recipient completes the course of study for which a TEACH Grant was received and does not actively confirm to the Secretary, at least annually, his or her intention to satisfy the agreement to serve.

Finally, current § 686.43(a)(5) provides that a TEACH Grant will be converted to a loan if the grant recipient has completed the TEACH Grant-eligible program but has failed to begin or maintain qualified employment within the timeframe that would allow the recipient to complete the service obligation within the number of years required under § 686.12.

Current § 686.43(b) states that if a TEACH Grant converts to a Federal Direct Unsubsidized Loan, we do not count that loan against the grant recipient's annual or aggregate Direct Loan limits.

Current § 686.43(c)(1) provides that a grant recipient whose TEACH Grant has been converted to a Federal Direct

Unsubsidized Loan receives a six-month grace period prior to entering repayment, and current § 686.43(c)(2) provides that a grant recipient whose grant has been converted to a loan is eligible for all of the benefits of the Direct Loan Program, including an in-school deferment.

Current § 686.43(d) states that a TEACH Grant that converts to a Federal Direct Unsubsidized Loan cannot reconvert to a grant.

*Proposed Regulations:* We are proposing to revise § 686.43(a) by removing current § 686.43(a)(2) through (4). Current § 686.43(a)(1) and (5) would be slightly revised and redesignated as § 686.43(a)(1)(i) and (ii), respectively. Under the proposed regulations, a TEACH Grant would be converted to a loan only if the grant recipient, regardless of enrollment status, requests that the TEACH Grant be converted into a loan because he or she has decided not to teach in a qualified school or educational service agency, or not to teach in a high-need field, or for any other reason (proposed § 686.43(a)(1)(i)), or if the grant recipient does not begin or maintain qualified employment within the timeframe that would allow the recipient to complete the service obligation within the number of years required under § 686.12 (proposed § 686.43(a)(1)(ii)).

We also propose to expand current § 686.43(a) by adding new §§ 686.43(a)(2) through (9).

Proposed new § 686.43(a)(2) would specify that at least annually during the eight-year period for completing the service obligation, the Secretary will notify the grant recipient of—

- The terms and conditions the grant recipient must meet to satisfy the service obligation (proposed § 686.43(a)(2)(i));
- The requirement for the grant recipient to provide to the Secretary, upon completion of each of the four required years of teaching service, documentation of the service on a form approved by the Secretary and certified by the chief administrative officer of the school or educational service agency where the recipient taught, including a reminder of the need for the grant recipient to keep a copy of the certification as well as copies of the recipient's own employment documentation (proposed § 686.43(a)(2)(ii));
- The number of years of teaching service that the grant recipient has completed and the remaining timeframe within which the recipient must complete the service obligation (proposed § 686.43(a)(2)(iii));

- The conditions under which a grant recipient may request a temporary suspension of the period for completing the service obligation (proposed § 686.43(a)(2)(iv));

- The conditions described in § 686.43(a)(1) under which TEACH Grant amounts disbursed to the grant recipient will convert to a Direct Unsubsidized Loan (proposed § 686.43(a)(2)(v));

- The potential total interest accrued (proposed § 686.43(a)(2)(vi));

- The process by which the grant recipient may contact the Secretary to request reconsideration of the conversion of a TEACH Grant to a loan, the deadline by which the recipient must submit the request, and a list of the specific documentation required by the Secretary to reconsider the conversion (proposed § 686.43(a)(2)(vii)); and

- An explanation that to avoid further accrual of interest, a grant recipient who decides not to teach in a qualified school or field, or who for any other reason no longer intends to satisfy the service obligation, may request that the Secretary convert his or her TEACH Grant to a loan that the recipient may begin repaying immediately, instead of waiting for the grant to be converted to a loan in accordance with § 686.43(a)(1)(ii) (proposed § 686.43(a)(2)(viii)).

Proposed new § 686.43(a)(3) would provide that on or about 90 days before the date that a grant recipient's TEACH Grants would be converted to loans in accordance with § 686.43(a)(1)(ii), the Secretary will notify the recipient of the date by which the recipient must submit documentation showing that the recipient is satisfying the service obligation.

Proposed new § 686.43(a)(4) would provide that if the TEACH Grant amounts disbursed to a recipient convert to a loan, the Secretary will notify the recipient of the conversion and offers conversion counseling in accordance with § 686.32(e).

Under proposed new § 686.43(a)(5), if a grant recipient's TEACH Grant is converted to a loan in accordance with § 686.43(a)(1)(ii), the Secretary will reconvert the loan to a grant if, within one year of the conversion date, the grant recipient provides the Secretary with documentation showing that he or she is satisfying the service obligation.

Under proposed new § 686.43(a)(6), if a grant recipient's TEACH Grant is involuntarily converted to a loan, the Secretary will reconvert the loan to a TEACH Grant based on documentation provided by the grant recipient or in the Department's records demonstrating

that the recipient was satisfying the service obligation as described in § 686.12, or demonstrating that the grant was improperly converted to a loan.

Proposed new § 686.43(a)(7) would specify that if a grant recipient who requests reconsideration of the conversion of a TEACH Grant to a loan demonstrates that the grant converted to a loan in error, the Secretary—

- Reconverts the loan to a TEACH Grant (proposed § 686.43(a)(7)(i));
- If the grant recipient completed one or more academic years of qualifying teaching service during the period when the grant was in loan status, applies that teaching service toward the recipient's four-year service obligation and excludes the period when the grant was in loan status from the eight-year period during which the recipient must complete the service obligation (proposed new § 686.43(a)(7)(i)(A));

- If the grant recipient did not complete any academic years of qualifying teaching service during the period when the grant was in loan status, excludes the period when the grant was in loan status from the eight-year period during which the recipient must complete the service obligation (proposed new § 686.43(a)(7)(i)(B));

- Ensures that the grant recipient receives credit for any payments made on the Direct Unsubsidized Loan that reconverted to a TEACH Grant (proposed new § 686.43(a)(7)(ii));
- Notifies the recipient of the reconversion of the loan to a grant and explains that the recipient is once again responsible for meeting all requirements of the service obligation (proposed new § 686.43(a)(7)(iii)); and

- Requests deletion of any derogatory information reported to consumer reporting agencies related to the grant while it was in loan status and, upon a request from the grant recipient, furnishes a statement of error that the recipient may provide to creditors until the recipient's credit history has been corrected (proposed new § 686.43(a)(7)(iv)).

Proposed new § 686.43(a)(8) would specify that if a grant recipient who requests reconsideration of the conversion of a grant to a loan does not demonstrate to the satisfaction of the Secretary that the grant converted to a loan in error, the Secretary—

- Notifies the recipient that the loan cannot reconvert to a TEACH Grant (proposed new § 686.43(a)(8)(i));
- Explains the reason or reasons why the loan cannot reconvert to a TEACH Grant (proposed new § 686.43(a)(8)(ii)); and
- Explains how the grant recipient may contact the Federal Student Aid

Ombudsman if he or she continues to believe that the grant converted to a loan in error (proposed new § 686.43(a)(8)(iii)).

Proposed new § 686.43(a)(9) would provide that a TEACH Grant recipient remains obligated to meet all requirements of the service obligation, even if the recipient does not receive the notice described in proposed § 686.43(a)(2).

In § 686.43(c), we are proposing to revise paragraph (c)(2) by removing the words "including an in-school deferment."

Finally, we are proposing to revise § 686.43(d) to provide that a TEACH Grant that converted to a Direct Unsubsidized Loan cannot reconvert to a grant unless the Secretary determines that the grant was converted to a loan in error.

*Reasons:* Under the current regulations, there are different circumstances that result in the conversion of a TEACH Grant to a loan depending on whether the grant recipient did or did not complete the program of study for which he or she received TEACH Grants. In addition, under the current regulations, a grant recipient may be subject to loan conversion if the recipient fails to meet certification requirements within specified timeframes, even if the recipient is otherwise meeting the service obligation requirements. Our experience in administering the TEACH Grant Program has shown that the existing regulatory conditions for converting TEACH Grants to loans are difficult for grant recipients to understand and in some cases have led to the conversions of grants made to recipients who were performing qualifying teaching service, but who failed to meet certification deadlines. Therefore, to simplify program requirements, reduce burden on grant recipients, and minimize grant-to-loan conversions resulting from late submission of documentation, we are proposing to eliminate the loan conversion conditions in current §§ 686.43(a)(2) through (4) and retain, with minor modifications, only the current regulations that provide for loan conversion if the recipient requests conversion, or if the recipient fails to begin or maintain qualifying teaching service within a timeframe that would allow the recipient to complete the required four years of teaching within the eight-year service obligation period. These provisions would apply to all grant recipients, regardless of whether they completed the program of study for which they received TEACH Grants.

To ensure that grant recipients are regularly reminded of the service obligation requirements, the Department initially proposed during negotiated rulemaking to specify in new § 686.43(a)(2) that, at least annually during the service obligation period, the Secretary would notify the grant recipient of the terms and conditions that must be met to satisfy the service obligation, the requirement for the grant recipient to provide documentation of each completed year of teaching service, the remaining timeframe within which the recipient must complete the service obligation, the conditions under which the recipient may request a temporary suspension of the service obligation period, and the conditions under which a TEACH Grant will be converted to a Direct Unsubsidized Loan. In response to recommendations from the subcommittee, the Department agreed to expand the contents of the proposed notice to include the number of years of teaching service already completed by the recipient, the potential total accrued interest, information about the process by which a grant recipient may request reconsideration of the conversion of a TEACH Grant to a loan, and an explanation of the grant recipient's option to request conversion of the recipient's TEACH Grants to a loan if the recipient no longer intends to satisfy the service obligation. The subcommittee members felt that it was important to provide grant recipients with this additional information on a regular basis throughout the service obligation period.

We are proposing to add new § 686.43(a)(3) in response to a recommendation made by TEACH Grant subcommittee members. In addition to supporting the Department's proposed changes to the conditions that will result in the conversion of TEACH Grants to loans, several subcommittee members believed that it is important for grant recipients to be notified as they approach the date when they would be subject to loan conversion so that a grant recipient who has been teaching but who has not yet submitted documentation of qualifying teaching service would have an opportunity to do so in time to avoid loan conversion.

We are proposing new § 686.43(a)(4) to reflect in the regulations our current practice of notifying a grant recipient at the time his or her TEACH Grants are converted to a Direct Unsubsidized Loan, and to further specify in the regulations that conversion counseling will be provided in accordance with proposed § 686.32(e).

We are proposing new § 686.43(a)(5) to address circumstances in which a

grant recipient who has been working toward satisfaction of the service obligation neglects to provide any documentation of qualifying teaching service before having his or her grants converted to loans under proposed § 686.43(a)(1)(ii). We believe that the proposed changes in § 686.43 will significantly reduce the number of grant-to-loan conversions due to grant recipients' failure to submit documentation of qualifying teaching service in a timely manner. However, we recognize that these situations may still occasionally arise, and believe it would be appropriate in such cases to provide a means by which the recipient could have the conversion reversed within a reasonable period of time after the date of conversion. Accordingly, proposed § 686.43(a)(5) would provide that if a grant recipient's TEACH Grants are converted to a Direct Unsubsidized Loan because the grant recipient did not begin or maintain qualifying teaching service within a timeframe that would allow the recipient to complete the required four years of teaching within the eight-year service obligation period, the Secretary would change the loan back to a TEACH Grant if, within one year of the conversion date, the recipient provides the Secretary with documentation showing that he or she is satisfying the service obligation.

We are proposing to add new § 686.43(a)(6) in response to a request from non-federal negotiators to include in the regulations a process comparable to what is described in proposed § 686.43(a)(5) for grant recipients whose grants were converted to loans for reasons other than the condition describe in proposed § 686.43(a)(1)(ii), such as recipients whose grants were converted due to their failure to meet certification requirements or recipients whose grants were improperly converted to loans. Under proposed § 686.43(a)(6), in contrast to proposed § 686.43(a)(5), there would be no maximum timeframe following conversion within which a grant recipient must provide documentation showing that he or she was satisfying the service obligation requirements. The non-federal negotiators supported proposed § 686.43(a)(5), but many were concerned that this provision is too limited in scope and that the one-year period for submitting documentation would not help grant recipients who were meeting the service obligation requirements, but had their grants converted to loans prior to the effective date of the new regulations. These non-federal negotiators felt strongly that the regulations should provide a

reconversion process for grant recipients who were meeting the service obligation requirements, but who had their grants converted to loans and who would not be covered by proposed § 686.43(a)(5). Proposed § 686.43(a)(6) describes how these grant recipients may request reconsideration of the conversion of their TEACH Grants to loans.

We are proposing new §§ 686.43(a)(7) and (8) to provide greater transparency related to the process by which a TEACH Grant recipient may request reconsideration of the conversion of a TEACH Grant to a loan if the recipient believes that the grant was converted in error, and the Secretary's actions after making a determination on a grant recipient's reconsideration request. Although a process currently exists for grant recipients to request reconversion of a TEACH Grant to a loan, that process is not reflected in the current regulations.

The Department originally proposed that if a TEACH Grant recipient who requests reconsideration of the conversion of a TEACH Grant to a loan demonstrates to the satisfaction of the Secretary that the grant was converted in error, the Secretary would reconvert the loan to a TEACH Grant, notify the recipient of the reconversion to a grant, and explain that the grant recipient is once again responsible for meeting all requirements of the service obligation. During the negotiated rulemaking sessions, some non-federal negotiators expressed concerns that the Department's proposal was too limited in scope and would not provide adequate relief to grant recipients whose grants were converted to loans in error. In particular, these non-federal negotiators believed it was important to specify in the regulations that any academic years of qualifying teaching service performed by the grant recipient while their grant was improperly in loan status due to an erroneous conversion would be applied toward satisfaction of the service obligation requirement, and that the period during which the grant was improperly in loan status would not count against the eight-year service obligation period.

The non-federal negotiators believed that the additional financial burden resulting from the conversion of a grant recipient's TEACH Grants to loans could lead a grant recipient to leave his or her teaching position at a low-income school and obtain a higher paying job while awaiting a decision from the Secretary on the request for reconsideration of the conversion. The non-federal negotiators felt strongly that if the Secretary determines that a grant recipient's TEACH Grant was converted

to a loan in error, upon the reconversion of the loan to a grant the recipient should receive credit toward satisfaction of the service obligation for any full academic years of qualifying teaching service that he or she completed during the period between the request for reconsideration and the determination that the grant was converted to a loan in error, and any other portion of that period when the grant was improperly in loan status should not be counted against the remaining portion of the grant recipient's eight-year service obligation period once the loan has been changed back to a grant. To address these concerns, the Department agreed to add proposed §§ 686.43(a)(7)(i)(A) and (B).

As an example to illustrate how the provisions in proposed §§ 686.43(a)(7)(i)(A) and (B) would be applied, consider the case of a grant recipient who completed one academic year of qualifying teaching service during the first year of the eight-year service obligation, then had his or her TEACH Grants converted to a loan and submitted a request for reconsideration based on the belief that the grants were converted in error. After submitting the reconsideration request, the grant recipient continued to perform qualifying teaching service for an additional academic year while the Secretary evaluated the recipient's request. The Secretary determines that the grants converted to a loan in error and reconverts the loans to TEACH Grants. We would apply the year of qualifying teaching that the recipient completed while the grants were in loan status toward the recipient's four-year service obligation requirement, and the recipient would have six years remaining to complete the remaining two years of the service obligation. In contrast, if the recipient did not complete any additional academic years of qualifying teaching following the conversion, and one year elapsed from the time the recipient submitted a reconsideration request until the Secretary made a determination that the grants had been converted in error, the recipient would then have seven years remaining to complete the required three additional years of teaching to fully satisfy the service obligation. We would exclude the one-year period when the grants were incorrectly in loan status from the eight-year service obligation period.

The non-federal negotiators also urged the Department to specify in the regulations that if the Secretary determines that a recipient's TEACH Grants were converted to a loan in error, the grant recipient would receive credit



for any payments that he or she made on the loan that was later reconverted to a TEACH Grant. Proposed § 686.43(a)(7)(ii) provides for this. If the Secretary determines that a recipient's grants were converted to a loan in error, and the recipient made payments on the loan, the payments that the recipient made would be reapplied to reduce the outstanding balance on the recipient's other Direct Loans, if any, unless the recipient requested a refund of the payments. We would automatically refund payments to the recipient if the recipient has no other Direct Loans.

Non-federal negotiators were also concerned that grant recipients who have their TEACH Grants erroneously converted to a loan may not be able to handle the increased student loan debt, and this could lead to delinquency or default. Accordingly, the non-federal negotiators asked the Department to specify in the regulations that we would delete any derogatory information reported to consumer reporting agencies in connection with the loan, and that upon a request from the recipient, the Secretary would provide a statement explaining the conversion error that the recipient could provide to creditors. The Department agreed with the non-federal negotiators and has included this provision in proposed § 686.43(a)(7)(iv).

We are proposing new § 686.43(a)(9) to clarify in the regulations that a grant recipient is obligated to meet all requirements of the service obligation even if the recipient does not receive the notices from the Secretary described in proposed § 686.43(a)(2). If a recipient does not receive the notices because he or she failed to provide updated contact information to the Secretary or for any other reason, this would not provide a basis for the recipient to assert that he or she is no longer responsible for satisfying the terms and conditions of the agreement to serve or repay that the recipient signed.

In § 686.43(c)(2), which currently provides that a grant recipient whose TEACH Grant is converted to a Direct Unsubsidized Loan is eligible for all of the benefits of the Direct Loan Program, including an in-school deferment, we are proposing to remove the words "including an in-school deferment" because it is sufficient to simply state that the recipient would be eligible for all Direct Loan Program benefits. There is no reason to specifically refer to the in-school deferment benefit.

Finally, for consistency with proposed changes in other sections of the proposed regulations, we are proposing to amend § 686.43(d) to provide that a TEACH Grant that has been converted to a loan cannot be

changed back to a grant unless the Secretary determines that the grant was converted to a loan in error. The main negotiating committee agreed with these proposals.

#### Directed Questions

(1) If a grant recipient completed one or more academic years of qualifying teaching service during the period the grant was wrongly in loan status, under proposed § 686.43(a)(7)(i)(A) the Secretary will credit the recipient for those years of service and not include the period the grant was wrongly in loan status in the eight-year service period during which the grant recipient must complete their service obligation. In addition to not including this period, if the grant recipient does not have sufficient time to complete such service within the eight-year period once the error is corrected, should the Secretary further extend the period in which the recipient has to complete the required service by an additional period equal to 8 years minus the number of years of qualified teaching service completed by the recipient?

(2) If a grant recipient did not complete one or more academic years of qualifying teaching service during the period the grant was wrongly in loan status, under proposed § 686.43(a)(7)(i)(B) the Secretary will not include the period the grant was wrongly in loan status in the eight-year service period during which the grant recipient must complete their service obligation. In addition to not including this period, if the grant recipient does not have sufficient time to complete such service within the eight-year period once the error is corrected, should the Secretary further extend the period in which the recipient has to complete the required service by an additional period equal to 8 years minus the number of years of qualified teaching service completed by the recipient?

#### Executive Orders 12866, 13563, and 13771 Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by 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.

Under Executive Order 12866, section 3(f)(1), the changes proposed in this regulatory action would materially alter the rights and obligations of recipients of Federal financial assistance under title IV of the HEA. Therefore, the Secretary certifies that this is a significant regulatory action subject to review by OMB. Also, under Executive Order 12866 and the Presidential Memorandum "Plain Language in Government Writing," the Secretary invites comment on how easy these regulations are to understand in the *Clarity of the Regulations* section.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2019, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. The proposed regulations are a significant regulatory action under Executive Order 12866. However, Executive Order 13771 does not apply to "transfer rules" that cause only income transfers between taxpayers and program beneficiaries. Because the portion of the regulation relating to the TEACH Grant Program is a transfer rule and because the remaining proposed regulatory changes impose minimal estimated costs of approximately \$1.27 million in annualized net PRA costs at a 7 percent discount rate, discounted to a 2016 equivalent, over a perpetual time horizon, the requirement to offset new regulations in Executive Order 13771 does not apply. Accordingly, the Department is not required to identify two deregulatory actions under Executive Order 13771. Also, one of the benefits of this regulatory action is to help improve the process of certification by TEACH grantees and provide less restrictive qualification criteria by expanding the pool of schools under

certain circumstances that would be eligible for meeting the teaching service requirement.

We have also reviewed these proposed regulations under 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 on 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 obtaining regulatory objectives and 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 the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “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 of OMB has 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 proposed regulations only on a reasoned determination that their benefits justify their costs. Based on the analysis that follows, the Department believes that these regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, or 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, assumptions, limitations, and data

sources, as well as regulatory alternatives we considered.

#### *Need for Regulatory Action*

In 2007, Congress established the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program to increase the number of teachers in high-need fields in low-income schools. In exchange for receiving a TEACH Grant, recipients agree to teach in a high-need field such as reading, mathematics, or science, at a low-income school, for at least four years in an eight-year period and annually certify that they intend to meet this requirement. If a recipient does not meet the grant requirements or the annual certification requirements, the grant converts to a Federal Direct Unsubsidized Loan with interest charged from the date of each TEACH Grant disbursement.

A 2015 Government Accountability Office (GAO) report found that around 36,000 out of more than 112,000 TEACH Grant recipients had not fulfilled TEACH Grant requirements and had their grants converted to loans (GAO, 2015).<sup>13</sup> GAO concluded that The Department needs to explore ways to increase awareness among students of how the TEACH Grant program operates and improve program management, especially with respect to the grant-to-loan conversion dispute process. GAO further noted that the Department should take steps to understand why teachers often do not meet the TEACH program requirements. GAO reiterated that the goal of reducing grant-to-loan conversions and increasing program completion should help drive the Department’s efforts. These proposed regulations help to address GAO’s concerns.

A 2018 study conducted for the Department by the American Institutes for Research (U.S. Department of Education, 2018)<sup>14</sup> found that as of June 2016, 63 percent of TEACH Grant recipients who started their eight-year service obligation period before July 2014 had their grants converted to Unsubsidized Loans because they did not meet the service obligation requirements or the annual certification requirements. For instance, the study reported that 39 percent of recipients who were in loan status cited teaching

in a position that did not qualify for TEACH Grant service and 33 percent cited not working as a certified teacher. Other factors related to teachers having grants converted to loans included not knowing about annual certification, challenges related to the certification process, and recipients who were never certain of their intention to teach or who changed to a nonteaching position prior to meeting their service obligation.

To address the concerns raised by these studies, we are proposing amendments that are intended to facilitate the process of documenting satisfaction of the service obligation requirements and ensure that recipients who fulfill their service obligation receive credit for it. This should also help to reduce the percentage of TEACH Grants that get converted to Direct Unsubsidized Loans and help promote the TEACH Grant Program’s desired outcomes.

The proposed regulations also speak to issues concerning eligibility and distribution of financial aid to various faith-based entities. In response to the Supreme Court’s decision in *Trinity Lutheran Church of Columbia, Inc. v. Comer* (137 S. Ct. 2012 (2017)) and Executive Order 13798 (U.S. Attorney General Memorandum on Federal Law Protections for Religious Liberty (October 6, 2017)), the Department engaged in a full review of its regulations related to title IV, HEA programs in order to identify provisions that may discriminate against otherwise eligible students and faith-based entities by disqualifying them from title IV, HEA programs due to their religious beliefs in violation of the Free Exercise Clause of the First Amendment to the United States Constitution. The Department proposes to make changes to regulatory provisions that may discriminate against students or faith-based entities based on their religious beliefs to ensure compliance with the Free Exercise Clause of the First Amendment.

#### *Discussion of Costs and Benefits*

The Department has analyzed the costs and benefits of complying with these proposed regulations and our estimates are a function of the uncertainty and limitations of relevant data. As discussed below, we believe that these proposed regulations will result in modest costs to the Federal government and will benefit recipients of support under the affected programs.

#### *Benefits of the Proposed Regulations*

With respect to the TEACH Grant Program, we anticipate that by simplifying and clarifying certification procedures and providing greater

<sup>13</sup> Government Accountability Office. (2015). Higher Education: Better Management of Federal Grant and Loan Forgiveness Programs for Teachers Needed to Improve Participant Outcomes (GAO 15–314). Washington, DC: United States Government Accountability Office.

<sup>14</sup> U.S. Department of Education. (2018). Study of the Teacher Education Assistance for College and Higher Education (TEACH) Program.

flexibility to recipients to meet their service obligation, the proposed regulations would result in a decrease in the number of TEACH Grant recipients that have their grants converted to loans. We further anticipate that this outcome and the expansion of opportunities that students can use to fulfill the service obligation could result in more teachers teaching in high-need fields at low-income schools as well as in authorized teacher shortage areas.

The regulations we propose related to other programs would also reduce the potential for discrimination against students and faith-based institutions due to their religious beliefs in violation of the Free Exercise Clause of the First Amendment of the Constitution.

*Costs of the Proposed Regulations*

Regarding changes to the TEACH Grant Program, the proposed changes would potentially improve the reporting and documentation process for grant recipients and could lead to a reduction in the number of grant-to-loan conversions. According to Department data, the percentage of TEACH Grant recipients with one or more years of qualified teaching service after six or more years following their last TEACH award has been increasing steadily. The improvements to the process for recipients to document their teaching service included in these proposed regulations should help prevent unintended grant to loan conversions.

For FY 2020, The Department estimates that approximately 32,000 recipients will receive TEACH Grants with a value of \$97.2 million in grants, and an average award of slightly over \$3,000. To provide some background, over the past five years from fiscal year 2014 through fiscal year 2018, the Department has provided a total of \$449.3 million in TEACH grant funding to 159,317 students. Based on program data, the Department estimates that 66 percent of students receiving TEACH Grants will fail to complete their required service commitment and will have their grants converted to Direct Unsubsidized Stafford Loans.

Using a sensitivity analysis of grant-to-loan conversions, we estimate that for the 2020 cohort, a one percent reduction in the grant-to-loan conversion would result in a cost to the Federal Government of \$767,663, since each grant that is not converted to a loan where the student is obligated to pay it back remains a grant. The Department recognizes the percentage change that the proposed regulations would have on the percentage of conversions is uncertain. The Department intends that these regulatory changes should reduce

the loan conversion rate. However, students fail to meet the TEACH Grant service requirements for many reasons, including teaching in positions that do not qualify or changing to non-teaching employment. For instance, the PPSS/AIR study cited earlier reported that approximately 39 percent of TEACH recipients whose grants had been converted to loans reported teaching in a position that did not qualify for the TEACH program, 33 percent reported not teaching or not completing the teaching certificate, 32 percent stated they did not understand the service requirements, and about 44 percent reported factors related to the annual certification process as influencing them to not complete the program requirements. Since respondents could select more than one response category, the total percentage does not add to 100 percent. Of those that indicated the annual certification process was a problem, the distribution revealed that about 19 percent said they did not know about the annual certification process; 13 percent reported not certifying because of challenges to the certification process; 9 percent reported not certifying because they forgot, and about 2 percent listed other reasons.

While predicting how recipients might change behavior due to the proposed regulations is speculative, the PPSS/AIR responses give us reason to assume that there could be improvement based on the recipients who cited the certification process as a factor in their conversion. Such improvement would logically lead to some reduction in the grant-to-loan conversion rate.

Given an estimated grant-to-loan conversion rate, it is possible to identify a series of costs for a series of percentage reductions that give context to the potential impact that the proposed regulations would have.

**FIVE PERCENTAGE POINT INTERVAL GRANT-TO-LOAN CONVERSION COSTS**

Percentage point reduction	Cost (\$millions)
5 .....	3.8
10 .....	7.7
15 .....	11.5
20 .....	15.4
25 .....	19.2

The above table suggests that if the grant-to-loan conversion rate were reduced from the estimated 66 percent to 61 percent—a five percentage point reduction—the Federal Government would incur additional costs of about \$3.8 million. And, if the projected 66

percent rate were reduced by 10 percentage points to 56 percent, there would be a cost of about \$7.7 million based on the 2020 cohort. However, this cost to the Federal Government would also result in a benefit to student TEACH Grant recipients who would not have to repay their TEACH Grants that were converted to loans. Note that these are five percentage percentage-point intervals, and not percentage decreases of the current rate.

The current regulations do not permit a TEACH Grant recipient to satisfy the service obligation by teaching in a geographic region of a State that has been designated in the Nationwide List as having a shortage of teachers, or by teaching at a particular grade level not associated with a high-need field that has been designated in the Nationwide List as having a shortage of teachers. Instead, the recipient must teach in a high-need field listed in the Nationwide List.

The proposed regulations would remove this restriction. For example, under the proposed regulations, a grant recipient could satisfy the service obligation by serving as a full-time highly qualified general elementary school or secondary school teacher at a low-income school in a State that has reported a general shortage of elementary or secondary teachers in the Nationwide List. This is not allowed under the current regulations. Therefore, the proposed regulations would allow grant recipients who are unable to find qualifying teaching jobs in a high-need field to meet the service obligation by teaching at a low-income school located in a geographic teacher shortage area or at a grade level where there is a shortage of teachers. This could facilitate increased opportunities for TEACH recipients toward meeting the service obligation and perhaps impact the conversion rate to loans. But, it would be speculative to assume any specific amount of change in the conversion rate attributable to potential expanded teaching opportunities. Also, the proposed change might result in a number of grant recipients simply transferring from one low-income school to another low-income school to accept a teaching position that might previously have not been eligible.

Based on available data from the Department’s Teacher Shortage Area listing,<sup>15</sup> there are about 10 states, including California, Idaho, Illinois, Maine, Michigan, North Dakota, South Dakota, Pennsylvania, Virginia, West Virginia and the District of Columbia, that appear to have teacher shortages

<sup>15</sup> <https://tsa.ed.gov/#/reports>.

particularly in the elementary education area that could potentially expand the eligible teaching opportunities for TEACH Grant recipients compared to the opportunities available under the current regulations. According to National Center for Education Statistics data, these states represented approximately 27 percent of teachers in public elementary and secondary schools in the 2011–12 Schools and Staffing Survey data, both for overall teachers and for those in their first 10 years of teaching.<sup>16</sup> As indicated in the PPSS/AIR responses, approximately 15 percent of those whose grants converted to loans said they were unable to find a job in a high-need field and adjusting for nationwide percentage of public schools with 30 percent or more of students receiving a free and reduced lunch of approximately 70 percent,<sup>17</sup> we estimate that the changes removing the high needs field requirement in qualifying States will reduce the overall grant-to-loan conversion rate by approximately 3 percent., so relieving that requirement for those states would have some net budget impact. Nevertheless, while the proposed changes would expand options for grant recipients to meet the service obligation by allowing grant recipients who are not teaching in a high-need subject area to qualify by teaching at a low-income school in a geographic shortage area or in a grade-level shortage area, we do not believe the proposed regulations would lead to a significant increase in the actual number of TEACH grant recipients. We would welcome comments from the public as to whether the expansion of teaching options would result in an increase in the number of TEACH grant recipients.

Overall, the proposed regulations have the potential to improve some aspects of the certification process and opportunities for recipients to meet their service requirements, which would benefit recipients, in keeping with the original goal of the program. As several provisions are expected to decrease the

grant-to-loan conversion rate and result in additional cost to the Federal Government, we have estimated a net budget impact of that change.

In addition to the 3 percent decrease attributed to the changes to the high needs field requirements, we assume that the additional changes to the TEACH Grant program described in this preamble will decrease grant-to-loan conversions. We expect this effect will be lower for existing cohorts as improved counseling is more applicable to future participants and participants who took out TEACH Grants several years ago may be established in jobs that may not qualify or may have moved on from the profession, possibly limiting the ways those with older TEACH grants may respond to the proposed regulations. As a result, we applied the decreases shown in Table [2] to the grant-to-loan conversion rate to the President’s Budget 2020 baseline. For past cohorts, the changes are applied only to future years of activity.

TABLE 2—GRANT-TO-LOAN CONVERSION RATE DECREASE FACTOR

Cohorts	Decrease (percent)
2008–2012 .....	4
2013–2019 .....	9
2020–2029 .....	15

The estimated net budget impact is a cost of \$119.98 million, including a modification to existing cohorts of \$15.8 million and a cost for cohorts 2020 to 2029 of \$104.2 million. We welcome comments on the estimated effects of the proposed regulations and will consider any information received in evaluating the final regulations.

A number of the proposed changes to the regulations relate to the eligibility of certain entities and recipients to participate in the title IV programs. The proposed regulations remove language prohibiting borrowers with Perkins loans made before July 1, 1993 and National Defense Student Loans (NDSL) made between October 1, 1980 and July 1, 1993 from obtaining deferments during periods of otherwise eligible full-time volunteer work that includes providing religious instruction, conducting religious services, proselytizing, or engaging in fundraising to support religious activities. The small group of borrowers expected to benefit from these changes and the heavy discounting effect that would apply to any deferment costs on such old loans, we do not estimate any budget impact from these changes.

The proposed regulations would remove current provisions that state that a member of a religious order pursuing a course of study in an institution of higher education has no financial need for purposes of the Pell Grant Program, Federal Perkins Loan Program, FWSP, FSEOG, FFEL Program, or the Direct Loan Program.

Despite this proposed change, the additional eligibility for student aid for a very small group of participants in a given religious order would not, in our estimation, result in any additional significant financial aid costs to the government. We have little firm data on the number of members in religious orders subject to the proposed changes who would actually choose to accept the financial aid for which they are eligible. For instance, the Franciscans are perhaps the largest and most well-known mendicant religious order, which means the priests take a vow of poverty. According to a 2013 reference,<sup>18</sup> there are around 14,000 first order Franciscan members, including 9,700 priests. Even considering other orders within the Franciscans and additional smaller monastic sects such as the Benedictines and Dominicans, the membership estimates would not be large. Thus, the Department believes that the pool of members potentially impacted by this regulatory change is already small to begin with and the proposed regulations are not going to induce changes in member practices and would not result in measurable financial aid estimates. Note that there are already many religiously oriented postsecondary institutions that are title IV eligible and are not affected by these proposed regulations. Therefore, the proposed changes would allow our regulations to be consistent with the Supreme Court decision in *Trinity Lutheran Church of Columbia, Inc. v. Comer* without involving a significant economic impact.

The proposed regulatory changes would also affect PSLF. Under the proposed regulations, certain institutions that are tax-exempt under section 501(c)(3) of the Internal Revenue Code that are religious organizations would be considered public service eligible employers for purposes of PSLF. However, the proposed regulations would provide that, while working for such an employer, no time spent by a borrower involving religious instruction, worship services, or proselytizing could be used toward meeting the full-time requirement stipulated for PSLF.

<sup>18</sup> *Annuario Pontificio 2013* (Libreria Editrice Vaticana 2013 ISBN 978–88–209–9070–1), p. 1422.

<sup>16</sup> U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics 2017, Table 209.30. Highest degree earned, years of full-time teaching experience, and average class size for teachers in public elementary and secondary schools, by state: 2011–12. Data not reported for 5 states, including the District of Columbia, so percentage is adjusted to be total of those reporting.

<sup>17</sup> United States Department of Education, National Center for Education Statistics, Condition of Education—Characteristics of Traditional Public Schools and Charter Schools, Figure 3. Percentage of traditional public schools and public charter schools, by percentage of students eligible for free or reduced-price lunch: School year 2016–17. Available at [https://nces.ed.gov/programs/coe/indicator\\_cla.asp](https://nces.ed.gov/programs/coe/indicator_cla.asp).

This consensus language actually codifies existing program practice that makes religious organizations eligible to be PSLF employers, but prohibits time spent on specific religious duties from counting toward the full-time PSLF requirement. Therefore, due to operational practice since program inception and including baseline assumptions, the Department has already been implementing the policy proposed in the NPRM. As a result, the proposed changes would “catch up” the regulations with the program as it is currently being executed and simply codify the current operational process.

In fact, the application form for PSLF (OMB No. 1845–0110) specifically states that a qualifying employer includes a “not-for-profit organization that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code” but makes no exclusion for religious purposes. The application also makes it clear that in performing job duties toward the full-time requirement, a borrower’s qualifying employment at a 501(c)(3) organization or a not-for-profit organization does not include time spent participating in religious instruction, worship services, or any form of proselytizing. We do not estimate any significant increase in PSLF costs, given that the program has already been operating consistently with the proposed requirements.

The proposed changes to the GEAR UP program regulations would clarify that providers of GEAR UP services to students enrolled in private schools must be contracted independently of the private schools and would allow pervasively sectarian institutions of higher education to serve as fiscal agents for GEAR UP grants. In general, the Department does not estimate costs associated with changes to regulations governing competitive grant programs as participation in such programs is voluntary. However, it is possible that certain changes in the regulatory framework governing a competitive grant program could produce transfers in program benefits among entities or recipients of services.

Regarding the provision requiring providers of services to students enrolled in private schools to be independent of the school, the Department first assessed the extent to which GEAR UP services are currently provided to students enrolled in such schools. During the most recent reporting period, GEAR UP grantees reported serving students in 4,033 schools. Of those schools, the Department was only able to identify five private schools in which students received GEAR UP services. In total,

private schools represented only 0.1 percent of schools served by the program and, even among the grantees serving such schools, private schools represented 0.9 percent of the total schools they served. As such, we do not believe that the proposed requirement relating to the employment relationship between individuals providing services in such schools and the schools themselves is likely to have a large impact on the administration of the program.

Regarding who may serve as a fiscal agent for a GEAR UP Grant, as noted above, the proposed regulations would allow pervasively sectarian institutions of higher education to serve in such a capacity. However, nothing in the current GEAR UP regulations precludes a pervasively sectarian institution of higher education from being a member of a GEAR UP partnership. As such, pervasively sectarian institutions can currently participate in and provide services under a GEAR UP grant. The Department does not have readily available data to identify all members of GEAR UP partnerships and whether they are pervasively sectarian. With such information, the Department could more easily quantify the potential number of partnerships affected by the change. However, even without such information, given that pervasively sectarian institutions are already eligible members of partnerships, we do not believe the change to allow them to serve as fiscal agents would dramatically change the makeup of the GEAR UP applicant pool. Any pervasively sectarian institution that currently wishes to participate in the GEAR UP program is able to do so and this change would only result in a shift in who has primary fiscal liability for the grant.

#### *Alternatives Considered*

With respect to the TEACH Grant program, we considered not including provisions related to the current reconsideration process in the proposed regulations, maintaining the current counseling requirements without adding a separate conversion counseling requirement, maintaining instead of expanding the current regulations related to qualifying teacher shortage areas for fulfilling the service obligation, and not expanding allowable suspensions beyond those that are currently available. For the faith-based provisions, we considered not making the proposed changes and leaving the current regulatory language in place as written.

#### *Clarity of the Regulations*

Executive Order 12866 and the Presidential memorandum “Plain Language in Government Writing” require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A “section” is preceded by the symbol “§” and a numbered heading; for example, § 106.9 Dissemination of policy.)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section of the preamble.

#### **Regulatory Flexibility Act Certification**

The Secretary certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In fact, the primary entities who are affected by the proposed regulations are individual students, not organizations, businesses, or governmental units. This holds true for the faith-based component of the NPRM that addresses individuals participating in religious orders, or student borrowers applying for PSLF. Similarly, the proposed changes to the TEACH Grant Program regulations primarily affect students who are interested in teaching and apply for a TEACH grant.

Of the entities that would be affected by the proposed regulations, many institutions, especially religiously oriented schools, would be considered small. The Department recently proposed a size classification based on enrollment using IPEDS data that established the percentage of institutions in various higher education

sectors considered to be small entities, as shown in Table [6].<sup>19</sup> This size classification was described in the NPRM published in the **Federal Register** on July 31, 2018 for the proposed borrower defense rule (83 FR 37242, 37302). Under the Department’s

proposed size standards, “small entities” have an enrollment of 1,000 students or less at 4-year schools or 500 students or less at 2-years schools. The Department has discussed the proposed standard with the Chief Counsel for Advocacy of the Small Business

Administration, and while no change has been finalized, the Department continues to believe this approach better reflects a common basis for determining size categories that is linked to the provision of educational services.

TABLE 6—SMALL ENTITIES UNDER ENROLLMENT BASED DEFINITION

Level	Type	Small	Total	Percent
2-year	Public	342	1,240	28
2-year	Private	219	259	85
2-year	Proprietary	2,147	2,463	87
4-year	Public	64	759	8
4-year	Private	799	1,672	48
4-year	Proprietary	425	558	76
Total		3,996	6,951	57

The proposed regulations would affect students who belong to religious orders and those students most likely attend institutions with a religious mission. In general, we believe religious institutions are more likely to be small institutions. However, the proposed regulations do not affect the title IV eligibility of such institutions. Indeed, even schools that are controlled by various religious organizations and do not adhere to certain title IX civil rights provisions can still participate in title IV financial aid programs if they receive a waiver from parts of title IX that conflict with the school’s religious doctrine.

According to the Department’s Office of Civil Rights, since 1976 there have been 277 religious institutions of higher education that have received a religious exemption from title IX civil rights laws due to certain title IX provisions that conflict with the school’s religious beliefs. Most of those schools maintain eligibility for title IV funding while holding a partial exemption from title IX. In some cases, there are religious-based schools who on their own choose not to participate at all in title IX or title IV, but the proposed regulations would not impact that limited number of schools.

We do not expect that the proposed regulations would have a significant economic impact on small entities. Nothing in the proposed regulations would compel institutions, small or not, to engage in substantive changes to their programs. Therefore, there is no estimated associated institutional burden.

Even if the affected institutions were considered small entities, the proposed regulations are designed to permit them to participate in title IV programs

without jeopardizing their religious mission. Nothing in the proposed regulations would require institutions to expand their enrollment, take on additional students, or to participate in title IV aid programs, but the proposed regulations would give them that opportunity.

**Paperwork Reduction Act of 1995**

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department’s collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Part 686 contains information collection requirements. Under the PRA the Department has submitted a copy of these sections to OMB for its review.

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.

In the final regulations we will display the control numbers assigned by OMB to any collection requirements proposed in this NPRM and adopted in the final regulations.

*Section 686.12—Agreement To Serve or Repay*

*Requirements:* Under proposed § 686.12 the TEACH Grant agreement to serve or repay would need to be expanded and updated with revised definitions, requirements, and explanations of the program and participant conditions, and options as discussed in the preamble.

*Burden Calculation:* We believe that the proposed changes and updates would require changes to the TEACH Grant agreement to serve form currently approved under OMB Control Number 1845–0083, but that those changes would not impact the current burden associated with this form. We estimate that, on average, it would take a grant recipient 30 minutes (.50 hours) to review and complete the updated agreement, which is done electronically. We anticipate 50,793 TEACH applicants would annually utilize the agreement accepting the program terms, including the required teaching service, or the conversion of the grant to a Direct Unsubsidized Loan if such service is not met or the applicant does not otherwise comply with the terms of the agreement. Based on one response per applicant, we estimate an annual reporting burden for individuals of 25,397 hours (50,793 × .50 hours).

<sup>19</sup> U.S. Department of Education, National Center for Education Statistics. Integrated Postsecondary

Education Data System 2016 Institutional Characteristics: Directory Information survey file

downloaded March 3, 2018. Available at [nces.ed.gov/ipeds/datacenter/DataFiles.aspx](https://nces.ed.gov/ipeds/datacenter/DataFiles.aspx).

§ 686.12—AGREEMENT TO SERVE OR REPAY—OMB CONTROL NUMBER 1845–0083

Entity	Respondent	Responses	Time to respond (hours)	Burden hours
Individual .....	50,793	50,793	.50	25,397
Total .....	50,793	50,793	.....	25,397

Section 686.32—Counseling Requirements

*Requirements:* The proposed regulations in § 686.32 would expand the information that is provided to TEACH Grant recipients during initial, subsequent, and exit counseling. The proposed regulations would add a new conversion counseling requirement for grant recipients whose TEACH Grants are converted to Direct Unsubsidized Loans.

*Burden Calculation:* We believe that the proposed expansion and revision of the required program counseling would require changes to the counseling

currently available. The changes to the initial, subsequent, exit, and new conversion counseling information collection would be completed and made available for comment through a full public clearance package after publication of the final rule and before being made available for use by the effective date of the regulations.

Section 686.40—Documenting the Service Obligation

*Requirements:* The proposed regulations would clarify the requirements regarding the documentation of completion of the teaching service obligation in the

TEACH Grant Program and how it is reported.

*Burden Calculation:* We believe that the proposed changes to the required service obligation would require a new certification form. During the 2018 calendar year, Department records indicate we received documentation for 52,989 grantees regarding yearly service obligation completion. We estimate that to meet the requirements of § 686.40 each respondent would need 20 minutes (.33 hours) to complete the certification form.

We estimate the total burden of 17,486 hours (52,989 × .33 hours) under OMB Control Number 1845–NEW1.

§ 686.40—DOCUMENTING THE SERVICE OBLIGATION—OMB CONTROL NUMBER 1845–NEW1

Entity	Respondent	Responses	Time to respond (hours)	Burden hours
Individual .....	52,989	52,989	.33	17,486
Total .....	52,989	52,989	.....	17,486

Section 686.41—Periods of Suspension

*Requirements:* The proposed regulations would add new conditions under which a TEACH Grant recipient may receive a temporary suspension of the period for completing the service obligation.

*Burden Calculation:* We believe that the proposed new conditions to receive a temporary suspension of the period for completing the service obligation would require a new temporary suspension form.

During the 2018 calendar year, Department records indicate we received documentation supporting suspension of 589 grantees for enrollment to complete licensure requirements. We estimate that to meet the requirements in proposed § 686.41(a)(1)(ii), each respondent would need 20 minutes (.33 hours) to complete the certification form. We

estimate the total burden of 194 hours (589 × .33 hours).

During the 2018 calendar year, Department records indicate we received documentation supporting suspension of 334 grantees for qualifying leave under the Family and Medical Leave Act of 1993. We estimate that to meet the requirements in proposed § 686.41(a)(1)(iii), each respondent would need 20 minutes (.33 hours) to complete the certification form. We estimate the total burden of 110 hours (334 × .33 hours).

During the 2018 calendar year, Department records indicate we received documentation supporting suspension of 24 grantees for call to military service. We estimate that to meet the requirements in proposed § 686.41(a)(1)(iv), each respondent would need 20 minutes (.33 hours) to complete the certification form. We estimate the total burden of 8 hours (24 × .33 hours).

We anticipate that we would receive documentation supporting suspension of 25 grantees based on military orders for the grantee’s spouse. We estimate that to meet the requirements in proposed § 686.41(a)(1)(v), each respondent would need 20 minutes (.33 hours) to complete the certification form. We estimate the total burden of 8 hours (25 × .33 hours).

We anticipate that we would receive documentation supporting suspension of 500 grantees based on residing or being employed in a federally declared major disaster area. We estimate that to meet the requirements in proposed § 686.41(a)(1)(vi), each respondent would need 20 minutes (.33 hours) to complete the certification form. We estimate the total burden of 165 hours (500 × .33 hours).

We estimate the total burden of 485 hours (1,472 × .33 hours) under OMB Control Number 1845–NEW1.

§ 686.41—PERIODS OF SUSPENSION—OMB CONTROL NUMBER 1845–NEW1

Entity	Respondent	Responses	Time to respond (hours)	Burden hours
Individual (a)(1)(ii) .....	589	589	.33	194



§ 686.41—PERIODS OF SUSPENSION—OMB CONTROL NUMBER 1845–NEW1—Continued

Entity	Respondent	Responses	Time to respond (hours)	Burden hours
Individual (a)(1)(iii) .....	334	334	.33	110
Individual (a)(1)(iv) .....	24	24	.33	8
Individual (a)(1)(v) .....	25	25	.33	8
Individual (a)(1)(vi) .....	500	500	.33	165
Total .....	1,472	1,472	.....	485

Section 686.42—Discharge of Agreement To Serve or Repay

Requirements: The proposed regulations would revise the language for conditions under which a TEACH Grant recipient may discharge an

agreement to serve or repay based on military service.

Burden Calculation: During the 2018 calendar year, Department records indicate we received documentation supporting suspension of 10 grantees for discharge due to an extended call to military service. We estimate that to

meet the requirements in proposed § 686.42(c), each respondent would need 20 minutes (.33 hours) to complete the new certification form also used for military service suspension.

We estimate the total burden of 3 hours (10 × .33 hours) under OMB Control Number 1845–NEW1.

§ 686.42—DISCHARGE OF AGREEMENT TO SERVE OR REPAY—OMB CONTROL NUMBER 1845–NEW1

Entity	Respondent	Responses	Time to respond (hours)	Burden hours
Individual .....	10	10	.33	3
Total .....	10	10	.....	3

Section 686.43—Obligation To Repay the Grant

Requirements: The proposed regulations would simplify the rules governing when a TEACH Grant will be converted to a Direct Unsubsidized Loan, as well as provide for annual notifications from the Secretary to the recipient regarding the status of a recipient’s TEACH Grant service obligation. Under the proposed regulations, a TEACH Grant recipient could request conversion if the recipient decides not to fulfill the TEACH Grant obligations for any reason or if the recipient fails to begin or maintain qualifying teaching service within a timeframe to complete the service obligation in the requisite eight-year period. Additionally, the proposed regulations describe the notifications the Secretary would annually send to all TEACH Grant recipients regarding the service obligation requirements.

Burden Calculation: We believe that the proposed regulations would require action on the part of TEACH grant recipients. Based on Department data

during the 2018 calendar year there were 52,989 TEACH Grant recipients who submitted evidence of completed teaching service. We estimate that an additional 25 percent of that figure or about 13,247 grant recipients would be working toward their teaching obligation for a total of 66,236 grant recipients who would receive the annual notice from the Secretary as required under proposed § 686.43(a)(2). We estimate that grant recipients would require 10 minutes (.17 hours) to review the information provided in each annual notice. We estimate the total burden of 11,260 hours (66,236 × .17 hours).

There would be burden on those recipients who are notified that their TEACH Grant will be converted to a loan if the recipient does not submit required documentation to show that they are satisfying the service obligation. Based on the Department’s data, during calendar year 2018 there were a total of 10,591 TEACH Grant recipients whose grants were converted to loans based on the recipients’ voluntary request, or because the recipient was out of time to perform the

service obligation or because the recipient did not provide evidence of meeting the service obligation as required under § 686.43(a)(4). We estimate that grant recipients would require 10 minutes (.17 hours) to review the information in the notice. We estimate the total burden of 1,800 burden hours (10,591 × .17 hours).

Additionally, there would be burden on any TEACH Grant recipient whose grant was involuntarily converted to a Direct Unsubsidized Loan to request reconsideration from the Secretary. Based on the Department’s data, during calendar year 2018 there were 282 correctable conversions of TEACH Grants into loans. We estimate that a recipient would require 15 minutes (.25 hours) to gather documentation to present to the Secretary and make such a request as required under § 686.43(a)(5). We estimate a total burden of 71 burden hours (282 × .25 hours).

We estimate a total burden of 13,131 burden hours under OMB Control Number 1845–NEW2.

§ 686.43—OBLIGATION TO REPAY THE GRANT—OMB CONTROL NUMBER 1845–NEW2

Entity	Respondent	Responses	Time to respond (hours)	Burden hours
Individual (a)(2) .....	66,236	66,236	.17	11,260
Individual (a)(4) .....	(*)	10,591	.17	1,800
Individual (a)(5) .....	(*)	282	.25	71

§ 686.43—OBLIGATION TO REPAY THE GRANT—OMB CONTROL NUMBER 1845–NEW2—Continued

Entity	Respondent	Responses	Time to respond (hours)	Burden hours
Total .....	66,236	71,109	.....	13,131

\* These respondents would be part of the universe of respondents who receive the annual notifications and are not summed to avoid duplication of respondents.

The estimated cost to the recipients is \$1,665,679, based on the \$29.48 per hour averaged for 2018 elementary, middle school and high school teacher salaries from the 2019 Bureau of Labor Statistics Occupational Handbook.  
**BILLING CODE 4000-01-P**

Regulatory section	Information collection	OMB Control No. and estimated burden (change in burden)	Estimated costs
§686.12 Agreement to serve or repay	Under proposed §686.12 the TEACH Grant agreement to serve or repay would need to be expanded and updated with revised definitions, requirements, and explanations of the program and participant conditions, and options as discussed in the preamble.	1845-0083 +25,397 hours	\$748,704
§686.40 Documenting the service obligation	The proposed regulations would clarify the requirements regarding the documentation of completion of the teaching service obligation in the TEACH Grant Program and how it is reported.	1845-NEW1 +17,486 hours	\$515,487
§686.41 Periods of suspension	The proposed regulations would add new conditions under which a TEACH Grant recipient may receive a temporary suspension of the period for completing the service obligation.	1845-NEW1 +485 hours	\$14,298
§686.42 Discharge of agreement to serve or repay	The proposed regulations would revise the language for conditions under which a TEACH Grant recipient may discharge an agreement to serve or repay based on military service.	1845-NEW1 +3 hours	\$88

\$686.42 Obligation to repay the grant	The proposed regulations would simplify the rules governing when a TEACH Grant will be converted to a Direct Unsubsidized Loan, as well as provide for annual notifications from the Secretary to the recipient regarding the status of a recipient's TEACH Grant service obligation. Under the proposed regulations, TEACH Grant recipients could request conversion if the recipient decides not to fulfill the TEACH Grant obligations for any reason or if the recipient fails to begin or maintain qualifying teaching service within a timeframe to complete the service obligation in the requisite eight-year period. Additionally, the proposed regulations describe the notifications the Secretary would annually send to all TEACH Grant recipients regarding the service obligation requirements.	1845-NEW2 +13,131 hours	\$387,102
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**BILLING CODE 4000-01-C**

**Collections of Information**

The total burden hours and change in burden hours associated with each OMB control number affected by the proposed regulations follows:

Control No.	Total proposed burden hours	Proposed change in burden hours
1845-0083	25,397	No change in hours.
1845-NEW1.	17,974	+17,974 hours.
1845-NEW2.	13,131	+13,131 hours.
Total ...	56,502	+56,502 hours.

**Intergovernmental Review**

These programs are not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

**Assessment of Educational Impact**

In accordance with section 411 of GEPA, 20 U.S.C. 1221e-4, the Secretary particularly requests 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.

*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](http://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 Number does not apply.)

List of Subjects

34 CFR Part 674

Loan programs—education, Reporting and recordkeeping, Student aid.

34 CFR Part 675

Colleges and universities, Employment, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 676

Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 682

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

34 CFR Part 685

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

34 CFR Part 686

Administrative practice and procedure, Colleges and universities, Education, Elementary and secondary education, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 690

Colleges and universities, Education of disadvantaged, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 692

Colleges and universities, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 694

Colleges and universities, Elementary and secondary education, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: November 22, 2019.

Betsy DeVos,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary of Education

proposes to amend parts 674, 675, 676, 682, 685, 686, 690, 692, and 694 of title 34 of the Code of Federal Regulations as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

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

Authority: 20 U.S.C. 1070g, 1087aa–1087hh; Pub. L. 111–256, 124 Stat. 2643; unless otherwise noted.

■ 2. Section 674.9 is amended by:

■ a. In the introductory text, removing the word “A” and adding the words “Prior to October 1, 2017, a” at the beginning of the sentence.

■ b. In the introductory text, removing the word “is”, and adding, in its place, the word “was”.

■ c. Revising paragraph (c).

The revision reads as follows:

§ 674.9 Student eligibility.

\* \* \* \* \*

(c) Has financial need as determined in accordance with part F of title IV of the HEA.

§ 674.35 [Amended]

■ 3. Section 674.35 is amended by removing paragraph (c)(5)(iv) and redesignating paragraph (c)(5)(v) as paragraph (c)(5)(iv).

■ 4. Section 674.36 is amended by revising paragraph (c)(4) to read as follows:

§ 674.36 Deferment of repayment—NDSLs made on or after October 1, 1980, but before July 1, 1993.

\* \* \* \* \*

(c) \* \* \*

(4) A full-time volunteer in service which the Secretary has determined is comparable to service in the Peace Corps or under the Domestic Volunteer Service Act of 1973 (ACTION programs). The Secretary considers that a borrower is providing comparable service if he or she satisfies the following four criteria:

(i) The borrower serves in an organization that is exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954.

(ii) The borrower provides service to low-income persons and their communities to assist them in eliminating poverty and poverty-related human, social, and environmental conditions.

(iii) The borrower does not receive compensation that exceeds the rate prescribed under section 6 of the Fair Labor Standards Act of 1938 (the Federal minimum wage), except that the

tax-exempt organization may provide health, retirement, and other fringe benefits to the volunteer that are substantially equivalent to the benefits offered to other employees of the organization.

(iv) The borrower has agreed to serve on a full-time basis for a term of at least one year.

PART 675—FEDERAL WORK-STUDY PROGRAMS

■ 5. The authority citation for part 675 is revised to read as follows:

Authority: 20 U.S.C. 1070g, 1087, 1094; 42 U.S.C. 2751–2756b; unless otherwise noted.

■ 6. Section 675.9 is amended by revising paragraph (c) to read as follows:

§ 675.9 Student eligibility.

\* \* \* \* \*

(c) Has financial need as determined in accordance with part F of title IV of the HEA.

■ 7. Section 675.20 is amended by revising paragraph (c)(2)(iv) to read as follows:

§ 675.20 Eligible employers and general conditions and limitation on employment.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iv) Involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.

\* \* \* \* \*

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

■ 8. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

■ 9. Section 676.9 is amended by revising paragraph (c) to read as follows:

§ 676.9 Student eligibility.

\* \* \* \* \*

(c) Has financial need as determined in accordance with part F of title IV of the HEA.

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

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

Authority: 20 U.S.C. 1071–1087–4, unless otherwise noted.

■ 11. Section 682.210 is amended by revising paragraph (m)(1)(iv) to read as follows:

**§ 682.210 Deferment.**

\* \* \* \* \*

- (m) \* \* \*
- 
- (1) \* \* \*

(iv) Does not include time spent participating in religious instruction, worship services, or any form of proselytizing; and

\* \* \* \* \*

**§ 682.301 [Amended]**

■ 12. Section 682.301 is amended by removing paragraph (a)(2) and redesignating paragraph (a)(3) as paragraph (a)(2).

**PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM**

■ 13. The authority citation for part 685 continues to read as follows:

**Authority:** 20 U.S.C 1070g, 1087a, *et seq.*, unless otherwise noted.

**§ 685.200 [Amended]**

■ 14. Section 685.200 is amended by removing and reserving paragraph (a)(2)(ii).

■ 15. Section 685.219 is amended by:

■ a. In paragraph (b), revising the definition of “Public service organization”;

■ b. Revising paragraph (c)(1)(ii); and

■ c. Adding paragraph (c)(4).

The revisions and addition read as follows:

**§ 685.219 Public Service Loan Forgiveness Program.**

\* \* \* \* \*

- (b) \* \* \*

*Public service organization* means:

(1) A Federal, State, local, or Tribal government organization, agency, or entity;

(2) A public child or family service agency;

(3) A non-profit organization under section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Internal Revenue Code;

(4) A Tribal college or university; or

(5)(i) A private organization that provides the following public services: Emergency management, military service, public safety, law enforcement, public interest law services, early childhood education (including licensed or regulated child care, Head Start, and State funded pre-kindergarten), public service for individuals with disabilities and the elderly, public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined

by the Bureau of Labor Statistics), public education, public library services, school library or other school-based services; and

(ii) Is not a business organized for profit, a labor union, or a partisan political organization.

(c) \* \* \*

(1) \* \* \*

(ii) Is employed full-time by a public service organization or serving in a full-time AmeriCorps or Peace Corps position—

(A) When the borrower makes the 120 monthly payments described under paragraph (c)(1)(iii) of this section;

(B) At the time of application for loan forgiveness; and

(C) At the time the remaining principal and accrued interest are forgiven.

\* \* \* \* \*

(4) Time spent participating in religious instruction, worship services, or any form of proselytizing while employed by a non-profit organization under section 501(c)(3) of the Internal Revenue Code is not included toward meeting the full-time requirement under paragraph (c)(1)(ii) of this section.

\* \* \* \* \*

**PART 686—TEACHER EDUCATION ASSISTANCE FOR COLLEGE AND HIGHER EDUCATION (TEACH) GRANT PROGRAM**

■ 16. The authority citation for part 686 continues to read as follows:

**Authority:** 20 U.S.C. 1070g, *et seq.*, unless otherwise noted.

■ 17. Section 686.1 is revised to read as follows:

**§ 686.1 Scope and purpose.**

The TEACH Grant program awards grants to students who intend to teach, to help meet the cost of their postsecondary education. In exchange for the grant, the student must agree to serve as a full-time teacher in a high-need field in a school serving low-income students, or as a full-time teacher in a high-need field for an educational service agency serving low-income students, for at least four academic years within eight years of ceasing enrollment at the institution where the student received the grant or, in the case of a student who receives a TEACH Grant at one institution and subsequently transfers to another institution and enrolls in another TEACH Grant-eligible program, within eight years of ceasing enrollment at the other institution. The eight-year period for completing the required four years of teaching does not include periods of

suspension in accordance with § 686.41. If the student does not satisfy the service obligation, the amounts of the TEACH Grants received are treated as a Direct Unsubsidized Loan and must be repaid with interest charged from the date of each TEACH Grant disbursement. A TEACH Grant that has been converted to a Direct Unsubsidized Loan can be reconverted to a grant only in accordance with § 686.43.

■ 18. Section 686.2 is amended by:

■ a. In paragraph (b), adding in alphabetical order an entry for “Free application for Federal student aid (FAFSA)” following “Expected family contribution (EFC)”.

■ b. In paragraph (d), removing the definition of “Agreement to serve (ATS)” and adding, in alphabetical order, a definition for “Agreement to serve or repay”.

■ c. In paragraph (d), adding in alphabetical order the definition of “Educational service agency”.

■ d. In paragraph (d), in paragraph (5) of the definition of “High-need field”, adding the phrase “, including, but not limited to, computer science” after the word “Science”.

■ e. In paragraph (d), in paragraph (7) of the definition of “High-need field”, removing the words “in accordance with 34 CFR 682.210(q)”.

■ f. In paragraph (d), revising the definition of “Highly-qualified”.

■ g. In paragraph (d), removing the definition of “School serving low-income students (low-income school)” and adding, in alphabetical order, a definition for “School or educational service agency serving low-income students (low-income school)”.

■ h. In paragraph (d), revising the definition of “TEACH Grant-eligible program”.

■ i. In paragraph (d), adding in alphabetical order a definition for “Teacher Shortage Area Nationwide Listing (Nationwide List)”.

The additions and revisions read as follows:

**§ 686.2 Definitions.**

\* \* \* \* \*

- (d) \* \* \*

*Agreement to serve or repay:* An agreement under which the individual receiving a TEACH Grant commits to meet the service obligation or repay the loan as described in § 686.12 and to comply with notification and other provisions of the agreement.

\* \* \* \* \*

*Educational service agency:* A regional public multiservice agency authorized by State statute to develop, manage, and provide services or

programs to local educational agencies (LEAs).

\* \* \* \* \*

*Highly qualified:* (i) When used with respect to any public elementary school or secondary school teacher in a State, means that—

(A) The teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State’s public charter school law; and

(B) The teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

(ii) When used with respect to—

(A) An elementary school teacher who is new to the profession, means that the teacher—

(1) Holds at least a bachelor’s degree; and

(2) Has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or

(B) A middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor’s degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by—

(1) Passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or

(2) Successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.

(iii) When used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor’s degree and—

(A) Has met the applicable standard in paragraph (2) of this definition, which includes an option for a test; or

(B) Demonstrates competence in all the academic subjects in which the teacher teaches based on a highly objective uniform State standard of evaluation that—

(1) Is set by the State for both grade-appropriate academic subject matter knowledge and teaching skills;

(2) Is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

(3) Provides objective, coherent information about the teacher’s attainment of core content knowledge in the academic subjects in which a teacher teaches;

(4) Is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;

(5) Takes into consideration, but is not based primarily on, the time the teacher has been teaching in the academic subject;

(6) Is made available to the public upon request; and

(7) May involve multiple, objective measures of teacher competency.

(iv)(A) When used with respect to any public, or other non-profit private, elementary or secondary school teacher who is exempt from State certification requirements means that the teacher is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas.

(B) For purposes of paragraph (iv)(A) of this definition, the competency tests taken by a private school teacher must be recognized by five or more States for the purpose of fulfilling the highly qualified teacher requirements as described in paragraphs (i) through (iii) of this definition, and the score achieved by the teacher on each test must equal or exceed the average passing score of those five States.

\* \* \* \* \*

*School or educational service agency serving low-income students (low-income school):* An elementary school, secondary school, or educational service agency that is listed in the Department’s Teacher Cancellation Low-Income (TCLI) Directory. The Secretary considers all elementary and secondary schools and educational service agencies operated by the Bureau of Indian Education (BIE) in the Department of the Interior or operated on Indian reservations by Indian Tribal groups under contract or grant with the BIE to qualify as schools or educational

service agencies serving low-income students.

\* \* \* \* \*

*TEACH Grant-eligible program:* An eligible program, as defined in § 668.8 of this chapter, is a program of study at a TEACH Grant-eligible institution that is designed to prepare an individual to teach as a highly qualified teacher in a high-need field and leads to a baccalaureate or master’s degree, or is a post-baccalaureate program of study. A two-year program of study that is acceptable for full credit toward a baccalaureate degree is considered to be a program of study that leads to a baccalaureate degree.

\* \* \* \* \*

*Teacher shortage area nationwide listing (Nationwide List):* A list of teacher shortage areas, as defined in § 682.210(q)(8)(vii) of this chapter, in each State.

■ 19. Section 686.10 is revised to read as follows:

**§ 686.10 Application.**

To receive a grant under this part, a student must—

(a) Complete and submit the Free application for Federal student aid (FAFSA) in accordance with the instructions in the FAFSA;

(b) Complete and sign an agreement to serve or repay in accordance with § 686.12; and

(c) Provide any additional information requested by the Secretary and the institution.

**§ 686.11 [Amended]**

■ 20. Section 686.11 is amended by:

■ a. In paragraph (a)(1)(i), removing the words “submitted a completed application” and adding, in their place, the words “met the application requirements in § 686.10”.

■ b. Removing paragraph (a)(1)(ii).

■ c. Redesignating paragraphs (a)(1)(iii), (iv), and (v) as paragraphs (a)(1)(ii), (iii), and (iv), respectively.

■ d. In paragraph (b) introductory text, removing the words “submitted a completed application” and adding, in their place, the words “met the application requirements in § 686.10”.

■ e. Removing paragraph (b)(1).

■ f. Redesignating paragraphs (b)(2) and (3) as paragraphs (b)(1) and (2), respectively.

■ 21. Section 686.12 is revised to read as follows:

**§ 686.12 Agreement to serve or repay.**

(a) *General.* A student who meets the eligibility requirements in § 686.11 may receive a TEACH Grant only after he or she signs an agreement to serve or repay provided by the Secretary and receives counseling in accordance with § 686.32.



(b) *Contents of the agreement to serve or repay.* The agreement to serve or repay—

(1) Provides that, for each TEACH Grant-eligible program for which the student received TEACH Grant funds, the grant recipient must fulfill a service obligation by performing creditable teaching service by serving—

(i) As a full-time teacher for a total of not less than four elementary or secondary academic years within eight years after the date the recipient ceased to be enrolled at the institution where the recipient received the TEACH Grant, or in the case of a student who receives a TEACH Grant at one institution and subsequently transfers to another institution and enrolls in another TEACH Grant-eligible program, within eight years of ceasing enrollment at the other institution;

(ii) In a low-income school as defined in § 686.2(d) and subject to the requirements under § 686.40(a)(3);

(iii) As a highly qualified teacher as defined in § 686.2(d); and

(iv) In a high-need field in the majority of classes taught during each elementary and secondary academic year;

(2) Requires the grant recipient to submit, upon completion of each year of service, documentation of the service in the form of a certification by a chief administrative officer of the school;

(3) Explains that the eight-year period for completing the service obligation does not include periods of suspension in accordance with § 686.41;

(4)(i) Explains the conditions under which a TEACH Grant may be converted to a Direct Unsubsidized Loan, as described in § 686.43;

(ii) Explains that, if a TEACH Grant is converted to a Direct Unsubsidized Loan, the grant recipient must repay the loan in full, with interest charged from the date of each TEACH Grant disbursement; and

(iii) Explains that to avoid further accrual of interest as described in paragraph (b)(4)(ii) of this section, a grant recipient who decides not to teach in a qualified school or field, or who for any other reason no longer intends to satisfy the service obligation, may request that the Secretary convert his or her TEACH Grant to a Direct Unsubsidized Loan so that the grant recipient may begin repaying immediately, instead of waiting for the TEACH Grant to be converted to a loan under the condition described in § 686.43(a)(1)(ii); and

(5) Requires the grant recipient to comply with the terms, conditions, and other requirements consistent with

§§ 686.40 through 686.43 that the Secretary determines to be necessary.

(c) *Completion of the service obligation.* (1) A grant recipient must complete one service obligation for all TEACH Grants received for undergraduate study, and one service obligation for all TEACH Grants received for graduate study. Each service obligation begins when the grant recipient ceases enrollment at the institution where the TEACH Grants were received, or, in the case of a grant recipient who receives a TEACH Grant at one institution and subsequently transfers to another institution, within eight years from the date the grant recipient ceases enrollment at the other institution. However, creditable teaching service, a suspension approved under § 686.41(a)(2), or a military discharge granted under § 686.42(c)(2) may apply to more than one service obligation.

(2) Unless paragraph (c)(3) of this section applies—

(i) In the case of a TEACH Grant recipient who withdraws from an institution before completing a baccalaureate or post-baccalaureate program of study for which he or she received TEACH Grants, but later re-enrolls at the same institution or at a different institution in either the same baccalaureate or post-baccalaureate program or in a different TEACH Grant-eligible baccalaureate or post-baccalaureate program prior to the date that his or her TEACH Grants are converted to Direct Unsubsidized Loans under § 686.43(a)(1)(ii) and receives additional TEACH Grants or the Secretary otherwise confirms that the grant recipient has re-enrolled in a TEACH Grant-eligible program, the Secretary adjusts the starting date of the period for completing the service obligation to begin when the grant recipient ceases to be enrolled at the institution where he or she has re-enrolled; and

(ii) In the case of a TEACH Grant recipient who withdraws from an institution before completing a master's degree program of study for which he or she received TEACH Grants, but later re-enrolls at the same institution or at a different institution in either the same master's degree program or in a different TEACH Grant eligible master's degree program prior to the date that his or her TEACH Grants are converted to Direct Unsubsidized Loans under § 686.43(a)(1)(ii) and receives additional TEACH Grants or the Secretary otherwise confirms that the grant recipient has re-enrolled in a TEACH Grant-eligible program, the Secretary adjusts the starting date of the period for

completing the service obligation to begin when the grant recipient ceases to be enrolled at the institution where he or she has re-enrolled.

(3) In the case of a TEACH Grant recipient covered under paragraph (c)(2)(i) or (ii) of this section who completed one or more complete academic years of creditable teaching service as described in § 686.12(b) during the period between the grant recipient's withdrawal and re-enrollment—

(i) The Secretary does not adjust the starting date of the period for completing the service obligation unless requested by the recipient;

(ii) The completed teaching service counts toward satisfaction of the grant recipient's service obligation under paragraph (c)(2)(i) of this section; and

(iii) If the grant recipient continues to perform creditable teaching service after re-enrolling in a TEACH Grant-eligible program, the grant recipient may receive credit toward satisfaction of the service obligation for any complete academic years of creditable teaching performed while the recipient is concurrently enrolled in the TEACH Grant-eligible program only if the recipient does not request and receive a temporary suspension of the period for completing the service obligation under § 686.41(a)(1)(i).

(d) *Teaching in a high-need field listed in the Nationwide List.* For a grant recipient's teaching service in a high-need field listed in the Nationwide List to count toward satisfying the recipient's service obligation, the high-need field in which he or she prepared to teach must be listed in the Nationwide List for the State in which the grant recipient teaches—

(1) For teaching service performed before July 1, 2010, at the time the grant recipient begins teaching in that field, even if that field subsequently loses its high-need designation for that State; or

(2) For teaching service performed on or after July 1, 2010—

(i) At the time the grant recipient begins teaching in that field, even if that field subsequently loses its high-need designation for that State; or

(ii) At the time the grant recipient signed the agreement to serve or repay or received the TEACH Grant, even if that field subsequently loses its high-need designation for that State before the grant recipient begins teaching in that field.

#### § 686.21 [Amended]

■ 22. Section 686.21 is amended by:  
 ■ a. In paragraph (a)(2)(i), removing the word “aggregate” and adding, in its place, the word “total”;

- b. In paragraph(a)(2)(ii), removing the word “aggregate” and adding, in its place, the word “total”;
- c. In paragraph (a)(2)(ii), removing the words “a master’s degree” and adding, in their place, the words “graduate study”.

#### § 686.31 [Amended]

- 23. Section 686.31 is amended by:

- a. In paragraph (a)(3), adding the words “or repay” after the word “serve”.
- b. In paragraph (e)(2)(ii), removing the word “Federal” before the words “Direct Unsubsidized Loan”.
- 24. Section 686.32 is amended by:
  - a. Revising paragraphs (a)(3), (b)(3), and (c)(4) and (5);
  - b. In paragraph (d), adding the phrase “paragraphs (a) through (c) of” after the words “compliance with”; and
  - c. Adding paragraph (e).

The revisions and addition read as follows:

#### § 686.32 Counseling Requirements.

- (a) \* \* \*
- (3) The initial counseling must—
  - (i) Explain the terms and conditions of the TEACH Grant agreement to serve or repay as described in § 686.12;
  - (ii) Provide the grant recipient with information about how to identify low-income schools and documented high-need fields;
  - (iii) Inform the grant recipient that, for the teaching to count towards the recipient’s service obligation, the high-need field in which he or she has prepared to teach must be—
    - (A) One of the six high-need fields listed in § 686.2; or
    - (B) A high-need field that is listed in the Nationwide List for the State in which the grant recipient teaches—
      - (1) At the time the grant recipient begins teaching in that field, even if that field subsequently loses its high-need designation for that State; or
      - (2) For teaching service performed on or after July 1, 2010, at the time the grant recipient signed the agreement to serve or repay or received the TEACH Grant, even if that field subsequently loses its high-need designation for that State before the grant recipient begins teaching in that field;
  - (iv) Inform the grant recipient of the opportunity to request a suspension of the eight-year period for completion of the agreement to serve or repay and the conditions under which a suspension may be granted in accordance with § 686.41;
  - (v) Explain to the grant recipient that conditions, such as conviction of a felony, could preclude the grant recipient from completing the service obligation;

- (vi) Emphasize to the grant recipient that if the grant recipient fails or refuses to complete the service obligation contained in the agreement to serve or repay or any other condition of the agreement to serve or repay—

- (A) The TEACH Grant must be repaid as a Direct Unsubsidized Loan; and
- (B) The grant recipient will be obligated to repay the full amount of each grant and the accrued interest from each disbursement date;

- (vii) Explain the circumstances, as described in § 686.43, under which a TEACH Grant will be converted to a Direct Unsubsidized Loan;

- (viii) Explain that—
  - (A) To avoid further accrual of interest as described in § 686.12(b)(4)(ii), a grant recipient who decides not to teach in a qualified school or field, or who for any other reason no longer intends to satisfy the service obligation, may request that the Secretary convert his or her TEACH Grant to a Direct Unsubsidized Loan that the grant recipient may begin repaying immediately, instead of waiting for the TEACH Grant to be converted to a loan under the condition described in § 686.43(a)(1)(ii); and

- (B) If the grant recipient requests that a TEACH Grant be converted to a Direct Unsubsidized Loan in accordance with § 686.43(a)(1)(i), the conversion of the TEACH Grant to a loan cannot be reversed;

- (ix) Emphasize that, once a TEACH Grant is converted to a Direct Unsubsidized Loan, it may be reconverted to a grant only if—

- (A) The Secretary determines that the grant has been converted to a loan in error; or

- (B) In the case of a grant recipient whose TEACH Grant was converted to a Direct Unsubsidized Loan in accordance with § 686.43(a)(1)(ii), within one year of the conversion date the grant recipient provides documentation showing that he or she is satisfying the service obligation within the eight-year service obligation period;

- (x) Review for the grant recipient information on the availability of the Department’s Student Loan Ombudsman’s office;

- (xi) Describe the likely consequences of loan default, including adverse credit reports, garnishment of wages, Federal offset, and litigation; and

- (xii) Inform the grant recipient of sample monthly repayment amounts based on a range of student loan indebtedness.

- (b) \* \* \*

- (3) Subsequent counseling must—

- (i) Review the terms and conditions of the TEACH Grant agreement to serve or repay as described in § 686.12;

- (ii) Emphasize to the grant recipient that if the grant recipient fails or refuses to complete the service obligation contained in the agreement to serve or repay or any other condition of the agreement to serve or repay—

- (A) The TEACH Grant must be repaid as a Direct Unsubsidized Loan; and

- (B) The grant recipient will be obligated to repay the full amount of the grant and the accrued interest from the disbursement date;

- (iii) Explain the circumstances, as described in § 686.43, under which a TEACH Grant will be converted to a Direct Unsubsidized Loan;

- (iv) Explain that—

- (A) To avoid further accrual of interest as described in § 686.12(b)(4)(ii), a grant recipient who decides not to teach in a qualified school or field, or who for any other reason no longer intends to satisfy the service obligation, may request that the Secretary convert his or her TEACH Grant to a Direct Unsubsidized Loan that the grant recipient may begin repaying immediately, instead of waiting for the TEACH Grant to be converted to a loan under the condition described in § 686.43(a)(1)(ii); and

- (B) If the grant recipient requests that a TEACH Grant be converted to a Direct Unsubsidized Loan in accordance with § 686.43(a)(1)(i), the conversion of the TEACH Grant to a loan cannot be reversed;

- (v) Emphasize that, once a TEACH Grant is converted to a Direct Unsubsidized Loan, it may be reconverted to a grant only if—

- (A) The Secretary determines that the grant has been converted to a loan in error; or

- (B) In the case of a grant recipient whose TEACH Grant was converted to a Direct Unsubsidized Loan in accordance with § 686.43(a)(1)(ii), within one year of the conversion date the grant recipient provides documentation showing that he or she is satisfying the service obligation within the eight-year service obligation period; and

- (vi) Review for the grant recipient information on the availability of the Department’s Student Loan Ombudsman’s office.

- (c) \* \* \*

- (4) The exit counseling must—

- (i) Review the terms and conditions of the TEACH Grant agreement to serve or repay as described in § 686.12 and emphasize to the grant recipient that the four-year service obligation must be

completed within the eight-year period described in § 686.12;

(ii) Explain the treatment of a grant recipient who withdraws from and then reenrolls in a TEACH Grant-eligible program at a TEACH Grant eligible institution as described in § 686.12(c);

(iii) Inform the grant recipient of the opportunity to request a suspension of the eight-year period for completion of the service obligation and the conditions under which a suspension may be granted in accordance with § 686.41;

(iv) Provide the grant recipient with information about how to identify low-income schools and documented high-need fields;

(v) Inform the grant recipient that, for the teaching to count towards the recipient's service obligation, the high-need field in which he or she has prepared to teach must be—

(A) One of the six high-need fields listed in § 686.2; or

(B) A high-need field that is listed in the Nationwide List for the State in which the grant recipient teaches—

(1) At the time the grant recipient begins teaching in that field, even if that field subsequently loses its high-need designation for that State; or

(2) For teaching service performed on or after July 1, 2010, at the time the grant recipient signed the agreement to serve or repay or received the TEACH Grant, even if that field subsequently loses its high-need designation for that State before the grant recipient begins teaching in that field;

(vi) Emphasize to the grant recipient that if the grant recipient fails or refuses to complete the service obligation contained in the agreement to serve or repay or fails to meet any other condition of the agreement to serve or repay—

(A) The TEACH Grant must be repaid as a Direct Unsubsidized Loan; and

(B) The grant recipient will be obligated to repay the full amount of each grant and the accrued interest from each disbursement date;

(vii) Explain to the grant recipient that the Secretary will, at least annually during the service obligation period, send the recipient the notice described in § 686.43(a)(2);

(viii) Explain the circumstances, as described in § 686.43, under which a TEACH Grant will be converted to a Direct Unsubsidized Loan;

(ix) Explain that—

(A) To avoid further accrual of interest as described in § 686.12(b)(4)(ii), a grant recipient who decides not to teach in a qualified school or field, or who for any other reason no longer intends to satisfy the

service obligation, may request that the Secretary convert his or her TEACH Grant to a Direct Unsubsidized Loan that the grant recipient may begin repaying immediately, instead of waiting for the TEACH Grant to be converted to a loan under the condition described in § 686.43(a)(1)(ii); and

(B) If the grant recipient requests that the TEACH Grant be converted to a Direct Unsubsidized Loan in accordance with § 686.43(a)(1)(i), the conversion of the TEACH Grant to a loan cannot be reversed;

(x) Emphasize that once a TEACH Grant is converted to a Direct Unsubsidized Loan it may be reconverted to a grant only if—

(A) The Secretary determines that the grant was converted to a loan in error; or

(B) In the case of a grant recipient whose TEACH Grant was converted to a Direct Unsubsidized Loan in accordance with § 686.43(a)(1)(ii), within one year of the conversion date the grant recipient provides documentation showing that he or she is satisfying the service obligation within the eight-year service obligation period; and

(xi) Explain to the grant recipient how to contact the Secretary.

(5) If exit counseling is conducted through interactive electronic means, an institution must take reasonable steps to ensure that each grant recipient receives the counseling materials and participates in and completes the exit counseling.

\* \* \* \* \*

(e) *Conversion counseling.* (1) At the time a TEACH Grant recipient's TEACH Grant is converted to a Direct Unsubsidized Loan, the Secretary conducts conversion counseling with the recipient by interactive electronic means and by mailing written counseling materials to the most recent address provided by the recipient.

(2) The conversion counseling—

(i) Informs the borrower of the average anticipated monthly repayment amount based on the borrower's indebtedness;

(ii) Reviews for the borrower available repayment plan options, including standard, graduated, extended, income-contingent, and income-based repayment plans, including a description of the different features of each plan and the difference in interest paid and total payments under each plan;

(iii) Explains to the borrower the options to prepay each loan, to pay each loan on a shorter schedule, and to change repayment plans;

(iv) Provides information on the effects of loan consolidation including, at a minimum—

(A) The effects of consolidation on total interest to be paid, and length of repayment;

(B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities; and

(C) The options of the borrower to prepay the loan and to change repayment plans;

(v) Includes debt-management strategies that are designed to facilitate repayment;

(vi) Explains to the borrower the availability of Public Service Loan Forgiveness and teacher loan forgiveness;

(vii) Explains how the borrower may request reconsideration of the conversion of the TEACH Grant to a Direct Unsubsidized Loan if the borrower believes that the grant was converted to a loan in error;

(viii) Describes the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(ix) Informs the borrower of the grace period as described in § 686.43(c);

(x) Provides—

(A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of the loan (including under the Public Service Loan Forgiveness Program), defer repayment of the loan, or be granted a forbearance on repayment of the loan; and

(B) A copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA;

(xi) Requires the borrower to provide current information concerning name, address, Social Security number, and driver's license number and State of issuance, as well as the borrower's permanent address;

(xii) Reviews for the borrower information on the availability of the Student Loan Ombudsman's office;

(xiii) Informs the borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information;

(xiv) Provides a general description of the types of tax benefits that may be available to borrowers; and

(xv) Informs the borrower of the amount of interest that has accrued on the converted TEACH Grants and explains that any unpaid interest will be

capitalized at the end of the grace period.

- 25. Section 686.40 is amended by:
  - a. Removing paragraph (a);
  - b. Redesignating paragraph (b) as paragraph (a) and revising it;
  - c. Removing paragraphs (c) and (d);
  - d. Redesignating paragraph (e) as paragraph (b);
  - e. Revising newly redesignated paragraph (b)(2) and adding new paragraph (b)(3); and
  - f. Redesignating paragraph (f) as paragraph (c) and revising it.

The revisions and addition read as follows:

**§ 686.40 Documenting the service obligation.**

(a) If a grant recipient is performing full-time teaching service in accordance with the agreement to serve or repay, or agreements to serve or repay if more than one agreement exists, the grant recipient must, upon completion of each of the four required elementary or secondary academic years of teaching service, provide to the Secretary documentation of that teaching service on a form approved by the Secretary and certified by the chief administrative officer of the school or educational service agency in which the grant recipient is teaching. The documentation must show that the grant recipient—

(1) Taught full-time in a low-income school as a highly qualified teacher as defined in § 686.2(d); and

(2)(i) Taught a majority of classes during the period being certified in any of the high-need fields of mathematics, science, a foreign language, bilingual education, English language acquisition, special education, or as a reading specialist; or

(ii) Taught a majority of classes during the period being certified in another high-need field designated by that State and listed in the Nationwide List, in accordance with § 686.12(d).

(b) \* \* \*

(2) A call or order to Federal or State active duty, or Active Service as a member of a Reserve Component of the Armed Forces named in 10 U.S.C. 10101, or service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5); or

(3) Residing in or being employed in a federally declared major disaster area as defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

(c)(1) A grant recipient who taught in more than one qualifying school or qualifying educational service agency during an elementary or secondary

academic year and demonstrates that the combined teaching service 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 elementary or secondary academic year of qualifying teaching.

(2) If the school or educational service agency at which the grant recipient is employed meets the requirements of a low-income school in the first year of the grant recipient's four elementary or secondary academic years of teaching and the school or educational service agency fails to meet those requirements in subsequent years, those subsequent years of teaching qualify for purposes of satisfying the service obligation described in § 686.12(b).

■ 26. Section 686.41 is amended by:

- a. Redesignating paragraphs (a)(1)(ii) and (iii) as paragraphs (a)(1)(iii) and (iv), respectively;
- b. Adding new paragraph (a)(1)(ii);
- c. Revising newly redesignated paragraphs (a)(1)(iii) and (iv);
- d. Adding paragraphs (a)(1)(v) and (vi);
- e. Revising paragraphs (a)(2), (b), and (c); and
- f. Adding paragraphs (d) and (e).

The additions and revisions read as follows:

**§ 686.41 Periods of suspension.**

(a) \* \* \*

(1) \* \* \*

(ii) Receiving State-required instruction or otherwise fulfilling requirements for licensure to teach in a State's elementary or secondary schools;

(iii) A condition that is a qualifying reason for leave under the FMLA;

(iv) A call to order to Federal or State active duty or Active Service as a member of a Reserve Component of the Armed Forces named in 10 U.S.C. 10101, or service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5);

(v) Military orders for the recipient's spouse for—

(A) Deployment with a military unit or as an individual in support of a call to Federal or State Active Duty, or Active Service; or

(B) A change of permanent duty station from a location in the continental United States to a location outside of the continental United States or from a location in a State to any location outside of that State; or

(vi) Residing in or being employed in a federally declared major disaster area as defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

(2) A grant recipient may receive a suspension described in paragraphs (a)(1)(i) through (vi) of this section in one-year increments that—

(i) Does not exceed a combined total of three years under paragraphs (a)(1)(i) through (iii) of this section;

(ii) Does not exceed a total of three years under paragraph (a)(1)(iv) of this section;

(iii) Does not exceed a total of three years under paragraph (a)(1)(v) of this section; or

(iv) Does not exceed a total of three years under paragraph (a)(1)(vi) of this section.

(b) A grant recipient, or his or her representative in the case of a grant recipient who qualifies under paragraph (a)(1)(iv) or (vi) of this section, must apply for a suspension on a form approved by the Secretary, prior to being subject to any of the conditions under § 686.43(a)(1) through (5) that would cause the TEACH Grant to convert to a Direct Unsubsidized Loan.

(c) A grant recipient, or his or her representative in the case of a grant recipient who qualifies under paragraph (a)(1)(v) or (vi) of this section, must provide the Secretary with documentation supporting the suspension request as well as current contact information including home address and telephone number.

(d) On a case-by-case basis, the Secretary may grant a temporary suspension of the period for completing the service obligation if the Secretary determines that a grant recipient was unable to complete a full academic year of teaching or begin the next academic year of teaching due to exceptional circumstances significantly affecting the operation of the school or educational service agency where the grant recipient was employed or the grant recipient's ability to teach.

(e) The Secretary notifies the grant recipient regarding the outcome of the application for suspension.

■ 27. Section 686.42 is amended by:

- a. Revising the section heading;
- b. In paragraph (a)(1), adding the words “or repay” after the word “serve”;
- c. In paragraph (a)(2), adding the words “or repay” after the word “serve”;
- d. Revising paragraph (b); and
- e. In paragraph (c)(4), removing the words “and the Coast Guard” and adding, in their place, the words “the Coast Guard, a reserve component of the Armed Forces named in 10 U.S.C. 10101, or the National Guard”.

The revisions reads as follows:

**§ 686.42 Discharge of agreement to serve or repay.**

\* \* \* \*

(b) *Total and permanent disability.* (1) A grant recipient's agreement to serve or repay is discharged if the recipient becomes totally and permanently disabled, as defined in § 685.102(b) of this chapter, and the grant recipient applies for and satisfies the eligibility requirements for a total and permanent disability discharge in accordance with § 685.213 of this chapter.

(2) If at any time the Secretary determines that the grant recipient does not meet the requirements of the three-year period following the discharge as described in § 685.213(b)(7) of this chapter, the Secretary will notify the grant recipient that the grant recipient's obligation to satisfy the terms of the agreement to serve or repay is reinstated.

(3) The Secretary's notification under paragraph (b)(2) of this section will—

- (i) Include the reason or reasons for reinstatement;
- (ii) Provide information on how the grant recipient may contact the Secretary if the grant recipient has questions about the reinstatement or believes that the agreement to serve or repay was reinstated based on incorrect information; and
- (iii) Inform the TEACH Grant recipient that he or she must satisfy the service obligation within the portion of the eight-year period that remained after the date of the discharge.

(4) If the TEACH Grant made to a recipient whose TEACH Grant agreement to serve or repay is reinstated is later converted to a Direct Unsubsidized Loan, the recipient will not be required to pay interest that accrued on the TEACH Grant disbursements from the date the agreement to serve or repay was discharged until the date the agreement to serve or repay was reinstated.

\* \* \* \*

■ 28. Section 686.43 is amended by:

- a. Revising paragraph(a);
- b. In paragraph (b), removing the word "Federal" before the words "Direct Unsubsidized Loan", and removing the word "any" before the word "aggregate";
- c. In paragraph (c) introductory text, removing the word "Federal" before the words "Direct Unsubsidized Loan";
- d. In paragraph (c)(2), removing the phrase "including an in-school deferment"; and
- e. Revising paragraph (d).

The revisions read as follows:

**§ 686.43 Obligation to repay the grant.**

(a)(1) The TEACH Grant amounts disbursed to the recipient will be converted into a Direct Unsubsidized Loan, with interest accruing from the date that each grant disbursement was made and be collected by the Secretary in accordance with the relevant provisions of subpart A of part 685 of this chapter if—

(i) The grant recipient, regardless of enrollment status, requests that the TEACH Grant be converted into a Direct Unsubsidized Loan because he or she has decided not to teach in a qualified school or educational service agency, or not to teach in a high-need field, or for any other reason; or

(ii) The grant recipient does not begin or maintain qualified employment within the timeframe that would allow that individual to complete the service obligation within the number of years required under § 686.12.

(2) At least annually during the service obligation period under § 686.12, the Secretary notifies the grant recipient of—

(i) The terms and conditions that the grant recipient must meet to satisfy the service obligation;

(ii) The requirement for the grant recipient to provide to the Secretary, upon completion of each of the four required elementary or secondary academic years of teaching service, documentation of that teaching service on a form approved by the Secretary and certified by the chief administrative officer of the school or educational service agency in which the grant recipient taught and emphasizes the necessity to keep copies of this information and copies of the recipient's own employment documentation;

(iii) The service years completed and the remaining timeframe within which the grant recipient must complete the service obligation;

(iv) The conditions under which the grant recipient may request a temporary suspension of the period for completing the service obligation;

(v) The conditions as described under § 686.43(a)(1) under which the TEACH Grant amounts disbursed to the recipient will be converted into a Direct Unsubsidized Loan;

(vi) The potential total interest accrued;

(vii) The process by which the recipient may contact the Secretary to request reconsideration of the conversion, the deadline by which the grant recipient must submit the request for reconsideration, and a list of the specific documentation required by the Secretary to reconsider the conversion; and

(viii) An explanation that to avoid further accrual of interest as described in § 686.12(b)(4)(ii), a grant recipient who decides not to teach in a qualified school or field, or who for any other reason no longer intends to satisfy the service obligation, may request that the Secretary convert his or her TEACH Grant to a Direct Unsubsidized Loan that the grant recipient may begin repaying immediately, instead of waiting for the TEACH Grant to be converted to a loan under the condition described in § 686.43(a)(1)(ii).

(3) On or about 90 days before the date that a grant recipient's TEACH Grants would be converted to Direct Unsubsidized Loans in accordance with paragraph (a)(1)(ii) of this section, the Secretary notifies the grant recipient of the date by which the recipient must submit documentation showing that the recipient is satisfying the obligation.

(4) If the TEACH Grant amounts disbursed to a recipient are converted to a Direct Unsubsidized Loan, the Secretary notifies the recipient of the conversion and offers conversion counseling as described in § 686.32(e).

(5) If a grant recipient's TEACH Grant was converted to a Direct Unsubsidized Loan in accordance with paragraph (a)(1)(ii) of this section, the Secretary will reconvert the loan to a TEACH Grant if, within one year of the conversion date, the recipient provides the Secretary with documentation showing that he or she is satisfying the service obligation.

(6) If a grant recipient's TEACH Grant was involuntarily converted to a Direct Unsubsidized Loan, the Secretary will reconvert the loan to a TEACH Grant based on documentation provided by the recipient or in the Department's records that demonstrate that the recipient was satisfying the service obligation as described in § 686.12 or that the grant was improperly converted to a loan.

(7) If a grant recipient who requests reconsideration demonstrates to the satisfaction of the Secretary that a TEACH Grant was converted to a loan in error, the Secretary—

(i) Reconverts the loan to a TEACH Grant and—

(A) If the grant recipient completed one or more academic years of qualifying teaching service during the period the grant was wrongly in loan status, the Secretary applies that teaching service toward the grant recipient's four-year service obligation requirement and suspends the period the grant was wrongly in loan status from the eight-year service period during which the grant recipient must complete their service obligation; or

(B) If the grant recipient did not complete any academic years of qualifying teaching service during the period the grant was wrongly in loan status, the Secretary suspends the period the grant was wrongly in loan status from the eight-year service period during which the grant recipient must complete their service obligation;

(ii) Ensures that the grant recipient receives credit for any payments that were made on the Direct Unsubsidized Loan that was reconverted to a TEACH Grant;

(iii) Notifies the recipient of the reconversion to a grant and explains that the recipient is once again responsible for meeting all requirements of the service obligation under § 686.12; and

(iv) Requests deletion of any derogatory information reported to the consumer reporting agencies related to the grant while it was in loan status and, upon a request from the grant recipient, furnishes a statement of error that the recipient may provide to creditors until the recipient's credit history has been corrected.

(8) If a grant recipient who requests reconsideration does not demonstrate to the satisfaction of the Secretary that a TEACH Grant was converted to a loan in error, the Secretary—

(i) Notifies the recipient that the loan cannot be converted to a TEACH Grant;

(ii) Explains the reason or reasons why the loan cannot be converted to a TEACH Grant; and

(iii) Explains how the recipient may contact the Federal Student Aid Ombudsman if he or she continues to believe that the TEACH Grant was converted to a loan in error.

(9) A TEACH Grant recipient remains obligated to meet all requirements of the service obligation under § 686.12, even if the recipient does not receive the notices from the Secretary as described in paragraph (a)(2) of this section.

(d) A TEACH Grant that is converted to a Direct Unsubsidized Loan cannot be reconverted to a grant except as provided in paragraph (a) of this section.

**PART 690—FEDERAL PELL GRANT PROGRAM**

■ 29. The authority citation for part 690 continues to read as follows:

**Authority:** 20 U.S.C. 1070a, 1070g, unless otherwise noted.

**§ 690.75 [Amended]**

■ 30. Section 690.75 is amended by removing paragraph (d).

**PART 692—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM**

■ 31. The authority citation for part 692 continues to read as follows:

**Authority:** 20 U.S.C. 1070c–1070c–4, unless otherwise noted.

■ 32. Section 692.30 is amended by revising paragraph (c)(5) to read as follows:

**§ 692.30 How does a State administer its community service-learning job program?**

\* \* \* \* \*

(c) \* \* \*  
(5) Not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used

for sectarian instruction or as a place for religious worship; and

\* \* \* \* \*

**PART 694—GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS (GEAR UP)**

■ 33. The authority citation for part 694 continues to read as follows:

**Authority:** 20 U.S.C. 1070a–21 to 1070a–28.

■ 34. Section 694.6 is amended by revising paragraph (b) and removing paragraph (c).

The revision reads as follows:

**§ 694.6 Who may provide GEAR UP services to students attending private schools?**

\* \* \* \* \*

(b) When providing GEAR UP services to students attending private schools, the employee, individual, association, agency, or organization must be employed or contracted independently of the private school that the students attend, and of any other organization affiliated with the school, and that employment or contract must be under the control and supervision of the public agency.

**§ 694.10 [Amended]**

■ 35. Section 694.10 is amended by removing the words “that is not pervasively sectarian” from paragraph (b).

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