

Archived Information

Proposed Regulatory Language Committee I -- Loans

Quick Fix: No

Origin: FED UP #17

Issue: Direct Loan - Rehabilitation of Loans

Regulatory Cite: 685.211(f)

Summary of Change:

Rehabilitation of a defaulted Direct Loan provides for the removal of the default notation on a borrower's credit history after the borrower makes 12 consecutive on-time, reasonable, and affordable monthly payments. Currently, a borrower may rehabilitate a defaulted Direct Loan on which a judgment has been obtained. The proposed change to §685.211(f) would no longer allow a borrower to rehabilitate a defaulted Direct Loan on which a judgment has been obtained.

Change:

§685.211 Miscellaneous repayment provisions.

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(f) Rehabilitation of defaulted loans. A defaulted Direct Loan, except for a loan on which a judgment has been obtained, is rehabilitated if the borrower makes 12 consecutive on-time, reasonable, and affordable monthly payments. The amount of such a payment is determined on the basis of the borrower's total financial circumstances. If a defaulted loan is rehabilitated, the Secretary instructs any credit bureau to which the default was reported to remove the default from the borrower's credit history.

**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: ED

Issue: Direct Loan - Loan Limits

Regulatory Cite: §685.203(a) and (c)

Summary of Change:

The proposed change would clarify that (1) a borrower who is enrolled in a one-year program of study may not borrow more than the amounts allowed under the first-year undergraduate annual loan limits, and (2) a borrower who is enrolled in a two-year program of study may not borrow more than the amounts allowed under the second-year undergraduate loan limits.

Change:

§685.203 Loan limits.

(a) Direct Subsidized Loans. (1) In the case of an undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:

(i) \$2,625 for a program of study of at least a full academic year in length.

(ii) For a one-year program of study with less than a full academic year remaining, the amount that is the same ratio to \$2,625 as the --

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

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to \$2,625 as the lesser of the --

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

(2) In the case of an undergraduate student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:

(i) \$3,500 for a program of study of at least a full academic year in length.

(ii) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$3,500 as the --

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

(3) In the case of an undergraduate student who has successfully completed the first and second years of a program of study of undergraduate education but has not successfully

completed the remainder of the program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:

(i) \$5,500 for a program of study of at least an academic year in length.

(ii) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$5,500 as the

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

(4) In the case of a student who has an associate or baccalaureate degree which is required for admission into a program and who is not a graduate or professional student, the total amount the student may borrow for any academic year of study may not exceed the amounts in paragraph (a)(3) of this section.

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(8) Except as provided in paragraph (a)(4) of this section, an undergraduate student who is enrolled in a program that is one academic year in length may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (a)(1) of this section.

(9) Except as provided in paragraph (a)(4) of this section -

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(i) An undergraduate student who is enrolled in a program that is two academic years in length and who has not successfully completed the first year of the program may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (a)(1) of this section.

(ii) An undergraduate student who is enrolled in a program that is two academic years in length and who has successfully completed the first year of the program may not borrow an amount for any academic year of study in the remaining portion of the program that exceeds the amounts in paragraph (a)(2) of this section.

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(c) Additional eligibility for Direct Unsubsidized Loans.

(1) ***

(2) The additional amount that a student described in paragraph (c)(1)(i) of this section may borrow under the Federal Direct Unsubsidized Stafford/Ford Loan Program and the Federal Unsubsidized Stafford Loan Program for any academic year of study may not exceed the following:

(i) In the case of a student who has not successfully completed the first year of a program of undergraduate education --

(A) \$4,000 for a program of study of at least a full academic year in length.

(B) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$4,000 as the

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

(C) For a one-year program of study with less than a full academic year remaining, the amount that is the same ratio to \$4,000 as the --

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

(D) For a program of study that is less than a full academic year in length, an amount that is the same ratio to \$4,000 as the lesser of the --

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

(ii) In the case of a student who has completed the first year of a program of undergraduate education but has not successfully completed the second year of a program of undergraduate education --

(A) \$4,000 for a program of study of at least a full academic year in length.

(B) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$4,000 as the

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Number of semester, trimester, quarter, or clock hours enrolled
Number of semester, trimester, quarter, or clock hours in academic year

(iii) In the case of a student who has successfully completed the second year of a program of undergraduate education but has not completed the remainder of the program of study --

(A) \$5,000 for a program of study of at least a full academic year in length.

(B) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$5,000 as the --

Number of semester, trimester, quarter, or clock hours enrolled
Number of semester, trimester, quarter, or clock hours in academic year

(iv) In the case of a student who has an associate or baccalaureate degree which is required for admission into a program and who is not a graduate or professional student, the total amount the student may borrow for any academic year of study may not exceed the amounts in paragraph (c)(2)(iii) of this section.

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(viii) Except as provided in paragraph (c)(2)(iv) of this section, an undergraduate student who is enrolled in a program that is one academic year in length may not borrow an amount for

any academic year of study that exceeds the amounts in paragraph (c)(2)(i) of this section.

(ix) Except as provided in paragraph (c)(2)(iv) of this section --

(A) An undergraduate student who is enrolled in a program that is two academic years in length and who has not successfully completed the first year of the program may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (c)(2)(i) of this section.

(B) An undergraduate student who is enrolled in a program that is two academic years in length and who has successfully completed the first year of the program may not borrow an amount for any academic year of study in the remaining portion of the program that exceeds the amounts in paragraph (c)(2)(ii) of this section.

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: FED UP #52

Issue: Direct Loan - Disability Discharge on Consolidation Loans

Regulatory Cite: §685.212(a) and §685.220(1)

Summary of Change:

Under current regulations, a FFEL or Direct Loan program PLUS loan is discharged if the student for whom the loan was obtained dies. The proposed changes would extend this benefit to consolidation loans by providing for discharge of all or a portion of a consolidation loan if a parent borrower consolidates a PLUS loan and the student for whom the underlying PLUS loan was obtained then dies.

In general, current regulations provide that a FFEL or Direct Loan program joint consolidation loan may be discharged only if both borrowers meet the criteria for a loan discharge. There is an exception to this policy if one of the borrowers qualifies for a loan discharge based on school closure, false certification, or unpaid refund, but the borrower's spouse does not qualify for any type of discharge. In such cases, a partial discharge of the joint consolidation loan may be granted. The proposed change would extend this exception and allow for partial discharge of a joint consolidation loan when one of the borrowers dies or becomes totally and permanently disabled, or is eligible for teacher loan forgiveness.

Change:

§685.212 Discharge of a loan obligation.

(a) Death. (1) If a borrower (or the student on whose behalf a parent borrowed a Direct PLUS Loan) dies, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan based on an original or

certified copy of the borrower's (or student's in the case of a Direct PLUS loan) death certificate.

(2) If an original or certified copy of the death certificate is not available, the Secretary discharges the loan only based on other reliable documentation that establishes, to the Secretary's satisfaction, that the borrower (or student) has died. The Secretary discharges a loan based on documentation other than an original or certified copy of the death certificate only under exceptional circumstances and on a case-by-case basis.

(3) In the case of a Direct PLUS Consolidation Loan, the Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any Direct PLUS Loan or Federal PLUS Loan that was obtained on behalf of a student who dies and that was repaid by the consolidation loan.

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§685.220 Consolidation.

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(1) Special provisions for joint consolidation loans. ***

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(3) Discharge. (i) ~~To obtain a discharge of a joint Direct Consolidation Loan under §685.212, each borrower must meet the requirements for one of the types of discharge described in that section.~~ If a borrower dies and the Secretary receives the documentation described in §685.212(a), the

Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any of that borrower's loans that were repaid by the consolidation loan.

(ii) If a borrower meets the requirements for total and permanent disability discharge under §685.212(b), the Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any of that borrower's loans that were repaid by the consolidation loan.

(~~iii~~) If a borrower meets the requirements for discharge under §685.212(d), (e), or (f) on a loan that was consolidated into a joint Direct Consolidation Loan ~~and the borrower's spouse does not meet the requirements for any type of discharge in §685.212~~, the Secretary discharges ~~a~~the portion of the consolidation loan equal to the amount of the loan that would ~~have been be~~ eligible for discharge under the provisions of §685.212(d), (e), or (f) as applicable, and that was repaid by the consolidation loan.

(iv) If a borrower meets the requirements for loan forgiveness under §685.212(h) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary repays the portion of the outstanding balance of the consolidation loan attributable to the loan that would be eligible for forgiveness under the provisions of §685.212(h), and that was repaid by the consolidation loan.

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: FED UP (not on 12/14/01 list)

Issue: Direct Loan - Entrance and Exit Counseling

Regulatory Cite: §685.304

Summary of Change: The proposed changes would (1) ensure consistency in counseling requirements across the three Title IV loan programs and (2) clarify that a party other than the school may provide the counseling.

Change:

§685.304 Counseling borrowers.

(a) Initial counseling. (1) Except as provided in paragraph (a)(4) of this section, a school must ~~conduct~~ ensure that initial counseling is conducted with each Direct Subsidized or Direct Unsubsidized Loan borrower prior to making the first disbursement of the proceeds of a ~~Direct Subsidized or Direct Unsubsidized L~~ loan to a student borrower unless the student borrower has received a prior Direct Subsidized, Direct Unsubsidized, Federal Stafford, ~~Federal Unsubsidized Stafford,~~ or Federal SLS Loan.

(2) The initial counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an individual with ~~knowledge of~~ expertise in the title IV programs is reasonably available shortly after the counseling to answer the student

borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, ~~the school may provide~~ the student borrower may be provided with written counseling materials ~~prior to disbursing before~~ the loan proceeds are disbursed.

(3) ~~In conducting the~~ The initial counseling ~~the school~~ must--

(i) Explain the use of a Master Promissory Note;

(ii) Emphasize to the borrower the seriousness and importance of the repayment obligation the student borrower is assuming;

(iii) Describe ~~in forceful terms~~ the likely consequences of default, including adverse credit reports, garnishment of wages, Federal offset, and litigation;

(iv) Provide the student borrower with general information with respect to the average indebtedness of student borrowers who have obtained Direct Subsidized or Direct Unsubsidized Loans for attendance at ~~that his or her~~ school or in the student borrower's program of study at that his or her school;

(v) Inform the student borrower as to the average anticipated monthly repayment amount for ~~these~~ student borrowers based on the average indebtedness provided under paragraph (a)(3)(iv) of this section.

(vi) Emphasize that the student borrower is obligated to repay the full amount of the loan even if the student borrower does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student borrower purchased from the school.

(4) A school may adopt an alternative approach for initial counseling as part of the school's quality assurance plan described in §685.300(b)(9). If a school adopts an alternative approach, it is not required to meet the requirements of paragraphs (a)(1)-(3) of this section unless the Secretary determines that the alternative approach is not adequate for the school. The alternative approach must--

(i) Ensure that each student borrower subject to initial counseling under paragraph (a)(1) of this section is provided written counseling materials that contain the information described in paragraph (a)(3) of this section;

(ii) Be designed to target those student borrowers who are most likely to default on their repayment obligations and provide them more intensive counseling and support services; and

(iii) Include performance measures that demonstrate the effectiveness of the school's alternative approach. These performance measures must include objective outcomes, such as levels of borrowing, default rates, and withdrawal rates.

(5) ~~A school that conducts~~ If initial counseling is conducted through interactive electronic means, a school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes initial counseling.

(6) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.

(b) Exit counseling. (1) A school must ~~conduct~~ ensure that exit counseling is conducted with each Direct Subsidized or Direct Unsubsidized Loan borrower shortly before the student borrower ceases at least half-time study at the school.

(2) The exit counseling must be in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that an individual with ~~knowledge of~~ expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program approved for credit at the home institution, ~~the school may provide~~ the student borrower may be provided with written counseling materials within 30 days after the student borrower completes the program.

(3) If a student borrower withdraws from school without the school's prior knowledge or fails to complete the exit counseling as required, the ~~school must provide~~ exit counseling must be provided either through interactive electronic means or by mailing written counseling materials to the student borrower at the student borrower's last known address within 30 days after the school learns that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(4) ~~In conducting t~~The exit counseling, ~~the school~~ must--

(i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Direct Subsidized or Direct Unsubsidized Loans for attendance at that school or in the student borrower's program of study at that school;

(ii) Review for the student borrower available repayment options including the standard repayment, extended repayment, graduated repayment, and income contingent repayment plans, and loan consolidation;

(iii) ~~Provide options~~ Suggest to the student borrower ~~concerning those~~ debt-management strategies that ~~the school determines~~ would facilitate repayment by the student borrower;

(iv) Explain to the student borrower how to contact the party servicing the student borrower's Direct Loans;

(v) Meet the requirements described in paragraphs (a)(3)(i), (ii), ~~and (iii)~~, and (vi) of this section;

(vi) Review ~~with~~ for the student borrower the conditions under which the student borrower may defer or forbear repayment or obtain a full or partial ~~cancellation~~ discharge of a loan;

(vii) Review ~~with~~ for the student borrower information on the availability of the Department's Student Loan Ombudsman's office; and

(viii) Require the student borrower to provide ~~corrections to the school's records~~ current information concerning name, address, social security number, references, and driver's license number and State of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known). ~~The school must provide this information to the Secretary within 60 days.~~

(5) The school must ensure that the information required in paragraph (b)(4)(viii) of this section is provided to the Secretary within 60 days after the student borrower provides the information.

(56) ~~A school that conducts~~ If exit counseling is conducted through interactive electronic means, a school must

take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes exit counseling.

(~~6~~7) The school must maintain documentation substantiating the school's compliance with this section for each student borrower.