

# Archived Information

## Proposed Regulatory Language Committee I - Loans

**Quick Fix:** Yes  
**Origin:** FED UP #25  
**Issue:** FFEL - First Payment Due Date  
**Regulatory Cite:** 682.209(a)(3)

**Summary of Change:** Amends the regulations to allow up to 60 days for the due date of a borrower's first payment of a Stafford loan or the resumption of payments on a Stafford loan following a deferment or forbearance. The first payment due date is already up to 60 days for all loan programs except Stafford.

### (1) Change (context):

§682.209 Repayment of a loan.

(a) \* \* \* \* \*

(3) \* \* \* \* \*

(ii) The first payment on a Stafford loan is due on a date established by the lender that is no more than --

(A) ~~45~~60 days following the first day that the repayment period begins;

(B) ~~45~~60 days from the expiration of a deferment or forbearance period unless the borrower during this period has submitted payments with instructions that those payments are intended for future installment payments;

(C) ~~45~~60 days following the end of the post deferment grace period;

**(2) Amendatory Language:**

Section 682.209 is amended by removing the number "45" wherever it appears in paragraph (a)(3)(ii) and adding, in its place, the number "60" to read as follows:

§682.209 Repayment of a loan.

(a) \* \* \* \* \*

(3) \* \* \* \* \*

(ii) The first payment on a Stafford loan is due on a date established by the lender that is no more than --

(A) 60 days following the first day that the repayment period begins;

(B) 60 days from the expiration of a deferment or forbearance period unless the borrower during this period has submitted payments with instructions that those payments are intended for future installment payments;

(C) 60 days following the end of the post deferment grace period;

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No

**Origin:** FED UP #26

**Issue:** FFEL - Repayment - "Three Times Rule"

**Regulatory Cite:** §682.209(a)(7)(ii)

**Summary of Change:** The proposed change would give lenders and borrowers more flexibility in establishing repayment schedules by allowing an installment payment to be up to five times greater than the smallest scheduled installment payment.

**(1) Change (context):**

§682.209 Repayment of a loan.

(a) Conversion of a loan to repayment status.

\* \* \* \* \*

(7) \* \* \* \* \*

(ii) If a graduated or income-sensitive repayment schedule is established, it may not provide for any single installment that is more than ~~three~~five times greater than any other installment. An agreement as specified in paragraph (c)(1)(ii) of this section is not required if the schedule provides for less than the minimum annual payment amount specified in paragraph (c)(1)(i) of this section.

**(2) Amendatory Language:**

Section 682.209 is amended by revising paragraph (a)(7)(ii) to read as follows:

§682.209 Repayment of a loan.

(a) Conversion of a loan to repayment status.

\* \* \* \* \*

(7) \* \* \* \* \*

(ii) If a graduated or income-sensitive repayment schedule is established, it may not provide for any single installment that is more than five times greater than any other installment. An agreement as specified in paragraph (c)(1)(ii) of this section is not required if the schedule provides for less than the minimum annual payment amount specified in paragraph (c)(1)(i) of this section.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No  
**Origin:** 1/7/02 Suggestion  
**Issue:** FFEL - Unemployment Deferment  
**Regulatory Cite:** 682.210(h)

**Summary of Change:** Simplifies the unemployment deferment rules, and clarifies the requirement that the borrower register with an employment agency if one exists within 50 miles of the borrower's address.

**(1) Change (context):**

§682.210 Deferment.

\* \* \* \* \*

(h) Unemployment deferment.

\* \* \* \* \*

(2) A borrower also qualifies for an unemployment deferment by providing to the lender a written certification that --

~~\_(i) Describing the borrower's diligent search for full-time employment during the preceding 6 months, except that a borrower requesting an initial period of unemployment deferment is not required to describe his or her search for full-time employment at the time the deferment is granted. The initial period of unemployment deferment can be granted for a period of unemployment beginning up to 6 months before the date the holder receives the borrower's request and documentation for the deferment, and can be granted for up to 6 months after that~~

~~date. For a continuation of an unemployment deferment following the initial period, the borrower's written certification must include information showing that the borrower made at least six diligent attempts to secure employment to support the prior 6-month period covered by the certification. This information could be the name of the employer contacted and the employer's address and telephone number, or other information acceptable to the holder showing that the borrower made six diligent attempts to obtain full-time employment;~~

~~(ii) Setting forth the borrower's latest permanent home address and, if applicable, the borrower's latest temporary address; and~~

~~(iii) Affirming that tThe borrower has registered with a public or private employment agency, if one is available to the borrower within a 50-mile radius of the borrower's ~~permanent or temporary~~ current address, ~~specifying the agency's name and address and date of registration.~~; and~~

(ii) For all requests beyond the initial request, the borrower has made at least six diligent attempts during the preceding 6-month period to secure full-time employment.

(3) For purposes of obtaining an unemployment deferment under paragraph (h)(2) of this section, the following rules apply:

(i) A borrower may qualify for an unemployment deferment whether or not the borrower has been previously employed.

(ii) An unemployment deferment is not justified if the borrower refuses to seek or accept employment in kinds of positions or at salary and responsibility levels for which the borrower feels overqualified by virtue of education or previous experience.

(iii) Full-time employment involves at least 30 hours of work a week and is expected to last at least three months.

~~(iv) A lender may accept, as an alternative to the certification of employer contacts required under paragraph (h)(2)(i) of this section, comparable documentation the borrower has used to meet the requirements of the Unemployment Insurance Service, if it shows the same number of contacts and contains the same information the borrower would be required to provide under this section.~~

(iv) A borrower requesting an initial period of unemployment deferment is not required to describe his or her search for full-time employment at the time the deferment is granted. The initial period of unemployment deferment can be granted for a period of unemployment beginning up to 6 months before the date the holder receives the borrower's request, and can be granted for up to 6 months after that date.

(4) A lender may not grant a an unemployment deferment based on a single certification under paragraph (h)(1) or (h)(2) of this section beyond the date that is ~~six~~ 6 months after the date the borrower provides evidence of the borrower's eligibility for unemployment insurance benefits under paragraph (h)(1) of this section or the date the borrower provides the written certification under paragraph (h)(2) of this section.

\* \* \* \* \*

**(2) Amendatory Language:**

**Change:**

Section 682.210 is amended by:

- A. Revising paragraph (h)(2).
- E. Revising paragraph (h)(3)(iv).
- F. Revising paragraph (h)(4).

The revisions read as follows:

§682.210 Deferment.

\* \* \* \* \*

(h) Unemployment deferment.

\* \* \* \* \*

(2) A borrower also qualifies for an unemployment deferment by providing to the lender a written certification that--

(i) The borrower has registered with a public or private employment agency, if one is available to the borrower within a 50-mile radius of the borrower's current address; and

(ii) For all requests beyond the initial request, the borrower has made at least six diligent attempts during the preceding 6-month period to secure full-time employment.

(3) \* \* \* \* \*

(iv) A borrower requesting an initial period of unemployment deferment is not required to describe his or her search for full-time employment at the time the deferment is granted. The initial period of unemployment deferment can be granted for a period of unemployment beginning up to 6 months before the date the holder receives the borrower's request, and can be granted for up to 6 months after that date.

(4) A lender may not grant an unemployment deferment beyond the date that is 6 months after the date the borrower provides evidence of the borrower's eligibility for unemployment insurance benefits under paragraph (h)(1) of this section or the date the borrower provides the written certification under paragraph (h)(2) of this section.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** Yes  
**Origin:** FED UP #54  
**Issue:** FFEL - Copies of Promissory Notes  
**Regulatory Cite:** §682.402(g)(1)(i)

**Summary of Change:** Removes the requirement that a lender must "certify" that a note is a "true and exact" copy as part of its claim submission.

**(1) Change (context):**

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

\* \* \* \* \*

(g) Claim procedures for a loan held by a lender -- (1) Documentation. A lender shall provide the guaranty agency with the following documentation when filing a death, disability, closed school, false certification, or bankruptcy claim:

(i) The original or true and exact copy of the promissory note. ~~or a copy of the promissory note certified by the lender as true and exact.~~

**(2) Amendatory Language:**

Section 682.402 is amended by revising paragraph (g)(1)(i) as follows:

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

\* \* \* \* \*

(g) Claim procedures for a loan held by a lender -- (1) Documentation.

\* \* \* \* \*

(i) The original or true and exact copy of the promissory note.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No

**Origin:** FED UP #17

**Issue:** FFEL - The proposed change would no longer entitle a borrower to rehabilitate a defaulted FFEL loan for which a judgment has been secured. [This is a conforming change to make the FFEL regulations consistent with the Perkins regulations.]

**Regulatory Cite:** §682.405

**Summary of Change:** Current FFEL regulations permit rehabilitation of a loan on which a judgment has been entered if the borrower signs a new promissory note prior to the sale of the loan to an eligible lender. That provision will be deleted.

**(1) Change (context):**

§682.405 Loan rehabilitation agreement.

(a) General. (1) A guaranty agency that has a basic program agreement must enter into a loan rehabilitation agreement with the Secretary. The guaranty agency must establish a loan rehabilitation program for all borrowers with an enforceable promissory note for the purpose of rehabilitating defaulted loans, except for loans for which a judgment has been obtained, so that the loan may be purchased, if practicable, by an eligible lender and removed from default status.

(2) A loan is considered to be rehabilitated only after the borrower has made one voluntary reasonable and affordable full payment each month and the payment is received by a guaranty

agency or its agent within 15 days of the scheduled due date for 12 consecutive months in accordance with this section, and the loan has been sold to an eligible lender.

(3) After the loan has been rehabilitated, the borrower regains all benefits of the program, including any remaining deferment eligibility under section 428(b)(1)(M) of the Act, from the date of the rehabilitation.

~~(4) A borrower who wishes to rehabilitate a loan on which a judgment has been entered must sign a new promissory note prior to the sale of the loan to an eligible lender.~~

(b) Terms of agreement. In the loan rehabilitation agreement, the guaranty agency agrees to ensure that its loan rehabilitation program meets the following requirements at all times:

(1) A borrower may request the rehabilitation of the borrower's defaulted FFEL loan held by the guaranty agency. The borrower must make one on-time voluntary full payment each month for 12 consecutive months to be eligible to have the defaulted loans rehabilitated. For purposes of this section, "full payment" means a reasonable and affordable payment agreed to by the borrower and the agency. The required amount of such monthly payment may be no more than is reasonable and affordable based upon the borrower's total financial circumstances.

Voluntary payments are those made directly by the borrower

~~regardless of whether there is a judgment against the borrower,~~  
and do not include payments obtained by income tax off-set,  
garnishment, income or asset execution or after a judgment has  
been entered on the loan. A guaranty agency must attempt to  
secure a lender to purchase the loan at the end of the twelve-  
(12-)month payment period.

\* \* \* \* \*

**(2) Amendatory Language:**

Section 682.405 is amended by:

A. Adding the words ", except for loans for which a  
judgment has been obtained," after "defaulted loans" in  
paragraph (a)(1).

B. Removing paragraph (a)(4).

C. Removing the words "regardless of whether there is a judgment  
against the borrower" in paragraph (b)(1).

D. Removing the period after the word "execution" in paragraph  
(b)(1) and adding, in its place, the words "or after a judgment  
has been entered on the loan."

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No  
**Origin:** FED UP #57  
**Issue:** FFEL - Reinsurance  
**Regulatory Cite:** 682.412

**Summary of Change:** Clarifies the reinsurance percentage rate for ineligible borrower claims.

**(1) Change (context):**

§682.412 Consequences of the failure of a borrower or student to establish eligibility.

\* \* \* \* \*

(f) The Secretary will reimburse the guaranty agency for its payment of the default claim filed by the lender in accordance with §682.404(a)(1)(i), (ii), or (iii), as applicable.

**(2) Amendatory Language:**

Section 682.412 is amended by adding a new paragraph (f) to read as follows:

§682.412 Consequences of the failure of a borrower or student to establish eligibility.

\* \* \* \* \*

(f) The Secretary will reimburse the guaranty agency for its payment of the default claim filed by the lender in accordance with §682.404(a)(1)(i), (ii), or (iii), as applicable.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No  
**Origin:** FFEL Community  
**Issue:** FFEL - Promissory Notes  
**Regulatory Cite:** 682.414(a)(5)

**Summary of Change:** Clarifies the manner in which promissory notes are retained and may be stored.

**(1) Change (context):**

§ 682.414 Records, reports, and inspection requirements for guaranty agency programs.

(a) Records.

\* \* \* \* \*

(5) \* \* \* \* \*

(ii) A lender or guaranty agency that holds a loan -  
(A) Made on the basis of a paper promissory note other than  
an MPN, shall retain the original promissory note in its  
original paper form;

(B) Made under an original MPN executed in paper form,  
shall retain the original MPN in its paper form;

(C) Made on the basis of a true and exact copy of an MPN  
executed in paper form, shall retain in paper form the true and  
exact copy of the MPN under which the loan was made; or

(D) Made on the basis of a promissory note signed by the borrower electronically, shall retain that note in its original electronic form.

(6) A lender or guaranty agency shall retain a promissory note in accordance with paragraph (a)(5)(ii) of this section until the loan is paid in full or assigned to the Secretary.

(7) When a loan is paid in full by the borrower, the lender or guaranty agency shall return either the original or a true and exact copy of the note to the borrower or otherwise notify the borrower in writing that the loan is paid in full, and retain a copy for the prescribed period.

**(2) Amendatory Language:**

Section 682.414 is amended by revising paragraph (a)(5)(ii), removing paragraph (a)(5)(iii), and adding new paragraphs (a)(6) and (7) as follows:

§ 682.414 Records, reports, and inspection requirements for guaranty agency programs.

(a) Records.

\* \* \* \* \*

(5) \* \* \* \* \*

(ii) A lender or guaranty agency that holds a loan -

(A) Made on the basis of a paper promissory note other than an MPN, shall retain the original promissory note in its original paper form;

(B) Made under an original MPN executed in paper form, shall retain the original MPN note in its paper form;

(C) Made on the basis of a true and exact copy of an MPN executed in paper form, shall retain in paper form the true and exact copy of the MPN under which the loan was made; or

(D) Made on the basis of a promissory note signed by the borrower electronically, shall retain that note in its original electronic form.

(6) A lender or guaranty agency shall retain a promissory note in accordance with paragraph (a)(5)(ii) of this section until the loan is paid in full or assigned to the Secretary.

(7) When a loan is paid in full by the borrower, the lender or guaranty agency shall return either the original or a true and exact copy of the note to the borrower or otherwise notify the borrower in writing that the loan is paid in full, and retain a copy for the prescribed period.

\* \* \* \* \*

**Proposed Regulatory Language  
Committee I - Loans**

**Quick Fix:** No

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

**Issue:** FFEL - Entrance and Exit Counseling

**Regulatory Cite:** §682.604(f) and (g)

**Summary of Change:** The proposed changes would update the counseling requirements, ensure consistency among the FFEL, Perkins, and Direct loan programs, and clarify that parties other than the school may provide the counseling.

**(1) Change (context):**

§682.604 Processing the borrower's loan proceeds and counseling borrowers.

(f) Initial counseling. (1) A school must ~~conduct~~ ensure that initial counseling is conducted with each Stafford loan borrower either in person, by audiovisual presentation, or by interactive electronic means prior to its release of the first disbursement, unless the student borrower has received a prior Federal Stafford, Federal SLS, or Direct subsidized or unsubsidized loan. A school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions regarding those programs. As an alternative, in the case of a student borrower enrolled in a correspondence program or a student borrower enrolled in a study-abroad program that the home institution approves for credit, ~~the school may provide~~

the counseling may be provided through written materials, prior to releasing those loan proceeds.

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

\* \* \* \* \*

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

(iv) In the case of a student borrower of a Stafford loan (other than a loan made or originated by the school), 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;

(v) Inform the student borrower of ~~as to the average~~ anticipated monthly repayment amount based on the student borrower's anticipated indebtedness or on ~~for student borrowers based on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.~~

(3) ~~If A school that conducts~~ 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 the initial counseling.

\* \* \* \* \*

(g) Exit counseling. (1) A school must ensure that ~~conduct~~ exit counseling is conducted with each Stafford loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that ~~conduct~~ this counseling is conducted shortly before the student borrower ceases at least half-time study at the school-, and that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, ~~the school may provide~~ written counseling materials may be provided by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, ~~the school must provide~~ ensure that exit counseling must be provided through either

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 learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(2) ~~In conducting the~~ 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 Stafford or SLS loans for attendance at the same ~~that school~~ or in the same ~~student borrower's~~ program of study at the same school;

(ii) Review for the student borrower available repayment options, ~~(e.g.,~~ including standard, graduated, extended, and income-sensitive repayment plans and loan consolidation ~~refinancing of SLS loans)~~;

(iii) Suggest to the student borrower debt-management strategies that ~~the school determines would best assist~~ facilitate repayment ~~by the student borrower~~;

\* \* \* \* \*

(v) 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;

(vi) Require the student borrower to provide current information ~~corrections to the institution's records~~ 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 ensure that this information ~~will then be~~ is provided ~~within 60 days~~ to the guaranty agency or agencies listed in the student borrower's records within 60 days after the student borrower provides the information; ~~and~~

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

(viii) Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS).

(3) If ~~A school that conducts~~ exit counseling is conducted by electronic interactive means, the school must take reasonable steps to ensure that each student borrower receives

the counseling materials, and participates in and completes the counseling.

\* \* \* \* \*

**(2) Amendatory Language:**

Section 682.604 is amended by:

- A. Revising paragraph (f)(1).
- B. Revising the introductory text to paragraph (f)(2).
- C. Revising paragraph (f)(2)(iii).
- D. Adding a new paragraph (f)(2)(v).
- E. Revising paragraph (f)(3).
- G. Revising paragraph (g)(1).
- H. Revising the introductory text to paragraph (g)(2).
- I. Revising paragraphs (g)(2)(i) through (iii) and paragraphs (g)(2)(v) through (vii).
- J. Adding a new paragraph (g)(2)(viii).
- K. Revising paragraph (g)(3).

The revisions read as follows:

§682.604 Processing the borrower's loan proceeds and counseling borrowers.

(f) Initial counseling. (1) A school must ensure that initial counseling is conducted with each Stafford loan borrower either in person, by audiovisual presentation, or by interactive

electronic means prior to its release of the first disbursement, unless the student borrower has received a prior Federal Stafford, Federal SLS, or Direct subsidized or unsubsidized loan. A school must ensure that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions regarding those programs. As an alternative, in the case of a student borrower enrolled in a correspondence program or a student borrower enrolled in a study-abroad program that the home institution approves for credit, the counseling may be provided through written materials, prior to releasing those loan proceeds.

(2) The initial counseling must--

\* \* \* \* \*

(iii) Describe the likely consequences of default, including adverse credit reports, Federal offset, and litigation;

\* \* \* \* \*

(v) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's anticipated indebtedness or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.

(3) 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 the initial counseling.

\* \* \* \* \*

(g) Exit counseling. (1) A school must ensure that exit counseling is conducted with each Stafford loan borrower either in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must ensure that this counseling is conducted shortly before the student borrower ceases at least half-time study at the school, and that an individual with expertise in the title IV programs is reasonably available shortly after the counseling to answer the student borrower's questions. As an alternative, in the case of a student borrower enrolled in a correspondence program or a study-abroad program that the home institution approves for credit, written counseling materials may be provided by mail within 30 days after the student borrower completes the program. If a student borrower withdraws from school without the school's prior knowledge or fails to complete an exit counseling session as required, ensure that exit counseling must be provided through either 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 learning that the student borrower has withdrawn from school or failed to complete the exit counseling as required.

(2) The exit counseling must--(2) The exit counseling 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 Stafford or SLS loans for attendance at the same school or in the same program of study at the same school;

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

(iii) Suggest to the student borrower debt-management strategies that would facilitate repayment;

\* \* \* \* \*

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

(vi) Require the student borrower to provide 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 ensure that this information is provided to the guaranty agency or agencies listed in the student borrower's records within 60 days after the student borrower provides the information;

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

(viii) Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS).

(3) If exit counseling is conducted by electronic interactive means, the school must take reasonable steps to ensure that each student borrower receives the counseling materials, and participates in and completes the counseling.

\* \* \* \* \*