

SUPPORTING STATEMENT

Information Collections Under the Final Regulations Governing the William D. Ford Direct Loan Program.

A. Justification

1. Necessity of Information Collected

The William D. Ford Direct Loan (Direct Loan) Program proposed regulations revise current regulations in the areas of program administration.

These proposed regulations are a result of regulatory review of the program regulations to reduce administrative burden for program participants, provide benefits to borrowers, and protect the taxpayers' interest. This request is for approval of reporting and recordkeeping requirements contained in the attached final regulations related to the administrative requirements of the Direct Loan program. The information collection requirements in these final regulations are necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

Direct Loan Program: (OMB control number: 1845-0021)

Sections 685.204, 685.212, 685.213, 685.215, 685.301, 685.304 contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management (OMB) for its review.

We are making the following changes to those sections:

Section 685.204 -- Deferment.

The proposed regulations would also permit the Department of Education to grant a deferment on a Direct Loan based on information from a FFEL loan holder. The proposed regulations would allow a representative of the borrower to apply for a military deferment on a Direct Loan on behalf of the borrower. The proposed regulations would affect borrowers seeking a deferment and loan holders (including their servicers). This proposed change represents a decrease in burden because borrowers with more than one loan would no longer be required to gather and supply documentation to each loan holder in order to establish eligibility for a deferment. Conversely, loan holders would be able to rely on the determination of eligibility by another holder based on that holder's receipt and review of required documentation from the borrower. We estimate that the proposed changes will decrease burden for borrowers and loan holders (and their servicers).

Section 685.212 – Loan Discharge for Death.

The proposed regulations would allow the use of an accurate and complete copy of a borrower's death certificate, in addition to the original or a certified copy of the death certificate, to support the discharge of a borrower's or parent borrower's Title IV loan. This proposed change represents a decrease in burden for the survivor of the borrower and the loan holder(or their servicer) because each party will now have increased flexibility in gathering and reviewing documentation that supports a loan discharge based on the death of the borrower. We estimate that the proposed changes will decrease burden for the borrowers' survivors and loan holders(or their servicers).

Section 685.213 – Total and Permanent Disability Discharge.

The proposed regulations restructure §685.213 to align the regulations with the total and permanent disability discharge process. The proposed changes also require a borrower to complete a prospective conditional discharge period of three years from the date that the Secretary makes an initial determination that a borrower is totally and permanently disabled in order to qualify for the total and permanent discharge on his or her Perkins, FFEL or Direct Loan rather than from the date of the onset of the borrower's disability. Lastly, the proposed changes explicitly state that, in order to qualify for a discharge, the borrower must meet the definition of total and permanent disability and receive no further Title IV loans from the date the physician certifies the borrower's total and permanent disability on the discharge application. The proposed regulatory changes would affect Title IV borrowers seeking a total and permanent disability loan discharge, loan holders (and their servicers), and guaranty agencies.

The proposed changes would not constitute an increase in burden for borrowers because the application process and the eligibility requirements have not changed. The proposed changes would also not constitute an increase in burden for loan holders and guaranty agencies because their responsibilities to monitor the borrower's status during the conditional discharge period and make initial and final discharge eligibility determinations are unchanged as well.

Section 685.215 – Identity Theft.

Regulations published in August and November of 2006 implemented a discharge of a Direct Loan Program loan if the borrower's eligibility to borrow was falsely certified because the borrower was a victim of the crime of identity theft. We decided against making changes to the regulations as published but provided lenders with relief of certain due diligence requirements on a loan when identity theft is suspected.

We are proposing changes to state that due diligence efforts required by the HEA are preempted by the Fair Credit Reporting Act when the lender receives notice of a possible identity theft. The proposed changes affect borrower, lenders and guarantors. The proposed changes are burden neutral.

The proposed changes are burden neutral. The Fair Credit Reporting Act already requires lenders to cease credit bureau reporting and collection on a debt that was certified as a result of suspected identity theft. The changes we have proposed simply codify existing practice.

Section 685.301 and 685.304 – Entrance Counseling for Graduate/Professional PLUS Borrowers.

The proposed changes to §§685.301 and 685.304 would require institutions, as part of the process for originating a Direct Loan, to notify Graduate/Professional PLUS Loan student borrowers who are eligible for Stafford Loans of their eligibility for a Stafford Loan and of the terms and conditions of a Stafford Loan that are more beneficial to a borrower than the terms and conditions of a PLUS loan, and to give borrowers an opportunity to request a Stafford Loan at that time. The proposed changes would also establish a separate entrance counseling requirement for Graduate/Professional PLUS student borrowers and Stafford Loan borrowers. As a result, these proposed requirements will increase burden for institutions of higher education.

Section 685.301 – Maximum Length of a Loan Period.

The proposed changes in §§682.401, 682.603 and 685.301 would eliminate the maximum 12-month loan period for annual loan limits in the FFEL and Direct Loan programs and the 12-month period of loan guarantee in the FFEL program to allow institutions to certify a single loan for students in shorter non-term or nonstandard term programs. The proposed changes would also provide greater flexibility in scheduling disbursements for students who drop out and return within the permitted 180-day period. The proposed changes affect schools and lenders. The proposed changes represent a decrease in burden because schools and lenders will be able to certify and disburse one loan, as opposed to two loans, when programs are longer than 12-months.

2. Purpose and Use of Information Collected

Direct Loan Program:

The information collected, recorded, and/or disclosed in §§685.204, 685.212, 685.213, 685.215, 685.301, and 685.304 will continue to be used as necessary in the discharge of loans, the consolidation of loans, and the provision of counseling to borrowers. If we did not require the collection, recordation, and/or disclosure of information as specified in §685.304, borrowers would not be properly counseled about the loans they borrow.

3. Consideration of Improved Information Technology

Direct Loan Program:

We continue to maximize the use of available technology in making and servicing Direct Loan Program loans. This effort extends to requirements that the Direct Loan regulations impose on borrowers and schools.

4. Efforts to Identify Duplication

A thorough review of procedures indicates that current requirements are minimal and avoid duplication. This review was done in conjunction with affected parties who have a vested interest in eliminating duplication.

5. Burden Minimization as Applied to Small Business

No small businesses are impacted by this collection.

6. Consequences of Less Frequent Data Collection

Recordkeeping requirements are imposed to assure accountability of program participants for proper program administration and less frequent collection could impair accountability of program participants.

7. Special Circumstances Governing Data Collection

The collection of this information will be conducted in a manner that is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

These regulations were discussed at regulatory negotiated rulemaking meetings of the Department with the financial aid community over a five-month period, as detailed in the preamble to the Notice of Proposed Regulations published August 18, 2006, (71 FR 47756).

9. Payments or Gifts to Respondents

No payments or gifts will be provided to the respondents.

10. Assurance of Confidentiality

A Privacy Act Notice is included on the Application Form and Promissory Note. In this notice, the borrower is informed of the statutory authority for collecting the information requested. Although disclosure of the information is voluntary, the borrower is informed that in order to be considered for Direct Loan Program funds, the information must be provided. The information provided is used to verify the borrower's identity, to determine the borrower's eligibility to receive a Direct Loan Program loan and benefits, to permit the servicing of the borrower's loan(s), and to locate the borrower and collect on the loan(s) if the loan(s) become delinquent or

default. A listing of the persons and entities to which the information may be disclosed and for what purposes the information may be disclosed is also included.

11. Questions of Sensitive Nature

The Department is not requesting any sensitive data.

12. Annual Hour Burden for Respondents/Recordkeepers.

Direct Loan Program: (OMB 1845-0021)

Section 685.204 -- Deferment

The proposed regulations would allow schools that participate in the Direct Loan Program to grant deferments based upon information from another Perkins Loan holder or from a FFEL Holder instead of requiring the borrower to provide a duplicate request for deferment to multiple loan holders. As a result, burden for the borrowers and loan holders would decrease.

A total of 41,700 Perkins, FFEL and Direct Loan borrowers were granted a non-in-school deferment in Award Year 2006 and received loans with more than one loan holder.

41,700 borrowers granted non-in-school deferment with multiple holders
 $\frac{X}{10,425}$.25 hours projected amount of decreased burden per borrower
 10,425 hours total number of hours of decreased burden

<u>For 2007-2008:</u>	<u>#</u>	<u>%</u>
Total projected # of Perkins Loan Program awards	501,000	.03
Total projected # of FFEL Program awards	12,483,000	.78
Total projected # of Direct Loan Program awards	<u>3,039,000</u>	<u>.19</u>
Total #of Title IV projected loans	16,023,000	1.00

Total Burden Reduction for the Direct Loan Program:

10,425 total hours of burden reduction
 $\frac{X}{1,980}$.19 percentage of all projected loans as Direct Loans
 1,980 total # of hours of decreased burden in the Direct Loan Program

Affected Entities:

The amount of burden reduction is split between borrowers and loan holders. The majority of the burden reduction is provided to the borrowers since they will not have to complete and submit additional, duplicative deferment requests.

Entity:	% of burden reduction	hours of burden reduction	=	total hours of reduction
BORROWERS:	.9	1,980		1,782

LOAN HOLDERS: .1 1,980 198

1,980

Respondents, Responses and Burden Hours:

# of Respondents	# of Responses	# Hrs/Response	#Hrs Burden
7,923	7,923	.25 =	- 1,980

Section 685.212 – Loan Discharge for Death

The proposed regulations would allow the use of an accurate and complete copy of a borrower’s death certificate, instead of only permitting the submission of the original or a certified copy of the certificate.

The # of death discharges for Title IV loans as of September 30, 2006 are as follows:

<u>Program Type</u>	<u># of loans</u>	<u>% by program</u>
FFEL Program	55,148	.78
Direct Loan Program	14,199	.20
Perkins Loan Program	<u>1,692</u>	<u>.02</u>
Total # of Title IV Loan	71,039	1.00

Discharges for Death

Current Requirement:

Amount of time to contact the Office of Vital Statistics to obtain a certified copy of a death certificate = .25 hour (15 minutes).

Proposed Requirement:

Amount of time to copy and submit a copy of an original or certified copy of a death certificate = .17 hour (10 minutes).

	.25 hour (15 minutes)
	<u>less .17 hour (10 minutes)</u>
Burden reduction per record	.08 hour (5 minutes)

Total burden reduction:

# of death discharges	71,039
amount of burden reduction	<u>X .08 hour</u>
Total burden hours reduced	5,683 hours

Total burden reduction by program:

Program type:	% of discharges by program	total hours of burden reduction	hours of reduction by program
FFEL Program	.78	5,683	4,433
Direct Loan Program	.20	5,683	1,137
Perkins Loan Program	.02	5,683	<u>113</u>
			5,683

<u>Affected Entities:</u>	% of entities impacted	hours of reduction by	amount of burden reduction by affected entity
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DIRECT LOAN

program

SURVIVOR OF

BORROWER:

.6

1,137

682

LOAN HOLDER:

.4

1,137

455

1,137

Respondents, Responses and Burden Hours:

# of Respondents	# of Responses	# Hrs/Response	#Hrs Burden
14,199	14,199	.08	= - 1,137

Section 685.213 – Total and Permanent Disability Discharge

The proposed changes would not constitute an increase in burden for borrowers because the application process and the eligibility requirements have not changed. The proposed changes would also not constitute an increase in burden for loan holders, and guaranty agencies because their responsibilities to monitor the borrower’s status during the conditional discharge period and make initial and final discharge eligibility determinations are unchanged as well.

Section 685.215 – Identity Theft.

We are proposing changes to state that due diligence efforts required by the HEA are preempted by the Fair Credit Reporting Act when the lender receives notice of a possible identity theft. The proposed changes affect borrower, lenders and guarantors. The proposed changes are burden neutral.

Section 685.301 and 685.304 – Entrance Counseling for Graduate/Professional PLUS Borrowers

The proposed changes to §§685.301 and 685.304 would require institutions to provide entrance counseling to students as a part of the process for certifying a Direct Loan Grad/PLUS loan. Institutions have automated the loan counseling process to a high degree, therefore the burden increase to the institution is small.

of Direct Loan Grad/PLUS Loans:

July, 2006 – April, 2007	X	Additional % of loans April through June, 2007	=	Total # loans
18,785		1.33		24,984

Amount of increased burden per Grad/PLUS loan = .5 hours (30 minutes)

Affected Entities:

	# of loans	X	Time to complete entrance counseling	=	Hours of increased burden
BORROWERS:	24,984		.5 hours (30 minutes)		12,492
INSTITUTIONS:	24,984		.017 hours (1 minute)		<u>424</u>

Total Increase in Burden Hours: 12,916 hours

Respondents, Responses and Burden Hours:

	# of Respondents	# of Responses	# Hrs/Response	=	#Hrs Burden
Borrowers	24,984	24,984	.5	=	12,492
Institutions	24,984	24,984	.017	=	424

Section 685.301 – Maximum Length of a Loan Period

The proposed changes would eliminate the maximum 12-month loan period for annual loan limits in the Direct Loan program thus allowing institutions to certify a single loan for student in shorter non-term or nonstandard term programs or when the loan period is longer than 12 months. As a result, these changes will decrease burden for schools and lenders.

of borrowers in the Direct Loan program in 2007-2008:

Loan Type	# of loans
Subsidized	1,503,000
Unsubsidized	1,094,000
PLUS	242,000
Total	2,839,000
% of affected loans	<u>.10</u>
# of affected loans	283,900

Amount of time to certify
and disburse loan X .5 hours (30 minutes)
Decrease in burden 141,950

Affected Entities:

	burden hours	X	% affected	=	Total burden
reduction					
INSTITUTIONS:	141,950		.5		70,975
LENDERS:	141,950		.5		<u>70,975</u>

141,950

Respondents, Responses and Burden Hours:

# of Respondents	# of Responses	# Hrs/Response	#Hrs Burden
8,767	283,900	.5	= -141,950

13. Annual Cost Burden to Respondents

Direct Loan Program:

No change from current inventory.

14. Estimated Annual Cost to the Federal Government

There are no additional costs to the Federal government as a result of the final regulations.

15. Reasons for Changes to Burden Hour Estimated

The implementation of the proposed regulations as a result of the Negotiated Rulemaking process created additional information collections burden. A summary below is provided:

Respondents, Responses and Burden Hours:

	# of Respondents	# of Responses	#Hrs Burden
Section 685.204 -- Deferment	7,923	7,923	- 1,980
Section 685.212 – Loan Discharge for Death	14,199	14,199	- 1,137
Section 685.301 and 685.304 – Entrance Counseling for Graduate/Professional PLUS Borrowers			
Borrowers	24,984	24,984	12,492
Institutions	24,984	24,984	424
Section 685.301 – Maximum Length of a Loan Period	8,767	283,900	-141,950
Sub-total:			
	# of Respondents	# of Responses	#Hrs Burden
	80,857	355,990	- 132,151
Current Inventory:			
	# of Respondents	# of Responses	#Hrs

846,034	846,034	Burden 211,520
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Revised Inventory:

# of Respondents	# of Responses	#Hrs Burden
926,890	1,202,024	79,369

16. Collection of Information with Published Results

The results of the collection of information will not be published.

17. Approval to Not Display Expiration Date

ED is not seeking this approval.

18. Exception to the Certification Statement

ED is not requesting any exceptions to the "Certification for Paperwork Reduction Act Submissions" of OMB Form 83-1.