

## SUPPORTING STATEMENT

### Information Collection for the Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Federal Perkins Loan Program

**Loan Discharge Application Documents (OMB No.1845-0015):**

**Loan Discharge Application: School Closure**

**Loan Discharge Application: False Certification (Ability to Benefit)**

**Loan Discharge Application: False Certification (Disqualifying Status)**

**Loan Discharge Application: False Certification (Unauthorized Signature/Unauthorized Payment)**

#### **A. Justification**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Higher Education Act of 1965, as amended (HEA), established the Federal Family Education Loan (FFEL) Program, the William D. Ford Federal Direct Loan (Direct Loan) Program, and the Federal Perkins (Perkins) Loan programs under Title IV, Parts B, D, and E, respectively. Section 437(c)(1) of the HEA authorizes the discharge of a FFEL or Direct Loan program loan borrower's obligation to repay his or her loan(s) based on school closure or false certification of student eligibility. Section 464(g)(1) of the HEA authorizes the discharge of a Perkins Loan Program loan based on school closure. For the FFEL and Direct Loan programs, the regulations governing closed school and false certification loan discharges are in 34 CFR 682.402(d) and (e) (FFEL Program) and 34 CFR 685.212, 214 and 215 (Direct Loan Program). For the Perkins Loan Program, the regulations governing closed school discharges are in 34 CFR 674.33(g).

This collection is necessary in order for loan holders in the FFEL, Direct Loan, and Perkins Loan programs to obtain the information that is needed to determine whether a borrower qualifies for a closed school or false certification loan discharge. The loan discharge regulations in all three loan programs require borrowers who seek discharge of their FFEL, Direct Loan, or Perkins Loan program loans to request a loan discharge and provide their loan holders with certain information in writing.

This information collection includes the following four loan discharge applications that are used to obtain the information needed to determine whether a borrower qualifies for a closed school or false certification loan discharge:

1. Loan Discharge Application: School Closure
2. Loan Discharge Application: False Certification (Ability to Benefit)
3. Loan Discharge Application: False Certification (Disqualifying Status)
4. Loan Discharge Application: False Certification (Unauthorized Signature/Unauthorized Payment)

The *Loan Discharge Application: School Closure* is used by borrowers in the FFEL, Direct Loan, and Perkins Loan programs. The other three loan discharge applications are used by borrowers in the FFEL and Direct Loan programs (the law and regulations do not provide for false certification loan discharges in the Perkins Loan Program).

The U.S. Department of Education (the Department) is requesting a revision of the currently approved collection. We are making very minor wording and format changes in all four documents for greater consistency with other loan program forms.

The only substantive change to the currently approved forms is the addition of a new question in the *Loan Discharge Application: False Certification (Ability to Benefit)*. The new question (Item 11 in Section 2 of the revised form included with this submission) covers a new ability to benefit provision that was added to 34 CFR 668.32(e) by a Final Rule published in the Federal Register on October 29, 2010 (75 FR 66832). In general, a postsecondary student who does not have a high-school diploma or recognized equivalent is not eligible to receive Title IV student financial assistance, including loans under the Direct Loan or FFEL programs, unless the student first demonstrates the ability to benefit from the training offered by the school. A student who does not have a high-school diploma or recognized equivalent may demonstrate ability to benefit by passing an approved test or by certain other means specified in 34 CFR 668.32(e). The October 29, 2010 Final Rule added a provision to 34 CFR 668.32(e) that allows a student without a high-school diploma or recognized equivalent to be considered to have the ability to benefit from the school's training (and thus be eligible to receive a loan) if the student, prior to receiving any loan funds, successfully completes a specified number of hours that apply to a program offered by the school. New Item 11 in Section 2 of the *Loan Discharge Application: False Certification (Ability to Benefit)* reflects the new ability to benefit provision. It is necessary to add this new question to the form in order to establish that a borrower who has applied for a loan discharge based on false certification of ability to benefit had not been determined to have the ability to benefit from the school's training before the loan was made. If a borrower's ability to benefit was properly established by the school before the loan was made, the borrower is not eligible for a false certification discharge.

There are no changes to any of the data elements on the forms other than the new question in Section 2 of the *Loan Discharge Application: False Certification (Ability to Benefit)* form, as explained above. The addition of this new question, which requires only a Yes, No, or Don't Know answer from the borrower, does not significantly increase the burden associated with this collection.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information collected on these forms is currently used by loan holders to determine whether a borrower qualifies for a closed school or false certification loan discharge, and it will continue to be used for that purpose.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the**

**decision of adopting this means of collection. Also describe any consideration given to using technology to reduce burden.**

The collection of information does not involve the use of technological processes such as electronic submission of responses. All of the loan discharge applications require a borrower's signature and, in some cases, additional supporting documentation. The United States Postal Service, or some other mail delivery service, provides the only currently feasible means for a borrower to return a completed loan application and any required supporting documentation to his or her loan holder. However, the Department will explore future options that might permit electronic submission of these loan discharge applications.

Although borrowers may not currently submit these loan discharge applications electronically, the Department (for Direct Loan Program loans and FFEL or Perkins Loan program loans that are held by the Department) and many FFEL Program lenders make the forms available for download on their web sites.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

In general, there is no information available from other sources that would allow a loan holder to determine whether a borrower qualifies for a closed school or false certification loan discharge. However, in limited circumstances the Department may approve false certification discharges of Direct Loans or other loans held by the Department based on information that the Department has obtained, without requiring the borrowers to submit loan discharge applications.

**5. If the collection of information impacts small businesses or other small entities (Item 8b of IC Data Part 2), describe any methods used to minimize burden.**

No small businesses are affected by this information collection.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Without this collection of information, loan holders would not be able to determine whether a borrower qualifies for a closed school or false certification loan discharge. A borrower who applies for a closed school or false certification loan discharge is required to submit a discharge application only one time.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**

- Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- In connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;
- Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

The collection of this information does not involve any of the above conditions.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The currently approved loan discharge applications were developed in consultation with the National Council on Higher Education Programs (NCHELP), which represents FFEL Program participants, and the Department's Direct Loan Servicing Center. In addition, the revised forms included with this submission reflect changes recommended by NCHELP. The clearance process will provide for two public comment periods.

In response to a Notice published in the Federal Register on August 4, 2011 (76 FR 47177) soliciting comments during the initial 60-day public comment period. We received 17 comments from NCHELP recommending various changes (mostly non-substantive) to the forms that were posted for review during the initial 60-day comment period. We accepted most of the recommended changes, which are reflected in the revised forms posted for review during the final 30-day comment period. A separate

document containing all of NCHelp's comments and the Department's responses is included with this submission.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payments or gifts will be provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Each loan discharge application includes a Privacy Act Notice that (1) informs the borrower of the statutory authority for the information collection, (2) explains that disclosure of the information is voluntary, but is required in order to determine the borrower's eligibility to receive a loan, and (3) identifies the third parties to whom the information may be disclosed, and explains the circumstances under which such disclosures may occur.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The *Loan Discharge Application: False Certification (Disqualifying Status)* requires borrowers to provide information that might be considered sensitive. Specifically, one question asks whether there was anything related to a physical or mental condition, criminal record, or the student's age that prevented the student from meeting the legal requirements for employment in the occupation for which the program of study supported by the loan was intended to prepare the student. This question is necessary in order to establish whether a school falsely certified a borrower's eligibility based on a disqualifying status. The other three loan discharge applications included in this collection do not request any sensitive information.

**12. Provide estimates of the hour burden of the collection of information. The statement should :**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in item 16 of IC Data Part 1.**

- Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

The total estimated annual reporting hour burden for this information collection is approximately 14,774 hours. This represents the total burden hour estimates for all four loan discharge applications. The burden estimate for each application was calculated as follows:

**Loan Discharge Application: School Closure**

Estimated annual number of respondents:	21,975
Number of responses per borrower:	x 1
Hours per response:	x <u>0.5 (30 minutes)</u>
Annual hour burden:	10,989 hours

**Loan Discharge Application: False Certification (Ability to Benefit)**

Estimated annual number of respondents:	3,715
Number of responses per borrower:	x 1
Hours per response:	x <u>0.5 (30 minutes)</u>
Annual hour burden:	1,858 hours

**Loan Discharge Application: False Certification (Disqualifying Status)**

Estimated annual number of respondents:	1,290
Number of responses per borrower:	x 1
Hours per response:	x <u>0.5 (30 minutes)</u>
Annual hour burden:	645 hours

**Loan Discharge Application: False Certification (Unauthorized Signature/Unauthorized Payment)**

Estimated annual number of respondents:	2,563
Number of responses per borrower:	x 1
Hours per response:	x <u>0.5 (30 minutes)</u>
Annual hour burden:	1,282 hours

**13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)**

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and

technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and acquiring and maintaining record storage facilities.

- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Total Annualized Capital/Startup Cost:	0
Total Annual Costs (O&M):	0
Total Annualized Costs Requested:	<hr style="width: 50px; margin-left: auto; margin-right: 0;"/> 0

There are no capital/startup costs to respondents, nor are there any annual costs to respondents associated with operating or maintaining systems or purchasing services.

**14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

The cost to the federal government is minimal in connection with FFEL and Perkins program loan discharge requests, since the loan holders distribute the form, collect the information, and process the discharge request forms.

For the Direct Loan Program, there is an estimated annual cost to the Federal Government of \$457,030.00 for printing, mailing, and processing the applications.

**15. Explain the reasons for any program changes or adjustments to #16f of the IC Data Part 1 Form.**

There are no program changes or adjustments.

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**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule**

**for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The results of this information collection will not be published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The Department is not seeking this approval.

**18. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.**

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

**B. Collection of Information Employing Statistical Methods**

This collection of information will not employ any statistical methods.