

## **SUPPORTING STATEMENT**

### **FOR PAPERWORK REDUCTION ACT SUBMISSION**

#### **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 hard copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information, or you may provide a valid URL link or paste the applicable section<sup>1</sup>. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, make note of the sections or changed sections, if applicable.

The Higher Education Act of 1965, as amended (HEA), established the Federal Perkins (Perkins) Loan Program, the Federal Family Education Loan (FFEL) Program and the William D. Ford Federal Direct Loan (Direct Loan) Program under Title IV, Parts B, D, and E. Section 437(a) of the HEA authorizes the discharge of a borrower's obligation to repay his or her FFEL Program loan(s) if the borrower is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months. Section 455(a)(1) of the HEA extends this loan discharge provision to Direct Loan Program borrowers, and section 464(c)(1)(F) of the HEA authorizes total and permanent disability loan discharges in the Perkins Loan Program, in accordance with the same eligibility requirements described in section 437(a) of the HEA.

The regulations related to total and permanent disability loan discharges are contained in 34 CFR 682.402(c) for the FFEL Program, in 34 CFR 685.212 and 34 CFR 685.213 for the Direct Loan Program, and in 34 CFR 674.61(b) for the Perkins Loan Program. These regulations require borrowers who seek disability discharges of their FFEL, Direct Loan, or Perkins loans to provide their loan holders with certain information in writing. The Discharge Application: Total and Permanent Disability (TPD Discharge Application) is the means by which a borrower who seeks a total and permanent disability loan discharge provides this information, which is required to determine the borrower's eligibility for loan discharge. Although borrowers initially submit the completed discharge application to their individual loan holders, the final determination of discharge eligibility is made by the U.S. Department of Education (the Department).

Final regulations published on June 23, 2008 (73 FR 35472) for the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program established regulations for the TEACH Grant Program in 34 CFR 686. In accordance with 34 CFR 686.42(b), a TEACH Grant recipient's teaching service obligation is discharged if the recipient is totally and permanently disabled in accordance with the same definition that applies to borrowers in the FFEL, Direct Loan, and Perkins Loan programs, and if the recipient satisfies the eligibility requirements for a total and permanent disability discharge in 34 CFR 685.213. A totally and permanently disabled TEACH

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<sup>1</sup> Please limit pasted text to no longer than 3 paragraphs.

Grant recipient applies for a discharge of his or her TEACH Grant service obligation by submitting a completed TPD Discharge Application to the Department.

Under these proposed regulations the application process would be streamlined. Loan holders (institutions in the case of Perkins loans and lenders and guaranty agencies in the case of FFEL loans) would be required to refer borrowers requesting a TPD application to the Department. The loan holders would no longer distribute, review, evaluate, request additional or missing information, make preliminary determinations on whether a completed and submitted TPD application supports the conclusion that the borrower is total and permanently disabled. Instead, the loan holder would refer the borrower to the Department. In so doing, the borrower would complete and submit only one TPD application even when the borrower has multiple loans with multiple loan holders.

The Department is requesting a revision of the currently approved collection. We anticipate that as a result of the NPRM comment period and prior to the final regulations being published that additional changes to the TPD application form will be required.

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.

As proposed, the information collected on this form will be used by the Department to determine whether a borrower or TEACH Grant recipient meets the eligibility criteria for a total and permanent disability discharge of his or her loan(s) or TEACH Grant service obligation, and it will continue to be used for this 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.

This collection does not involve the use of technological processes such as electronic submission of responses. The TPD Discharge Application requires a signature from both the discharge applicant and the physician who certifies the applicant's disability. In addition, the physician must provide additional information (sometimes including attached documentation) related to the applicant's disabling condition. The United States Postal Service, or some other mail delivery service, provides the only currently feasible means for loan holders to send the disability discharge application to borrowers, and for borrowers and TEACH Grant recipients to return the completed discharge application and any supporting documents.

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.

A review of procedures indicates that current requirements avoid duplication. There is no

information available from other sources that can be used to determine a borrower's or TEACH Grant recipient's eligibility for a total and permanent disability discharge.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

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.

If a borrower or TEACH Grant recipient did not complete a TPD Discharge Application, the Department would not have the information needed to determine whether the individual meets the eligibility requirements for a total and permanent disability discharge. A borrower or TEACH Grant recipient will be required to complete 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 will be conducted in a manner that does not involve any of the above conditions.

8. As applicable, state that the Department has published the 60 and 30 Federal Register notices as 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 Department worked closely with the National Council of Higher Education Loan Programs (NCHELP) in developing the currently approved discharge form. In addition, the currently approved form reflects input provided by the public during the two public comment periods of the last clearance of this collection.

As a result of the Notice of Proposed Rulemaking (NPRM) process, the public will have an opportunity to provide the Department with comments on these proposed regulations and the streamlined TPD application process.

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

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. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that

authorizes the pledge of confidentiality should be provided.<sup>2</sup> If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data.

The discharge form includes a Privacy Act Notice that (1) informs the discharge applicant 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 applicant's eligibility for a discharge, 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 TPD Discharge Application requires the physician who completes the physician's certification section to provide information about the applicant's disabling condition. This information may be considered sensitive, but it is needed in order for the Department to determine whether a borrower or TEACH Grant recipient meets the statutory definition of totally and permanently disabled.

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

- Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden, and an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. All narrative should be included in item 12. 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 the ROCIS IC Burden

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<sup>2</sup> Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation – Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

Analysis Table. (The table should at minimum include Respondent types, IC activity, Respondent and Responses, Hours/Response, and Total Hours)

- 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 currently approved at 15,000 hours. Based on 2011 data, the number of requests for a TPD application has increased significantly. The revised burden estimate for this application was calculated as follows:

Currently approved annual number of respondents:	30,000
Number of responses per applicant:	x 1
Hours per response:	x <u>0.5 hours (30 minutes)</u>
Annual hour burden:	15,000 hours

Number of additional annual respondents:	48,390
Number of responses per applicant:	x 1
Hours per response:	x <u>0.5 hours (30 minutes)</u>
Annual hour burden:	24,195 hours

Current Inventory:

# of Respondents	# of Responses	Hours/Response	Burden Hours
30,000	30,000	.5 hours/borrower	15,000

Revised Inventory:

# of Respondents	# of Responses	Hours/Response	Burden Hours
48,390	48,390	.5 hours/borrower	24,195

TOTAL:

78,390	78,390		39,195
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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. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12

Total Annualized Capital/Startup Cost	:	0		
Total Annual Costs (O&M)	:	0		
				_____
Total Annualized Costs Requested	:	0		

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.

Total Annualized Capital/Startup Cost:	0			
Total Annual Costs (O&M):	0			
				_____

Total Annualized Costs Requested: 0

The cost to the federal government is minimal for cancellation requests for the FFEL and Perkins programs.

15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

The increase in burden recognizes the significant increase in the number of borrowers requesting a TPD discharge relief (from 30,000 to 78,390 for 2011). However, under the current regulations the burden would have been even higher due to the fact that borrowers with multiple loans at multiple loan holders would have had to complete and submit a TPD application for each of the separate loan holders. Under these proposed regulations, a borrower requesting a TPD discharge would only complete and submit a single TPD application to the Department.

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.