

## **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 regulations will modify the Federal Family Educational Loan (FFEL) Program by streamlining the total and permanent disability (TPD) discharge process. Currently, under §682.402(c) once a borrower (or the borrower's representative) contacts the loan holder (lender or guaranty agency) and requests a total and permanent disability discharge, the loan holder provides the borrower with an application form approved by the Secretary in part, to obtain a certification by a physician. Upon receipt of the completed and submitted TPD application, the loan holder would review the submission for completeness, contact the borrower if additional information is needed, the holder would make a determination as to whether the application supports the conclusion that the borrower is totally and permanently disabled. If the holders determine that the application supports the conclusion, then the guaranty agency would assign the FFEL loan to the Secretary who would make the final determination to discharge or deny the discharge of the FFEL loan. In cases where a borrower has multiple loan holders, a separate application would be required to be completed and submitted to each holder.

Under the final regulations, loan holders contacted by borrowers (or the borrower's representative) requesting a TPD discharge are referred to the U.S. Department of Education. The Department will contact all of the borrower's loan holders to suspend collections activity for a period not to exceed 120 days from the date the borrower contacted the Department. The loan holders will no longer collect, review, and evaluate the borrower's application for discharge.

This information collection is a revision of the current OMB collection 1845-0020.

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 current regulations provide for the discharge of an FFEL program loan when a borrower is totally and permanently disabled and thereby unable to engage in any

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

substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 60 months. The final regulations remove the collection, review, and evaluation of the TPD discharge application from the loan holder and transfer that responsibility to the Department under a streamlined process. The loan holder's responsibility is to refer the borrower (or the borrower's representative) to the Department.

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.

It is expected that loan holders will provide much of the information about total and permanent disability discharges to borrowers via the loan holder's web site. We expect that affected borrowers will contact loan holders via e-mail (rather than call or write letters that require a response) and that loan holders will provide information on how to contact the Department to obtain the TPD application form approved by and provided by the Secretary.

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.

Currently, when borrowers have multiple lenders, an affected borrower would have to complete and submit a separate TPD application for each loan holder. Under the final regulations, if the borrower contacts the loan holder to request a TPD discharge, the loan holder refers the borrower to the Department. The Department will provide the borrower with the TPD application and contact all the loan holders to alert them that the borrower has up to 120 days to complete and submit the TPD application. Thus, instead of completing and submitting separate TPD applications, the borrower will only have to complete and submit a single TPD application to the Department, eliminating multiple filings.

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.

The streamlining process proposed through these regulations allows for the reduction of burden placed upon Federal Family Educational Loan program holders.

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 continue to be conducted in a manner that is consistent with the guidelines in 5 CFR 1320.6.

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.

These regulations were developed through the Negotiated Rulemaking process where the public provided its input both through four public hearings that occurred in May of 2011, as well as, a series of three meetings that occurred in Washington, DC where members of the public provided their input during the Negotiated Rulemaking meetings as required under section 492 of the Higher Education Act of 1965, as amended (HEA).

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 the 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.

No personally identifiable information is collected as a result of these regulations when a borrower requests information about a total and permanent disability (TPD) discharge and the loan holder refers the borrower (or the borrower's representative) to the U.S. Department of Education to obtain an application for discharge.

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

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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)

persons from whom the information is requested, and any steps to be taken to obtain their consent.

The Department is not requesting any sensitive data.

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 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.

Records for the 2011 award year (July 1, 2010 – June 30, 2011) indicate a total of 48,518 borrowers who had submitted applications for a TPD discharge. Of that number 18,078 of the borrowers had ED held FFEL loans. As ED held loans, under the regulations there would be no need for a referral to the Department since the Department is already the loan holder. Therefore, the difference or 30,440 borrowers had non-ED held FFEL loans for which TPD applications were submitted. The data show that 19,935 borrowers were held by private not-for-profit entities and 10,505 borrowers were held by public entities. We anticipate that the referral process will be highly automated and will make use of information that the loan holder can provide borrowers on loan holders' web sites. We estimate that on average a referral will take .03 hours (2 minutes) per borrower.

Estimated number of non-ED held FFEL loans

where a borrower requests a TPD discharge	30,440
I. Number of non-ED held FFEL loans held by a private not-for-profit entity	19,935
Number of responses per borrower	<u>x 1</u>
Hours per response:	<u>x .03</u>
Annual hours of burden	<u>598</u>
II. Number of non-ED held FFEL loans held by a public entity	10,505
Number of responses per borrower	<u>x 1</u>
Hours per response:	<u>x .03</u>
Annual hours of burden	<u>315</u>
Total annual hours of burden:	<u>913</u>

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 :	<hr/> 0

There are no capital/startup costs to respondents, nor are there any annual costs to respondents with operating systems or purchasing systems. Currently, FFEL loan holders provide a wide variety of information on FFEL loans including information on total and permanent disability discharges. Under these regulations the process will become streamlined by making the Department a single point of contact.

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 that the Department has had the responsibility to make the final determination of whether to discharge a FFEL loan on the basis of the TPD application and physician's certification.

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).

While previously there was no burden established for the FFEL loan holder to provide a TPD application, to receive and review the submitted application, to obtain any missing information from the borrower, to make an initial determination of whether the application supported the conclusion that the borrower is total and permanently disabled, we determined that on average those tasks would have taken an average of .5 hours (30 minutes) per respondent. Therefore, under the current regulations 30,440 non-ED held

FFEL borrowers requesting a TPD application would have created 15,220 hours of burden. But, since this assessment was not previously established, no burden reduction can be realized, instead we are increasing burden by 913 hours to reflect the burden associated with the TPD referral process as indicated in Item 12 above.

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 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 of Paperwork Reduction Act.