

The Department of Education (the Department) proposes to amend the William D. Ford Federal Direct Loan Program regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement changes made to the regulations in §685.222. These proposed regulations are a result of negotiated rulemaking and would add new requirements to the current regulations.

These proposed regulations in §685.222 would provide a framework for the borrower defense process, including descriptions of the circumstances under which borrower defense claims could be considered, and the process the Department would follow for borrower defenses for an individual or a group. The proposed regulations would establish a process for review and determination of a borrower defense by the Secretary for which the borrower defense is made with respect to Direct Loans for attendance at a school that has closed and has provided no financial protection currently available to the Secretary from which to recover any losses based on borrower defense claims, and for which there is no appropriate entity from which the Secretary can otherwise practicably recover such losses.

§685.222(e) - Process for individual borrowers.

Under proposed §685.222(e)(1) the steps an individual borrower must take to initiate a borrower defense claim would be described. First, an individual borrower would submit an application to the Secretary, on a form approved by the Secretary. In the application, the borrower would certify that he or she received the proceeds of a loan to attend a school; may provide evidence that supports the borrower defense; and would indicate whether he or she has made a claim with respect to the information underlying the borrower defense with any third party, and, if so, the amount of any payment received by the borrower or credited to the borrower's loan obligation. The borrower would also be required to provide any other information or supporting documentation reasonably requested by the Secretary.

While the decision of the Department official would be final as to the merits of the claim and any relief that may be warranted on the claim, if the borrower defense is denied in full or in part, the borrower would be permitted to request that the Secretary reconsider the borrower defense upon the identification of new evidence in support of the borrower's claim. "New evidence" would be defined as relevant evidence that the borrower did not previously provide and that was not identified by the Department official as evidence that was relied upon for the final decision.

There will be burden associated with the filing of the Departmental form by the borrower asserting a borrower defense claim. We are conducting a separate information collection review process for the proposed form to provide for public comment on the form as well as the estimated burden. A separate information collection review package will be published in the Federal Register and available through Regulations.gov for review and comment.

Additionally there will be burden on any borrower whose borrower defense claim is denied, if they elect to request reconsideration from the Secretary based on new evidence in support of the borrower's claim. We estimate that two percent of borrower defense claims received would be denied and those borrowers would then request reconsideration by presenting new evidence to support their claim. As of April 27, 2016, 18,688 borrower defense claims had been received. Of that number, we estimate that 467 borrowers, including those that opt out of a successful borrower defense group relief, would require .5 hours (30 minutes) to submit the request for reconsideration to the Secretary for a total of 234 burden hours (467 x .5 hours).

Affected Entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Individuals	467	467	x .5 hours	234

§685.222(f) - Group process for borrower defenses-generally.

Proposed §685.222(f) would provide a framework for the borrower defense group process, including descriptions of the circumstances under which group borrower defense claims could be considered, and the process the Department would follow for borrower defenses for a group.

Once a group of borrowers with common facts and claims has been identified, the Secretary would designate a Department official to present the group's common borrower defense in the fact-finding

process, and would provide each identified member of the group with notice that allows the borrower to opt out of the proceeding.

There will be burden on any borrower who elects to opt out of the group process after the Secretary has identified them as a member of a group for purposes of borrower defense. We estimate that one percent of borrowers who are identified as part of a group process for borrower defense claims would opt out of the group claim process. As of April 27, 2016, 18,688 borrower defense claims had been received. Of that number, we estimate that 187 borrowers would require .08 hours (5 minutes) to submit the request to opt out of the group process to the Secretary for a total of 15 burden hours (187 x .08 hours).

Affected Entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Individuals	187	187	x .08 hours	15
TOTALS				
Respondents	654			
Responses		654		
Burden Hours				249