

The Department of Education (the Department) proposes to amend the Federal Family Education Loan (FFEL) Program regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement changes made to Subpart B – General Provisions for §682.211 – Forbearance and Subpart D – Administration of the Federal Family Education Loan Programs by a Guaranty Agency for §682.402. These proposed regulations are a result of negotiated rulemaking and would add new requirements to the current regulations.

The proposed regulations in §682.211 would require a lender to grant a mandatory administrative forbearance to a borrower upon being notified by the Secretary that the borrower has submitted an application for a borrower defense discharge related to a FFEL Loan that the borrower intends to pay off through a Direct Loan Program Consolidation Loan for the purpose of obtaining relief, as reflected in proposed §685.212(k). The administrative forbearance would remain in effect until the Secretary notifies the lender that a determination has been made as to the borrower's eligibility for a borrower defense discharge.

The proposed regulations in §682.402(d)(6)(ii)(F) would require a guaranty agency that denies a closed school discharge request to inform the borrower of the opportunity for a review of the guaranty agency's decision by the Secretary, and explain how the borrower may request such a review.

The proposed regulations in §682.402(d)(6)(ii)(K) would describe the responsibilities of the guaranty agency and the Secretary if the borrower requests such a review.

The proposed regulations in §682.402(d)(6)(ii)(I), would require the guaranty agency or the Department, upon resuming collection, to provide a Perkins, FFEL, or Direct Loan borrower with another closed school discharge application, and an explanation of the requirements and procedures for obtaining the discharge.

The proposed regulations in §682.402(d)(8)(iii) would authorize the a guaranty agency with the Department's permission, to grant a closed school discharge to an FFEL borrower without a borrower application based on information in the Department's or guaranty agency's possession that the borrower did not subsequently re-enroll in any title IV-eligible institution within a period of three years after the school closed.

§682.211 Mandatory administrative forbearance for FFEL Program borrowers.

Under proposed §682.211(i)(7), a lender would be required to grant a mandatory administrative forbearance to a borrower upon being notified by the Secretary that the borrower has submitted an application for a borrower defense discharge related to a FFEL Loan that the borrower intends to pay off through a Direct Loan Program Consolidation Loan for the purpose of obtaining relief under proposed §685.212(k).

The administrative forbearance would remain in effect until the Secretary notifies the lender that a determination has been made as to the borrower's eligibility for a borrower defense discharge. If the Secretary notifies the borrower that the borrower would qualify for a borrower defense discharge if the borrower were to consolidate, the borrower would then be able to consolidate the loan(s) to which the defense applies and, if the borrower were to do so, the Secretary would recognize the defense and discharge that portion of the Consolidation Loan that paid off the FFEL Loan in question.

AFFECTED ENTITIES AND BURDEN:

There will be burden for the current 1,446 FFEL lenders to track the required mandatory administrative forbearance when they are notified by the Secretary of the borrower's intention to enter their FFEL Loans into a Direct Consolidation Loan to obtain a borrower defense discharge. We estimate that it will take each lender approximately four hours to develop and program the needed tracking into their current systems. There will be an estimated burden of 304 hours on the 76 not-for-profit lenders.

Affected entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Private Lenders	76	76	x 4 hours	304

Closed school discharges--§682.402.

Under proposed §682.402(d)(6)(ii)(F) a second level of Departmental review for denied closed school discharge claims in the FFEL Program would be provided. The proposed regulations would require a guaranty agency that denies a closed school discharge request to inform the borrower of the opportunity for a review of the guaranty agency’s decision by the Secretary, and an explanation of how the borrower may request such a review.

Under proposed §682.402(d)(6)(ii)(I) the guaranty agency or the Department, upon resuming collection, would be required to provide a FFEL borrower with another closed school discharge application, and an explanation of the requirements and procedures for obtaining the discharge.

Under proposed §682.402(d)(6)(ii)(K) the responsibilities of the guaranty agency if the borrower requests a review under §682.402(d)(6)(ii)(F) are described.

Under proposed §682.402(d)(8)(iii) the Department, or a guaranty agency with the Department’s permission, would be authorized to grant a closed school discharge to a FFEL borrower without a borrower application based on information in the Department’s or guaranty agency’s possession that the borrower did not subsequently re-enroll in any title IV-eligible institution within a period of three years after the school closed.

AFFECTED ENTITIES AND BURDEN:

There will be burden on guaranty agencies to provide information to borrowers denied closed school discharge regarding the opportunity for further review of the discharge request by the Secretary. We estimate that it will take the 27 guaranty agencies 4 hours to update their notifications and establish a process for forwarding any requests for escalated reviews to the Secretary. There will be an estimated burden of 68 hours on the 17 public guaranty agencies. There will be an estimated burden of 40 hours on the 10 not-for-profit guaranty agencies.

Affected entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Private GAs	10	10	x 4 hours	40

There will be burden on guaranty agencies to, upon receipt of the request for escalated review from the borrower, forward to the Secretary the discharge form and any relevant documents. For the period between 2011 and 2015 there were 43,268 students attending closed schools, of which 9,606 students received a closed school discharge. It is estimated that 5 percent of the 43,268, or 2,163, closed school applications were denied. We estimate that 10 percent or 216 of those borrowers whose application was denied will request escalated review by the Secretary. We estimate that the process to forward the discharge request and any relevant documentation to the Secretary will take .5 hours (30 minutes) per request. There will be an estimated burden of 50 hours on the 10 not-for-profit guaranty agencies.

Affected entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Private GAs	10	100	x .5 hours	50

The guaranty agencies will have burden assessed based on these proposed regulations to provide another discharge application to a borrower upon resuming collection activities with explanation of process and requirements for obtaining a discharge. We estimate that for the 2,163 closed school applications that were denied, it will take the guaranty agencies .5 hours (30 minutes) to provide the borrower with another discharge application and instructions for filing the application again. There will be an estimated burden of 500 hours on the 10 not-for-profit guaranty agencies (1,000 x .5 hours = 500 hours).

Affected entity	# of Respondents	# of Responses	Hrs/Response	Total Burden
Private GAs	10	1,000	x .5 hours	500

There will be burden assessed the guaranty agencies to determine the eligibility of a borrower for a closed school discharge without the borrower submitting such an application. This requires a review of those borrowers who attended a closed school but did not apply for a closed school discharge to determine if the borrower re-enrolled in any other institution within three years of the school closure. We estimate that there will be 20 hours of

programming to allow for a guaranty agency to establish a process to review its records for borrowers who attended a closed school and to determine if any of those borrowers reenrolled in a title IV-eligible institution within three years. There will be an estimated burden of 200 hours on the not-for-profit guaranty agencies for this programming.

Affected entity	# of Respondents	# of Responses	Hrs/Response	Total Burden	
Private GAs		10	10	x 20 hours	200

TOTALS

Responses	1,196
Respondents	86
Burden Hours	1,094