

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 5,480 hours on the 1,370 for-profit lenders.

Proprietary Lenders	1,370	1,370	x 4 hours	5,480
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TOTALS

Responses	1,370
Respondents	1,370
Burden Hours	5,480