

The Department of Education (the Department) amends 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 regulations are a result of negotiated rulemaking. There is a minor addition to the regulatory language to clarify that the §685.222 regulations put into place with the 2016 final rule apply to loans first disbursed on or after July 1, 2017 and before July 1, 2020. The only change to the collection is an update to increase the number of respondents, responses and burden hours. This request is a revision of the current information collection due to an increase in the number of borrowers asserting a borrower defense to repayment claim.

The regulations in §685.222 provide a framework for the borrower defense individual and group process, including descriptions of the circumstances under which group borrower defense claims could be considered, and the process the Department will follow for borrower defenses for a group. The regulations establish a process for review and determination of a borrower defense for groups identified by the Secretary for which the borrower defense is made regarding a Direct Loans for attendance at a closed school that has not provided 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. The regulations also establish the process for groups identified by the Secretary for which the borrower defense is asserted with respect to Direct Loans to attend an open school.

#### §685.222(e) - Process for individual borrowers.

Final §685.222(e)(1) describes the steps an individual borrower must take to initiate a borrower defense claim on loans first disbursed on or after July 1, 2017 and before July 1, 2020. First, an individual borrower will submit an application to the Secretary, on a form approved by the Secretary. In the application, the borrower will certify that the proceeds of a loan were received to attend a school; may provide evidence that supports the borrower defense; and will indicate whether a claim has been made 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 will also be required to provide any other information or supporting documentation reasonably requested by the Secretary.

While the decision of the Department official will 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 will 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" is 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.

#### AFFECTED ENTITIES AND BURDEN:

There will be burden associated with the filing of the Departmental form by the borrower asserting a borrower defense claim. A separate information collection package, 1845-0145 has been approved for such use.

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 approximately four percent of borrower defense claims received will be denied and those borrowers will then request reconsideration by presenting new evidence to support their claim. As of March 31, 2019, 239,397 borrower defense claims had been received. Of that number, 9,077 borrower defense applications were denied, and we estimate will require .5 hours (30 minutes) to submit the request for reconsideration to the Secretary for a total of 4,539 burden hours (9,077 x .5 hours). This burden will be assessed under OMB Control Number 1845-0142.

<u>Affected Entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Individuals	9,077	9,077	x .5 hours	4,539 hrs.

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

§685.222(f) provides 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 will follow for borrower defenses for a group.

Once a group of borrowers with common facts and claims has been identified, the Secretary will designate a Department official to present the group's common borrower defense in the fact-finding process, and will provide each identified member of the group with notice that allows the borrower to opt out of the proceeding.

## AFFECTED ENTITIES AND BURDEN:

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. To date there have not been any group discharges identified by the Secretary. We continue to estimate that one percent of borrowers who are identified as part of a group process for borrower defense claims will opt out of the group claim process. As of March 31, 2019, 239,397 borrower defense claims had been received. Based on one percent of that figure we estimate that 2,394 borrowers will require .08 hours (5 minutes) to submit the request to opt out of the group process to the Secretary for a total of 192 burden hours (2,394 x .08 hours). This burden will be assessed under OMB Control Number 1845-0142.

<u>Affected Entity</u>	<u># of Respondents</u>	<u># of Responses</u>	<u>Hrs/Response</u>	<u>Total Burden</u>
Individuals	2,394	2,394	x .08 hours	192 hrs.

## TOTALS

Respondents	11,471
Responses	11,487
Burden Hours	5,531