

June 21, 2023

TO: Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH: Strategic Collections and Clearance
Governance and Strategy Division
Office of Chief Data Officer
Office of Planning, Evaluation and Policy Development
U.S. Department of Education

FROM: Melanie E. Storey, Director
Policy Implementation and Oversight
Federal Student Aid
U.S. Department of Education

RE: Request for emergency clearance by June 29, 2023 for the collection under OMB Control Number 1845-0058 associated with the applications for loan discharge based on false certification of student eligibility and unpaid refund.

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 C.F.R. part 1320, the U.S. Department of Education (Department) requests that the information collection 1845-0058, False Certification and Unpaid Refund Loan Discharge Applications, form, be processed in accordance with 5 C.F.R. § 1320.13 Emergency Processing. We are also requesting that the full clearance package be filed at the same time and note that the Department will initiate the 60-day public comment period upon notification of emergency approval.

This information collection includes the following seven loan discharge applications that are used to obtain the information needed to determine whether a borrower qualifies for a closed school, false certification, or unpaid refund loan discharge:

1. *Loan Discharge Application: School Closure*
2. *Loan Discharge Application: False Certification (High School Graduation Status)*
3. *Loan Discharge Application: False Certification (Disqualifying Status)*
4. *Loan Discharge Application: False Certification (Unauthorized Signature/Unauthorized Payment)*
5. *Loan Discharge Application: Unpaid Refund*
6. *Loan Discharge Application: False Certification (Identity Theft)* (this is a new form in this collection)
7. *Group Loan Discharge Application: False Certification of Student Eligibility or Unauthorized Payment* (this is a new form in this collection)

On November 1, 2022 the U.S. Department of Education published a Final Rule (Vol. 87, No. 210, 65904) that finalized regulatory changes resulting from the negotiated rulemaking sessions that took place in October, November, and December 2021. Under the Master Calendar, these final regulations take effect July 1, 2023.

The final rule includes revisions to the regulations governing loan discharges based on school

closure (34 CFR 674.33(g), 34 CFR 682.402(d), and 34 CFR 685.214) and false certification of student eligibility (34 CFR 682.402(e) and 34 CFR 685.215). The revisions include the following:

- Standardization of the closed school and false certification discharge eligibility requirements for all borrowers;
- Elimination of provisions that disqualified borrowers for closed school discharge based on enrollment in a comparable program;
- Elimination of requirements for borrowers applying for certain types of false certification discharge to provide signature samples;
- For false certification discharges based on identity theft, expansion of the types of evidence borrowers may provide to demonstrate eligibility for discharge;
- Clarification that for all types of false certification discharge, eligibility is based on the borrower's status at the time the loan was originated or certified;
- Addition of examples of supporting evidence that may support an application for false certification based on identity theft; and
- Addition of a provision allowing a state attorney general or nonprofit legal services representative to submit an application for a group false certification discharge.

In addition to the closed school and false certification loan discharge changes, the Final Rule included substantial changes to several other federal student aid programs that required the Department to assess the overall implementation impacts and system change requirements necessary to implement the new regulations. Development of these requirements across multiple systems must be closely integrated with the development of the forms that are needed to support the changes.

At the time of the Final Rule's publication, the Paperwork Reduction Act of 1995 (PRA) section indicated that the regulatory changes would require updates to the current closed school and false certification loan discharge applications, currently cleared through Information Collection Request (ICR) 1845-0058, in addition to requiring the creation of new forms for false certification based on identity theft and group false certification discharge. The PRA section indicated that a full public clearance opportunity would be made for the updated and new forms, allowing the public 60- and 30-day comment periods to review and provide comments on the forms.

If the Department were required to put the collection through the normal clearance process, we would be unable to implement the required regulatory changes by July 1, 2023, resulting in several months of delays in providing eligible borrowers with the benefits of the amended loan discharge regulations and not meeting the requirements of the Master Calendar. Any delay in discharging loans for eligible borrowers would increase the potential for public harm through delayed financial relief to borrowers who would qualify for discharge of their loans under the terms of the amended regulations. As a result, in order to meet the July 1, 2023 implementation date as required by the Master Calendar, the Department is requesting that OMB approve the collection associated with the implementation of the closed school and false certification loan discharge forms using the emergency clearance procedures. Although the Final Rule did not amend the unpaid refund discharge regulations, the unpaid refund discharge application is included with the other forms approved under OMB No. 1845-0058 and therefore is also covered by this request.