

June 26, 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 No. 1845-0065 associated with the *Discharge Application: Total and Permanent Disability* and *Applicant Representative Designation: Total and Permanent Disability*.

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 CFR part 1320, the U.S. Department of Education (Department) requests that the information collection 1845-0065, *Discharge Application: Total and Permanent Disability* and *Applicant Representative Designation: Total and Permanent Disability*, be processed in accordance with 5 CFR 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.

On November 1, 2022 the U.S. Department of Education published a final rule (87 FR 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 at 34 CFR 685.213, 34 CFR 682.402(c), 34 CFR 674.61(b), and 34 CFR 686.42(b) that govern the discharge of federal student loans and Teacher Education Assistance for College and Higher Education (TEACH) Grant service obligations based on the borrower's or grant recipient's total and permanent disability (TPD). The revisions include the following:

- Expansion of the types of Social Security Administration (SSA) disability determinations that qualify a borrower or TEACH Grant recipient for TPD discharge;
- Elimination of the requirement for borrowers who receive TPD discharges based on SSA determinations or a physician's certification to provide documentation of their annual earnings from employment during the 3-year post-discharge monitoring period; and
- Expansion of the categories of medical professionals who may certify an individual's TPD discharge application.

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 TPD discharge forms and other 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 *Discharge Application: Total and Permanent Disability* cleared through Information Collection Request (ICR) 1845-0065. 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 TPD 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 TPD discharge forms using the emergency clearance procedures.