

The Department of Education (the Department) amends the William D. Ford Federal Direct Loan (Direct Loan) Program regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement changes made to the regulations in §685.300 - Agreements between an eligible school and the Secretary for participation in the Direct Loan Program and to remove prior changes to §685.304 - Counseling borrowers. These final regulations are a result of negotiated rulemaking and adds new requirements to and removes a requirement from the current regulations.

The Department reinstates prior regulations that bars institutions, as a condition of participating in the Direct Loan program, from requiring borrowers to accept pre-dispute arbitration agreements and class action waivers as they relate to borrower defense claims.

The final regulations amend §685.300(e) to prohibit institutions from relying on a pre-dispute arbitration agreement, or any other pre-dispute agreement with a student who obtained or benefitted from a Direct Loan, in any aspect of a class action related to a borrower defense claim, until the presiding court rules that the case cannot proceed as a class action.

The final regulations amend §685.300(f) to require that certain provisions relating to notices and the terms of the pre-dispute arbitration agreements be included in any agreement with a student who receives a Direct Loan to attend the school or for whom a Direct PLUS Loan was obtained.

The final regulations amend §685.300(g) and (h) to require institutions to submit certain arbitral records and judicial records connected with any borrower defense claim filed against the school to the Secretary by certain deadlines.

These final regulations remove §685.304(a)(6)(xiii) through (xv). The final regulations at §685.300 state the conditions under which disclosures would be required and provide deadlines for such disclosures removing the need for this regulatory language.

In §685.402(c)(4) of the final regulations, the Secretary will notify an institution of a third-party requestor's application requesting to form a borrower defense against repayment (BD) group. The institution will have 90 days to respond to the Secretary regarding the third-party requestor's application.

In §685.402(c)(6), if a third-party requestors' BD group request is denied by the Secretary, the third-party requestor will have 90 days from the initial decision to request reconsideration from the Secretary about the formation of a group.

#### Proprietary Institutions

|              |         |
|--------------|---------|
| Respondents  | 1,587   |
| Responses    | 667,786 |
| Burden Hours | 125,458 |

We estimate the cost to respondents for the changes based on \$46.59 for institutions per burden hour would be \$7,809,531.74 ( $125,458 \times \$46.59$ ).

We also remove the previously estimated costs for \$685.304 based on \$44.41 for institutions per burden hour:  $\$ -125,769.12(2,832 \times \$44.41)$ .