(e) **False certification and unauthorized disbursement.** If a borrower meets the requirements in §685.215, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan. In the case of a Direct Consolidation Loan, the Secretary discharges the portion of the consolidation loan equal to the amount of the discharge applicable to any loan disbursed, in whole or in part, on or after January 1, 1986 that was included in the consolidation loan.

(f) **Unpaid refunds.** If a borrower meets the requirements in §685.216, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the amount of the loan equal to the unpaid refund and any accrued interest and other charges associated with the unpaid refund. In the case of a Direct Consolidation Loan, the Secretary discharges the portion of the consolidation loan equal to the amount of the unpaid refund owed on any loan disbursed, in whole or in part, on or after January 1, 1986 that was included in the consolidation loan.

(g) **Payments received after eligibility for discharge**—(1) **For the discharge conditions in paragraphs (a), (c), (d), and (e) of this section.** Upon receipt of acceptable documentation and approval of the discharge request, the Secretary returns to the sender, or, for a discharge based on death, the borrower’s estate, any payments received after the date that the eligibility requirements for discharge were met.

(2) **For the discharge condition in paragraph (b) of this section.** Upon making a final determination of eligibility for discharge based on total and permanent disability, the Secretary returns to the sender any payments received after the date specified in §685.213(b)(4)(ii) or §685.213(c)(2)(i), as applicable.

(3) **For the discharge condition in paragraph (f) of this section.** Upon receipt of acceptable documentation and approval of the discharge request, the Secretary returns to the sender payments received in excess of the amount owed on the loan after applying the unpaid refund.

(h) **Teacher loan forgiveness program.** If a new borrower meets the requirements in §685.217, the Secretary repays up to $5,000, or up to $17,500, of the borrower’s Direct Subsidized Loans, Direct Unsubsidized Loans, and, in certain cases, Direct Consolidation Loans.

(i) **Public Service Loan Forgiveness Program.** If a borrower meets the requirements in §685.219, the Secretary cancels the remaining principal and accrued interest of the borrower’s eligible Direct Subsidized Loan, Direct Unsubsidized Loan, Direct PLUS Loan, and Direct Consolidation Loan.

(j) **September 11 survivors discharge.** If a borrower meets the requirements in §685.218, the Secretary discharges the obligation of the borrower and any endorser to make any further payments—

(1) **On an eligible Direct Loan if the borrower qualifies as the spouse of an eligible public servant;**

(2) **On the portion of a joint Direct Consolidation Loan incurred on behalf of an eligible victim, if the borrower qualifies as the spouse of an eligible victim;**

(3) **On a Direct PLUS Loan incurred on behalf of an eligible victim if the borrower qualifies as an eligible parent; and**

(4) **On the portion of a Direct Consolidation Loan that repaid a PLUS loan incurred on behalf of an eligible victim, if the borrower qualifies as an eligible parent.**

(Approved by the Office of Management and Budget under control number 1845-0021)

(Authority: 20 U.S.C. 1087a et seq.)

§685.213 **Total and permanent disability discharge.**

(a) **General.** (1) A borrower’s Direct Loan is discharged if the borrower becomes totally and permanently disabled, as defined in §685.102(b), and satisfies the eligibility requirements in this section.
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(2) For a borrower who becomes totally and permanently disabled as described in paragraph (1) of the definition of that term in §685.102(b), the borrower's loan discharge application is processed in accordance with paragraph (b) of this section.

(3) For veterans who are totally and permanently disabled as described in paragraph (2) of the definition of that term in §685.102(b), the veteran's loan discharge application is processed in accordance with paragraph (c) of this section.

(4) For purposes of this section, a borrower's representative or a veteran's representative is a member of the borrower's family, the borrower's attorney, or another individual authorized to act on behalf of the borrower in connection with the borrower's total and permanent disability discharge application. References to a “borrower” or a “veteran” include, if applicable, the borrower's representative or the veteran's representative for purposes of applying for a total and permanent disability discharge, providing notifications or information to the Secretary, and receiving notifications from the Secretary.

(b) Discharge application process for a borrower who is totally and permanently disabled as described in paragraph (1) of the definition of that term in §685.102(b)—

(1) Borrower application for discharge. To qualify for a discharge of a Direct Loan based on a total and permanent disability, a borrower must submit a discharge application to the Secretary on a form approved by the Secretary. If the borrower notifies the Secretary that the borrower claims to be totally and permanently disabled prior to submitting a total and permanent disability discharge application, the Secretary—

(i) Provides the borrower with information needed for the borrower to apply for a total and permanent disability discharge;

(ii) Suspends collection activity on any of the borrower’s title IV loans held by the Secretary, and notifies the borrower’s other title IV loan holders to suspend collection activity on the borrower’s title IV loans for a period not to exceed 120 days; and

(iii) Informs the borrower that the suspension of collection activity will end after 120 days and collection will resume on the loans if the borrower does not submit a total and permanent disability discharge application to the Secretary within that time.

(2) Physician certification or Social Security Administration (SSA) disability notice of award. The application must contain—

(i) A certification by a physician, who is a doctor of medicine or osteopathy legally authorized to practice in a State, that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §685.102(b); or

(ii) An SSA notice of award for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits indicating that the borrower’s next scheduled disability review will be within five to seven years.

(3) Deadline for application submission. The borrower must submit the application described in paragraph (b)(1) of this section to the Secretary within 90 days of the date the physician certifies the application, if applicable. Upon receipt of the borrower’s application, the Secretary—

(i) Identifies all title IV loans owed by the borrower, notifies the lenders that the Secretary has received a total and permanent disability discharge application from the borrower and directs the lenders to suspend collection activity or maintain the suspension of collection activity on the borrower's title IV loans;

(ii) If the application is incomplete, notifies the borrower of the missing information and requests the missing information from the borrower or the physician who certified the application, as appropriate, and does not make a determination of eligibility for discharge until the application is complete;

(iii) Notifies the borrower that no payments are due on the loan while the Secretary determines the borrower’s eligibility for discharge; and

(iv) Explains the process for the Secretary’s review of total and permanent disability discharge applications.
(4) **Determination of eligibility.** (i) If, after reviewing the borrower’s completed application, the Secretary determines that the physician’s certification or the SSA notice of award for SSDI or SSI benefits supports the conclusion that the borrower meets the criteria for a total and permanent disability discharge, as described in paragraph (1) of the definition of that term in §685.102(b), the borrower is considered totally and permanently disabled—

(A) As of the date the physician certified the borrower’s application; or

(B) As of the date the Secretary received the SSA notice of award for SSDI or SSI benefits.

(ii) The Secretary may require the borrower to submit additional medical evidence if the Secretary determines that the borrower’s application does not conclusively prove that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in §685.102(b). As part of the Secretary’s review of the borrower’s discharge application, the Secretary may require and arrange for an additional review of the borrower’s condition by an independent physician at no expense to the borrower.

(iii) After determining that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in §685.102(b), the Secretary discharges the borrower’s obligation to make any further payments on the loan, notifies the borrower that the loan has been discharged, and returns to the person who made the payments on the loan any payments received after the date the physician certified the borrower’s loan discharge application or the date the Secretary received the SSA notice of award for SSDI or SSI benefits. The notification to the borrower explains the terms and conditions under which the borrower’s obligation to repay the loan will be reinstated, as specified in paragraph (b)(7)(i) of this section.

(iv) If the Secretary determines that the physician’s certification or the SSA notice of award for SSDI or SSI benefits provided by the borrower does not support the conclusion that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in §685.102(b), the Secretary notifies the borrower that the application for a disability discharge has been denied. The notification to the borrower includes—

(A) The reason or reasons for the denial;

(B) A statement that the loan is due and payable to the Secretary under the terms of the promissory note and that the loan will return to the status that would have existed if the total and permanent disability discharge application had not been received;

(C) The date that the borrower must resume making payments;

(D) An explanation that the borrower is not required to submit a new total and permanent disability discharge application if the borrower requests that the Secretary re-evaluate the borrower’s application for discharge by providing, within 12 months of the date of the notification, additional information that supports the borrower’s eligibility for discharge; and

(E) An explanation that if the borrower does not request re-evaluation of the borrower’s prior discharge application within 12 months of the date of the notification, the borrower must submit a new total and permanent disability discharge application to the Secretary if the borrower wishes the Secretary to re-evaluate the borrower’s eligibility for a total and permanent disability discharge.

(v) If the borrower requests re-evaluation in accordance with paragraph (b)(4)(iv)(D) of this section or submits a new total and permanent disability discharge application in accordance with paragraph (b)(4)(iv)(E) of this section, the request must include new information regarding the borrower’s disabling condition that was not provided to the Secretary in connection with the prior application at the time the Secretary reviewed the borrower’s initial application for total and permanent disability discharge.

(5) **Treatment of disbursements made during the period from the date of the physician’s certification or the date the Secretary received the SSA notice of award for SSDI or SSI benefits until the date of discharge.** If a borrower received a title IV loan or TEACH Grant before
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the date the physician certified the borrower's discharge application or before the date the Secretary received the SSA notice of award for SSDI or SSI benefits and a disbursement of that loan or grant is made during the period from the date of the physician's certification or the receipt of the SSA notice of award for SSDI or SSI benefits until the date the Secretary grants a discharge under this section, the processing of the borrower's loan discharge request will be suspended until the borrower ensures that the full amount of the disbursement has been returned to the loan holder or to the Secretary, as applicable.

(6) Receipt of new title IV loans or TEACH Grants after the date of the physician's certification or after the date the Secretary received the SSA notice of award for SSDI or SSI benefits. If a borrower receives a disbursement of a new title IV loan or receives a new TEACH Grant made on or after the date the physician certified the borrower's discharge application or on or after the date the Secretary received the SSA notice of award for SSDI or SSI benefits and before the date the Secretary grants a discharge under this section, the Secretary denies the borrower's discharge request and resumes collection on the borrower's loan.

(7) Conditions for reinstatement of a loan after a total and permanent disability discharge. (i) The Secretary reinstates a borrower's obligation to repay a loan that was discharged in accordance with paragraph (b)(4)(iii) of this section if, within three years after the date the Secretary granted the discharge, the borrower—

(A) Has annual earnings from employment that exceed 100 percent of the poverty guideline for a family of two, as published annually by the United States Department of Health and Human Services pursuant to 2 U.S.C. 9902(2); and

(B) Receives a new TEACH Grant or a new loan under the Perkins or Direct Loan programs, except for a Direct Consolidation Loan that includes loans that were not discharged;

(C) Fails to ensure that the full amount of any disbursement of a title IV loan or TEACH Grant received prior to the discharge date that is made is returned to the loan holder or to the Secretary, as applicable, within 120 days of the disbursement date; or

(D) Receives a notice from the SSA indicating that the borrower is no longer disabled or that the borrower's continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits.

(ii) If the borrower's obligation to repay the loan is reinstated, the Secretary—

(A) Notifies the borrower that the borrower's obligation to repay the loan has been reinstated;

(B) Returns the loan to the status that would have existed if the total and permanent disability discharge application had not been received; and

(C) Does not require the borrower to pay interest on the loan for the period from the date the loan was discharged until the date the borrower's obligation to repay the loan was reinstated.

(iii) The Secretary's notification under paragraph (b)(7)(ii)(A) of this section will include—

(A) The reason or reasons for the reinstatement;

(B) An explanation that the first payment due date on the loan following reinstatement will be no earlier than 60 days after the date of the notification of reinstatement; and

(C) Information on how the borrower may contact the Secretary if the borrower has questions about the reinstatement or believes that the obligation to repay the loan was reinstated based on incorrect information.

(8) Borrower's responsibilities after a total and permanent disability discharge. During the three-year period described in paragraph (b)(7)(i) of this section, the borrower must—

(i) Promptly notify the Secretary of any changes in the borrower's address or phone number;

(ii) Promptly notify the Secretary if the borrower's annual earnings from employment exceed the amount specified in paragraph (b)(7)(i)(A) of this section;

(iii) Provide the Secretary, upon request, with documentation of the borrower's annual earnings from employment on a form provided by the Secretary; and
(iv) Promptly notify the Secretary if the borrower receives a notice from the SSA indicating that the borrower is no longer disabled or that the borrower’s continuing disability review will no longer be the five- to seven-year period indicated in the SSA notice of award for SSDI or SSI benefits.

(c) Discharge application process for veterans who are totally and permanently disabled as described in paragraph (2) of the definition of that term in §685.102(b)—

(1) Veteran’s application for discharge. To qualify for a discharge of a Direct Loan based on a total and permanent disability as described in paragraph (2) of the definition of that term in §685.102(b), a veteran must submit a discharge application to the Secretary on a form approved by the Secretary. The application must be accompanied by documentation from the Department of Veterans Affairs showing that the Department of Veterans Affairs has determined that the veteran is unemployable due to a service-connected disability. The Secretary does not require the veteran to provide any additional documentation related to the veteran’s disability. Upon receipt of the veteran’s application, the Secretary—

(i) Identifies all title IV loans owed by the veteran and notifies the lenders that the Secretary has received a total and permanent disability discharge application from the borrower;

(ii) If the application is incomplete, requests the missing information from the veteran and does not make a determination of eligibility for discharge until the application is complete;

(iii) Notifies the veteran that no payments are due on the loan while the Secretary determines the veteran’s eligibility for discharge; and

(iv) Explains the Secretary’s process for reviewing total and permanent disability discharge applications.

(2) Determination of eligibility. (i) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §685.102(b), the Secretary discharges the veteran’s obligation to make any further payments on the loan and returns to the person who made the payments on the loan any payments received on or after the effective date of the determination by the Department of Veterans Affairs that the veteran is unemployable due to a service-connected disability.

(ii) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is not totally and permanently disabled as described in paragraph (2) of the definition of that term in §685.102(b), the Secretary notifies the veteran that the application for a disability discharge has been denied. The notification to the veteran includes—

(A) The reason or reasons for the denial;

(B) An explanation that the loan is due and payable to the Secretary under the terms of the promissory note and that the loan will return to the status it was in at the time the veteran applied for a total and permanent disability discharge;

(C) The date that the veteran must resume making payments;

(D) An explanation that the veteran is not required to submit a new total and permanent disability discharge application if the veteran requests that the Secretary re-evaluate the veteran’s application for discharge by providing, within 12 months of the date of the notification, additional documentation from the Department of Veterans Affairs that supports the veteran’s eligibility for discharge; and

(E) Information on how the veteran may reapply for a total and permanent disability discharge in accordance with the procedures described in paragraph (b) of this section if the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled as described in paragraph (1) of the definition of that term.

(Approved by the Office of Management and Budget under control number 1845–0065)

(Authority: 20 U.S.C.1087a et seq.)

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