

or parent borrower must sign a new MPN for each academic year.

Nationwide consumer reporting agency: A consumer reporting agency as defined in 15 U.S.C. 1681a(p).

Payment data: An electronic record that is provided to the Secretary by an institution showing student disbursement information.

Period of enrollment: The period for which a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan is intended. The period of enrollment must coincide with one or more bona fide academic terms established by the school for which institutional charges are generally assessed (e.g., a semester, trimester, or quarter in weeks of instructional time; an academic year; or the length of the program of study in weeks of instructional time). The period of enrollment is also referred to as the loan period.

Satisfactory repayment arrangement: (1) For the purpose of regaining eligibility under section 428F(b) of the HEA, the making of six consecutive, voluntary, on-time, full monthly payments on a defaulted loan. A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) For the purpose of consolidating a defaulted loan under § 685.220(d)(1)(ii)(A)(3)—

(i) The making of three consecutive, voluntary, on-time, full monthly payments on a defaulted loan prior to consolidation; or

(ii) Agreeing to repay the Direct Consolidation Loan under one of the income-contingent repayment plans described in § 685.209 or the income-based repayment plan described in § 685.221.

(3) For the purpose of paragraph (2)(i) of this definition, the required monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. "On-time" means a payment made within 20 days of the scheduled due date, and voluntary payments are payments made directly by the borrower and do not include payments obtained by Federal offset, garnishment, or income or asset execution.

(4) A borrower has not used the one opportunity to renew eligibility for title IV assistance if the borrower

makes six consecutive, on-time, voluntary, full monthly payments under an agreement to rehabilitate a defaulted loan, but does not receive additional title IV assistance prior to defaulting on that loan again.

Substantial gainful activity: A level of work performed for pay or profit that involves doing significant physical or mental activities, or a combination of both.

Totally and permanently disabled: The condition of an individual who—

(1) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that—

(i) Can be expected to result in death;

(ii) Has lasted for a continuous period of not less than 60 months; or

(iii) Can be expected to last for a continuous period of not less than 60 months; or

(2) Has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability.

(Authority: 20 U.S.C. 1070g, 1087a, *et seq.*)

[59 FR 61690, Dec. 1, 1994]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 685.102, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 685.103 Applicability of subparts.

(a) Subpart A contains general provisions regarding the purpose and scope of the Direct Loan Program.

(b) Subpart B contains provisions regarding borrowers in the Direct Loan Program.

(c) Subpart C contains certain requirements regarding schools in the Direct Loan Program.

(d) Subpart D contains provisions regarding school eligibility for participation and origination in the Direct Loan Program.

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

Subpart B—Borrower Provisions

§ 685.200 Borrower eligibility.

(a) *Student Direct Subsidized or Direct Unsubsidized borrower.* (1) A student is eligible to receive a Direct Subsidized Loan, a Direct Unsubsidized Loan, or a

combination of these loans, if the student meets the following requirements:

(i) The student is enrolled, or accepted for enrollment, on at least a half-time basis in a school that participates in the Direct Loan Program.

(ii) The student meets the requirements for an eligible student under 34 CFR part 668.

(iii) In the case of an undergraduate student who seeks a Direct Subsidized Loan or a Direct Unsubsidized Loan at a school that participates in the Federal Pell Grant Program, the student has received a determination of Federal Pell Grant eligibility for the period of enrollment for which the loan is sought.

(iv) In the case of a borrower whose previous loan or TEACH Grant service obligation was discharged due to total and permanent disability, the student—

(A) In the case of a borrower whose prior loan under title IV of the Act or TEACH Grant service obligation was discharged after a final determination of total and permanent disability, the borrower—

(1) Obtains a certification from a physician that the borrower is able to engage in substantial gainful activity; and

(2) Signs a statement acknowledging that neither the new Direct Loan the borrower receives nor any previously discharged loan on which the borrower is required to resume payment in accordance with paragraph (a)(1)(iv)(B) of this section can be discharged in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates;

(B) In the case of a borrower who receives a new Direct Loan, other than a Direct Consolidation Loan, within three years of the date that any previous title IV loan or TEACH Grant service obligation was discharged due to a total and permanent disability in accordance with § 685.213(b)(4)(iii), 34 CFR 674.61(b)(3)(v), 34 CFR 682.402(c)(3)(iv), or 34 CFR 686.42(b) based on a discharge request received on or after July 1, 2010, the borrower resumes repayment on the previously discharged loan in accordance with § 685.213(b)(7), 34 CFR 674.61(b)(6), or 34

CFR 682.402(c)(6), or acknowledges that he or she is once again subject to the terms of the TEACH Grant agreement to serve before receiving the new loan; and

(C) In the case of a borrower whose prior loan under title IV of the Act was conditionally discharged after an initial determination that the borrower was totally and permanently disabled based on a discharge request received prior to July 1, 2010—

(1) The suspension of collection activity on the prior loan has been lifted;

(2) The borrower complies with the requirement in paragraph (a)(1)(iv)(A)(1) of this section;

(3) The borrower signs a statement acknowledging that neither the new Direct Loan the borrower receives nor the loan that has been conditionally discharged prior to a final determination of total and permanent disability can be discharged in the future on the basis of any impairment present when the borrower applied for a total and permanent disability discharge or when the new loan is made, unless that impairment substantially deteriorates; and

(4) The borrower signs a statement acknowledging that the suspension of collection activity on the prior loan will be lifted.

(v) In the case of a student who was enrolled in a program of study prior to July 1, 2012 and who seeks a loan but does not have a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, the student meets the requirements under 34 CFR 668.32(e)(2), (3), (4), or (5).

(2)(i) A Direct Subsidized Loan borrower must—

(A) Demonstrate financial need in accordance with title IV, part F of the Act; and

(B) In the case of a first-time borrower as defined in paragraph (f)(1)(i) of this section, not have met or exceeded the limitations on the receipt of Direct Subsidized Loans described in paragraph (f) of this section.

(ii) The Secretary considers a member of a religious order, group, community, society, agency, or other organization who is pursuing a course of

§ 685.200

34 CFR Ch. VI (7-1-20 Edition)

study at an institution of higher education to have no financial need as that term is used in paragraph (a)(2)(i)(A) of this section if that organization—

(A) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(B) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(C)(1) Directs the member to pursue the course of study; or

(2) Provides subsistence support to its members.

(b) *Student PLUS borrower.* (1) The student is enrolled, or accepted for enrollment, on at least a half-time basis in a school that participates in the Direct Loan Program.

(2) The student meets the requirements for an eligible student under 34 CFR part 668.

(3) The student meets the requirements of paragraphs (a)(1)(iv) and (a)(1)(v) of this section, if applicable.

(4) The student has received a determination of his or her annual loan maximum eligibility under the Direct Unsubsidized Loan Program and, for periods of enrollment beginning before July 1, 2012, the Direct Subsidized Loan Program; and

(5) The student meets the requirements that apply to a parent under paragraphs (c)(2)(viii)(A) through (G) of this section.

(c) *Parent PLUS borrower—(1) Definitions.* The following definitions apply to this paragraph (c):

(i) *Charged off* means a debt that a creditor has written off as a loss, but that is still subject to collection action.

(ii) *In collection* means a debt that has been placed with a collection agency by a creditor or that is subject to more intensive efforts by a creditor to recover amounts owed from a borrower who has not responded satisfactorily to the demands routinely made as part of the creditor's billing procedures.

(2) *Eligibility.* A parent is eligible to receive a Direct PLUS Loan if the parent meets the following requirements:

(i) The parent is borrowing to pay for the educational costs of a dependent undergraduate student who meets the

requirements for an eligible student under 34 CFR part 668.

(ii) The parent provides his or her and the student's social security number.

(iii) The parent meets the requirements pertaining to citizenship and residency that apply to the student under 34 CFR 668.33.

(iv) The parent meets the requirements concerning defaults and overpayments that apply to the student in 34 CFR 668.32(g).

(v) The parent complies with the requirements for submission of a Statement of Educational Purpose that apply to the student under 34 CFR part 668, except for the completion of a Statement of Selective Service Registration Status.

(vi) The parent meets the requirements that apply to a student under paragraph (a)(1)(iv) of this section.

(vii) The parent has completed repayment of any title IV, HEA program assistance obtained by fraud, if the parent has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance.

(viii)(A) The parent—

(1) Does not have an adverse credit history;

(2) Has an adverse credit history, but has obtained an endorser who does not have an adverse credit history, and completes PLUS loan counseling offered by the Secretary; or

(3) Has an adverse credit history but documents to the satisfaction of the Secretary that extenuating circumstances exist and completes PLUS loan counseling offered by the Secretary.

(B) For purposes of this paragraph (c), an adverse credit history means that the parent—

(1) Has one or more debts with a total combined outstanding balance greater than \$2,085, as may be adjusted by the Secretary in accordance with paragraphs (c)(2)(viii)(C) and (D) of this section, that are 90 or more days delinquent as of the date of the credit report, or that have been placed in collection or charged off, as defined in paragraph (c)(1) of this section, during the two years preceding the date of the credit report; or

(2) Has been the subject of a default determination, bankruptcy discharge, foreclosure, repossession, tax lien, wage garnishment, or write-off of a debt under title IV of the Act during the five years preceding the date of the credit report.

(C) The Secretary increases the amount specified in paragraph (c)(2)(viii)(B)(1) of this section, or its inflation-adjusted equivalent, when the Secretary determines that an inflation adjustment to that amount would result in an increase of \$100 or more.

(D) In making the inflation adjustment described in paragraph (c)(2)(viii)(C) of this section, the Secretary:

(1) Uses the annual average percent change of the All Items Consumer Price Index for All Urban Consumers (CPI-U), before seasonal adjustment, as the measurement of inflation; and

(2) If the adjustment calculated under paragraph (c)(2)(viii)(D)(1) of this section is equal to or greater than \$100, adding the adjustment to \$2,085 threshold amount, or its inflation-adjusted equivalent, and rounding up to the nearest \$5.

(E) The Secretary will publish a notice in the FEDERAL REGISTER announcing any increase to the amount specified in paragraph (c)(2)(viii)(B)(1) of this section.

(F) For purposes of this paragraph (c), the Secretary does not consider the absence of a credit history as an adverse credit history and does not deny a Direct PLUS loan on that basis.

(G) For purposes of this paragraph (c), the Secretary may determine that extenuating circumstances exist based on documentation that may include, but is not limited to—

(1) An updated credit report for the parent; or

(2) A statement from the creditor that the parent has repaid or made satisfactory arrangements to repay a debt that was considered in determining that the parent has an adverse credit history.

(3) For purposes of paragraph (c)(2) of this section, a “parent” includes the individuals described in the definition of “parent” in 34 CFR 668.2 and the spouse of a parent who remarried, if that spouse’s income and assets would

have been taken into account when calculating a dependent student’s expected family contribution.

(d) *Defaulted Perkins, FFEL, and Direct Loan program borrowers.* Except as noted in §685.220(d)(1)(ii)(A)(3), in the case of a student or parent borrower who is currently in default on a Perkins, FFEL, or Direct Loan program loan, the borrower must make satisfactory repayment arrangements, as described in paragraph (1) of the definition of that term under §685.102(b), on the defaulted loan.

(e) *Use of loan proceeds to replace expected family contribution.* The amount of a Direct Unsubsidized Loan, a Direct PLUS loan, or a non-federal non-need based loan, including a private, state-sponsored, or institution loan, obtained for a loan period may be used to replace the expected family contribution for that loan period.

(f) *Limitations on eligibility for Direct Subsidized Loans and borrower responsibility for accruing interest for first-time borrowers on or after July 1, 2013—(1) Definitions.* The following definitions apply to this paragraph:

(i) *First-time borrower* means an individual who has no outstanding balance of principal or interest on a Direct Loan Program or FFEL Program loan on July 1, 2013, or on the date the borrower obtains a Direct Loan Program loan after July 1, 2013.

(ii) *Maximum eligibility period* is a period of time, measured in academic years, equal to 150 percent of the length of the educational program, as published by the institution, in which the borrower is currently enrolled.

(iii) *Subsidized usage period* is, except as provided in paragraph (f)(4) of this section, a period of time measured in academic years and rounded to the nearest tenth of a year calculated as the—

Number of days in the borrower’s loan period for a Direct Subsidized Loan

Number of days in the academic year for annual loan limit purposes for which the borrower receives the Direct Subsidized Loan

(iv) *Remaining eligibility period* is the difference, measured in academic years, between the borrower’s maximum eligibility period and the sum of

the borrower's subsidized usage periods, except as provided in paragraphs (f)(7)(ii) and (f)(7)(iii) of this section.

(2) *Loss of eligibility for Direct Subsidized Loans.* A first-time borrower is not eligible for additional Direct Subsidized Loans when the borrower has no remaining eligibility period. Such a borrower may still receive Direct Unsubsidized Loans for which the borrower is otherwise eligible.

(3) *Borrower responsibility for accruing interest.* (i) Notwithstanding any provision of this part that provides for the borrower to not be responsible for accruing interest on a Direct Subsidized Loan or on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan, and except as provided in paragraphs (f)(6)(v) and (f)(7)(iv) of this section, a first-time borrower becomes responsible for the interest that accrues on a previously received Direct Subsidized Loan or on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan beginning on the date—

(A) The borrower has no remaining eligibility period; and

(B) The borrower attends any undergraduate program or preparatory coursework on at least a half-time basis at an eligible institution that participates in the title IV, HEA programs.

(ii) The borrower continues to be responsible for the interest that accrues on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan for which the borrower previously became responsible for accruing interest in accordance with paragraph (f)(3)(i) of this section.

(iii) For any loan for which the borrower becomes responsible for accruing interest in accordance with paragraph (f)(3)(i) of this section, the borrower is responsible for only the interest that accrues after the borrower meets the criteria in paragraph (f)(3)(i) of this section and unpaid interest is capitalized in the same manner as for a Direct Unsubsidized Loan.

(iv) A borrower who completes an undergraduate program and who has not become responsible for accruing interest on Direct Subsidized Loans as a result of attendance in that program does not become responsible for accru-

ing interest under paragraph (f)(3)(i) of this section on any Direct Subsidized Loans received for attendance in any program prior to completing that undergraduate program and for which the borrower has not previously become responsible for accruing interest, regardless of subsequent attendance in any other program.

(v) A borrower who receives a closed school, false certification, unpaid refund, or defense to repayment discharge that results in a remaining eligibility period greater than zero is no longer responsible for the interest that accrues on a Direct Subsidized Loan or on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan unless the borrower once again becomes responsible for the interest that accrues on a previously received Direct Subsidized Loan or on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan, for the life of the loan, as described in paragraph (f)(3)(i) of this section.

(4) *Exceptions to the calculation of subsidized usage periods.* (i) For a first-time borrower who receives a Direct Subsidized Loan in an amount that is equal to the full annual loan limit for a loan period that is less than a full academic year in length, the subsidized usage period is one year.

(ii) For a first-time borrower who is enrolled on a half-time or three-quarter-time basis, the borrower's prorated subsidized usage period is calculated by multiplying the borrower's subsidized usage period by 0.5 or 0.75, respectively.

(iii) For a first-time borrower who receives a closed school, false certification, unpaid refund, or defense to repayment discharge on a Direct Subsidized Loan or a portion of a Direct Consolidation Loan that is attributable to a Direct Subsidized Loan, the Subsidized Usage Period is reduced. If the Direct Subsidized Loan or a portion of a Direct Consolidation Loan that is attributable to a Direct Subsidized Loan is discharged in full, the Subsidized Usage Period of those loans is zero years. If the Direct Subsidized Loan or a portion of a Direct Consolidation Loan that is attributable to a Direct Subsidized Loan is discharged in part,

the Subsidized Usage Period may be reduced if the discharge results in the inapplicability of paragraph (f)(4)(i) of this section.

(5) *Subsequent attendance in programs of greater duration.* A first-time borrower who subsequently attends a program that is longer than the program the borrower previously attended—

(i) Is eligible for a Direct Subsidized Loan if the borrower's remaining eligibility period is greater than zero; and

(ii) Regains eligibility for Direct Subsidized Loans if the borrower previously lost eligibility for Direct Subsidized Loans in accordance with paragraph (f)(2) of this section.

(6) *Treatment of preparatory coursework.* For first-time borrowers who receive a Direct Subsidized Loan under 34 CFR 668.32(a)(1)(ii) who are enrolled for no longer than one 12-month period in a course of study necessary for enrollment in an eligible program—

(i) Direct Subsidized Loans received for such preparatory coursework are included in the calculation of the borrower's subsidized usage period;

(ii) The maximum eligibility period for preparatory coursework necessary for enrollment in an undergraduate program is the maximum eligibility period for the undergraduate program for which the preparatory coursework is required;

(iii) The maximum eligibility period for preparatory coursework necessary for enrollment in a graduate or professional program is the maximum eligibility period for the undergraduate program for which the borrower most recently received a Direct Subsidized Loan;

(iv) For enrollment in preparatory coursework necessary for enrollment in an undergraduate program, the borrower becomes responsible for accruing interest as described in paragraph (f)(3) of this section only if the borrower has no remaining eligibility period in the program for which the coursework is required; and

(v) Enrollment in preparatory coursework necessary for enrollment in a graduate or professional program does not result in a borrower becoming responsible for accruing interest as described in paragraph (f)(3) of this section.

(7) *Treatment of teacher certification programs for which an institution does not award an academic credential.* For first-time borrowers who receive a Direct Subsidized Loan under 34 CFR 668.32(a)(1)(iii) who are enrolled at an eligible institution in a program necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State but for which the institution awards no academic credential—

(i) The borrower's maximum eligibility period for Direct Subsidized Loans is a period of time equal to 150 percent of the length of the teacher certification program, as published by the institution, in which the borrower is currently enrolled;

(ii) For purposes of determining a borrower's remaining eligibility period for such teacher certification programs, only Direct Subsidized Loans the borrower received for enrollment in such programs are included in the borrower's subsidized usage period;

(iii) For purposes of determining a borrower's remaining eligibility period for programs other than a teacher certification program for which an institution does not award an academic credential, any Direct Subsidized Loans that the borrower received for enrollment in such a teacher certification program are not included in a borrower's subsidized usage period; and

(iv) Enrollment in such a teacher certification program does not result in a borrower becoming responsible for accruing interest on any Direct Subsidized Loan under paragraph (f)(3) of this section.

(8) *Special admission degree programs.*

(i) For purposes of calculating the maximum eligibility period, a bachelor's degree program that requires an associate degree or the successful completion of at least two years of postsecondary coursework as a prerequisite for admission has a program length of four years.

(ii) For purposes of calculating the maximum eligibility period, a selective admission associate degree program that requires an associate degree or the successful completion of at least two years of postsecondary coursework as a

§ 685.201

34 CFR Ch. VI (7–1–20 Edition)

prerequisite for admission has a program length of four years. For purposes of this paragraph (f)(8)(ii), a selective admission associate degree program—

(A) Admits only a selected number of applicants based on additional competitive criteria which may include entrance exam scores, class rank, grade point average, written essays, or recommendation letters; and

(B) Provides the academic qualifications necessary for a profession that requires licensure or a certification by the State.

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

[59 FR 61690, Dec. 1, 1994, as amended at 60 FR 61816, Dec. 1, 1995; 61 FR 29900, June 12, 1996; 65 FR 65629, 65693, Nov. 1, 2000; 66 FR 34765, June 29, 2001; 66 FR 44007, Aug. 21, 2001; 68 FR 75430, Dec. 31, 2003; 71 FR 45710, Aug. 9, 2006; 71 FR 64399, Nov. 1, 2006; 74 FR 56001, Oct. 29, 2009; 77 FR 66135, Nov. 1, 2012; 78 FR 28984, May 16, 2013; 79 FR 3120, Jan. 17, 2014; 78 FR 65824, Nov. 1, 2013; 79 FR 63331, Oct. 23, 2014; 81 FR 76080, Nov. 1, 2016]

§ 685.201 Obtaining a loan.

(a) *Application for a Direct Subsidized Loan or a Direct Unsubsidized Loan.* (1) To obtain a Direct Subsidized Loan or a Direct Unsubsidized Loan, a student must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application.

(2) If the student is eligible for a Direct Subsidized Loan or a Direct Unsubsidized Loan, the school in which the student is enrolled must perform the following functions:

(i) Create a loan origination record and transmit the record to the Secretary.

(ii) Ensure that the loan is supported by a completed Master Promissory Note (MPN) and, if applicable, transmit the MPN to the Secretary.

(iii) In accordance with 34 CFR 688.162, draw down funds or receive funds from the Secretary, and disburse the funds to the student.

(b) *Application for a Direct PLUS Loan.* (1) For a parent to obtain a Direct PLUS Loan, the parent must complete the Direct PLUS Loan MPN and the dependent student on whose behalf the parent is borrowing must complete a Free Application for Federal Student

Aid and submit it in accordance with instructions in the application.

(2) For a graduate or professional student to apply for a Direct PLUS Loan, the student must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application. The graduate or professional student must also complete the Direct PLUS Loan MPN.

(3) For either a parent or student PLUS borrower, as applicable, the school must complete its portion of the Direct PLUS Loan MPN and, if applicable, submit it to the Secretary. The Secretary makes a determination as to whether the parent or graduate or professional student has an adverse credit history. The school performs the functions described in paragraph (a)(2) of this section.

(c) *Application for a Direct Consolidation Loan.* (1) To obtain a Direct Consolidation Loan, the applicant must complete the application and promissory note and submit it to the Secretary. The application and promissory note sets forth the terms and conditions of the Direct Consolidation Loan and informs the applicant how to contact the Secretary. The Secretary answers questions regarding the process of applying for a Direct Consolidation Loan and provides information about the terms and conditions of both Direct Consolidation Loans and the types of loans that may be consolidated.

(2) Once the applicant has submitted the completed application and promissory note to the Secretary, the Secretary makes the Direct Consolidation Loan under the procedures specified in § 685.220.

(Authority: 20 U.S.C. 1087a *et seq.*, 1091a)

[64 FR 58965, Nov. 1, 1999, as amended at 65 FR 65629, Nov. 1, 2000; 71 FR 45711, Aug. 9, 2006; 78 FR 65825, Nov. 1, 2013]

§ 685.202 Charges for which Direct Loan Program borrowers are responsible.

(a) *Interest*—(1) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans first disbursed before July 1, 1995.* During all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately