

**DEPARTMENT OF EDUCATION****34 CFR Parts 682 and 685**

RIN 1845-AA11

**Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program****AGENCY:** Office of Postsecondary Education, Department of Education.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the Federal Family Education Loan (FFEL) Program and the William D. Ford Federal Direct Loan (Direct Loan) Program regulations. These proposed regulations are needed to implement changes made to the Higher Education Act of 1965, as amended, (HEA) by the Higher Education Amendments of 1998 (1998 Amendments). The proposed regulations are necessary to implement the teacher loan forgiveness programs in the FFEL and Direct Loan programs that were included in the 1998 Amendments. In addition, these proposed regulations contain conforming changes for both the FFEL Program and the Direct Loan Program, as well as technical amendments to the Direct Loan Program regulations.

**DATES:** We must receive your comments on or before September 25, 2000.

**ADDRESSES:** Address all comments concerning these proposed regulations to Ms. Beth Grebeldinger and Mr. Don Watson, U.S. Department of Education, PO Box 23272, Washington, DC 20026-3272. If you prefer to send your comments through the Internet, use the following address: TEACHERNPRM@ed.gov

If you want to comment on the information collection requirements, you must send your comments to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. You may also send a copy of these comments to the Department representatives named in this section.

**FOR FURTHER INFORMATION CONTACT:** For the FFEL Program, Ms. Beth Grebeldinger, or for the Direct Loan Program, Mr. Don Watson, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3045, Regional Office Building #3, Washington, DC 20202-5346. Telephone: (202) 708-8242. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternate

format (e.g., Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:****Invitation To Comment**

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations in Room 3045, Regional Office Building #3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

**Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record**

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, you may call (202) 205-8113 or (202) 260-9895. If you use a TDD, you may call the Federal Information Relay Service at 1-800-877-8339.

**Negotiated Rulemaking**

Section 492 of the HEA requires that, before publishing any proposed regulations for programs under Title IV of the HEA, the Secretary obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations, the Secretary must conduct a negotiated rulemaking process to develop the proposed regulations. All published proposed regulations must conform to agreements resulting from the negotiated rulemaking process unless

the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from the agreements.

To obtain public involvement in the development of the proposed regulations, we held listening sessions in Washington, DC, Atlanta, Chicago, and San Francisco. Four half-day sessions were held on September 13 and 14, 1999, in Washington, DC. In addition, we held three regional sessions in Atlanta on September 17, in Chicago on September 24, and in San Francisco on September 27, 1999. The Office of Student Financial Assistance's Customer Service Task Force also conducted listening sessions to obtain public involvement in the development of our regulations.

We then published a notice in the **Federal Register** (64 FR 73458, December 30, 1999) to announce our intention to establish two negotiated rulemaking committees to draft proposed regulations affecting Title IV of the HEA. The notice requested nominations for participants from anyone who believed that his or her organization or group should participate in this negotiated rulemaking process. The notice announced that we would select participants for the process from the nominees of those organizations or groups. The notice also announced a tentative list of issues that each committee would negotiate.

Once the two committees were established, they met to develop proposed regulations over the course of several months, beginning in February. The proposed regulations contained in this NPRM reflect the final consensus of Negotiating Committee I (committee), which was made up of the following members:

- American Association of Collegiate Registrars and Admission Officers
- American Association of Cosmetology Schools
- American Association of State Colleges and Universities (in coalition with American Association of Community Colleges)
- American Council on Education
- Career College Association
- Coalition of Higher Education Assistance Organizations
- Consumer Bankers Association
- Education Finance Council
- Education Loan Management Resources
- Legal Services
- National Association of College and University Business Officers
- National Association of Independent Colleges and Universities
- National Association of State Universities and Land-Grant Colleges

National Association of Student Financial Aid Administrators  
 National Association of Student Loan Administrators  
 National Council of Higher Education Loan Programs  
 National Direct Student Loan Coalition  
 Sallie Mae, Inc.  
 Student Loan Servicing Alliance  
 The College Fund/United Negro College Fund  
 United States Department of Education  
 United States Student Association  
 United States Public Interest Research Group

As stated in the committee protocols, consensus means that there must be no dissent by any member in order for the committee to be considered to have reached agreement. Consensus was reached on all of the proposed regulations in this document.

### Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

### Teacher Loan Forgiveness Program

*Statute:* The 1998 Amendments create teacher loan forgiveness programs for borrowers in the FFEL and Direct Loan programs. The loan forgiveness programs are intended to encourage individuals to enter and continue teaching in elementary and secondary schools in areas designated as low income.

*Current Regulations:* Regulations for these programs do not exist because these loan forgiveness programs were created by the 1998 Amendments.

#### *Proposed Regulations: General*

The proposed regulations would implement new sections 428J and 460 of the HEA that created teacher loan forgiveness programs under the FFEL and Direct Loan programs. Under these provisions, certain new borrowers in the FFEL and Direct Loan programs may have up to \$5,000 of their loans forgiven after teaching for five consecutive, complete academic years in low-income schools that meet specified criteria. The proposed regulations define a new borrower, for purposes of the loan forgiveness programs, as someone who has no outstanding loan balance under the Federal Family Education Loan (FFEL) Program or the William D. Ford Federal Direct Loan (Direct Loan) Program on October 1, 1998 or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998. October 1, 1998 was the effective

date of the teacher loan forgiveness provision. The HEA authorizes the forgiveness of up to a total of \$5,000 in Federal Stafford subsidized and unsubsidized loans, Direct Subsidized Loans, and Direct Unsubsidized Loans. In addition, Consolidation loans under the FFEL and Direct Loan programs may be forgiven under certain conditions. Loan forgiveness under these programs is not available for amounts borrowed under the Federal PLUS and Direct PLUS loan programs.

Under the proposed regulations, to qualify for loan forgiveness, the borrower must have been employed as a full-time teacher for five consecutive complete academic years, at least one of which was after the 1997–1998 academic year. Under certain conditions a borrower, who is in the process of completing his or her five consecutive years of teaching, may request and will receive a forbearance in anticipation of receiving loan forgiveness.

*Reasons:* These regulations are needed to implement the new teacher loan forgiveness programs and to inform the public, students, loan holders, and institutions of the teacher loan forgiveness programs and their requirements. The terms of the programs and requirements are fully discussed in the following sections of the proposed regulations.

*Sections 682.211(h)(2) and (3), 682.215(e), and 685.205(a)(5) Forbearance*

*Proposed Regulations:* The proposed regulations allow some borrowers to request a forbearance while awaiting loan forgiveness. Generally, during a forbearance, the borrower is not required to make payments and interest continues to accrue. Any unpaid interest that accrues on an FFEL loan during forbearance will be added to the principal (capitalized) in accordance with section 682.202(b). In the Direct Loan program any unpaid interest that accrues will be capitalized at the end of the forbearance.

These proposed regulations would allow borrowers to request a forbearance while performing qualifying teaching service. The proposed regulations require a loan holder to grant an annual forbearance to a borrower if the loan holder determines that the expected cancellation will satisfy the anticipated remaining outstanding balance on the loan at the end of the period of qualified teaching and if the borrower provides the loan holder with a statement certifying his or her intent to satisfy the five-year teaching requirement. Forbearance may be granted for a full 12

month period, even if the teaching service is less than 12 months.

These proposed regulations also allow borrowers who qualify for teacher loan forgiveness to receive forbearance on their qualifying FFEL loans or Direct Loans during the submission and processing of their applications for teacher loan forgiveness.

*Reasons:* During negotiations, some non-federal negotiators suggested that some borrowers who were required to continue making payments on their loans during the five-year teaching requirement might actually pay their way out of the cancellation benefit since the statute prohibits the refunding of payments made prior to the cancellation. We agree that this would not be an appropriate result and have proposed that the borrower would be permitted to request forbearance each year during the five-year teaching period. Under this proposal, the borrower must request the annual forbearance and the loan holder must grant it if the loan holder believes that the cancellation will eliminate the borrower's remaining loan balance. This forbearance applies only to borrowers whose anticipated loan balance, with the forbearance, at the end of the five-year period of qualifying teaching will be \$5,000 or less. We would also encourage loan holders to offer a borrower who has a higher loan balance any deferments or forbearances for which the borrower may qualify.

The committee also decided that borrowers who qualify for teacher loan forgiveness should be able to receive a forbearance during the period needed for submission and processing of their applications for the loan forgiveness. This would be consistent with the processing of similar applications for relief such as closed school and false certification.

*Sections 682.215(b) and 685.217(b) Definitions*

*Proposed Regulations:* The proposed regulations provide specific definitions for the terms “academic year”, “elementary schools”, “full-time”, “secondary schools”, and “teacher”. Of particular interest during negotiated rulemaking were the proposed definitions of “academic year” and “teacher”. These proposed definitions define an “academic year” specifically for purposes of the teacher loan forgiveness programs and address issues related to borrowers who teach at more than one school during a year, or for two consecutive halves of two school years. The negotiators agreed to specifically include Special Education teachers in the proposed definition for “teacher”.

*Reasons:* Most of the definitions used in the proposed teacher loan forgiveness program regulations are the same or similar to definitions used in the Federal Perkins Loan Program's teacher forgiveness program. Use of these definitions was requested by some of the non-federal negotiators so that there would be consistency of terms for loan forgiveness throughout the various Title IV federal student loan programs.

Several non-federal negotiators objected to our proposed definition of an "academic year". These negotiators saw it as an attempt by the Secretary to regulate in an area that should be left to local school authorities. While we do not intend to regulate a school's academic calendar, we believe that clarity in this area is needed to ensure equal treatment of all borrowers in the teacher loan forgiveness programs. The committee ultimately reached consensus on these proposed regulations that include in the definition of an academic year a requirement that nine months would be considered an academic year for a borrower who teaches in a year-round program of instruction.

*Sections 682.215(c) and 685.217(c)  
Borrower Eligibility*

*Statute:* Sections 428J(b)&(g) and 460(b)&(g) of the HEA specify the requirements for borrowers to qualify for teacher loan forgiveness.

*Proposed Regulations:* The proposed regulations provide that the new borrower must have been employed full-time for five consecutive complete years in a low-income elementary or secondary school that has been listed in a designated Department directory. Consistent with the statute, those low-income elementary or secondary schools are ones that are in a school district that qualifies for funds under title I of the Elementary and Secondary Education Act and have more than 30 percent of their total enrollment made up of children who qualify for services provided under title I.

The proposed regulations also reflect the statute and provide that if the school at which the borrower is employed meets the requirements of a low-income school at the outset of the borrower's qualifying teaching service at that school, then subsequent years of qualified teaching at that school count, even if the school loses its low-income status.

The proposed regulations also provide that the borrower must have been employed as a full-time teacher for five consecutive complete academic years, at least one of which was after the 1997–1998 academic year.

The proposed regulations also reflect the statutory requirements that elementary school teachers must demonstrate teaching skills in certain areas and that secondary school teachers teach in areas that are relevant to their academic major.

The proposed regulations describe certain conditions that would not constitute a break in the required five consecutive complete years of qualified teaching. These circumstances include a return to postsecondary education that is directly related to the qualifying teaching service, a condition covered under the Family and Medical Leave Act of 1993, or a call or order to active duty status for a member of a reserve component of the Armed Forces.

In addition, the proposed regulations permit a borrower to meet the required five-year qualified teaching service requirement if the borrower teaches at more than one qualifying school during an academic year.

The proposed regulations also reflect the statutory limitations that provide that a defaulted loan may not be forgiven under these programs. A defaulted loan on which satisfactory repayment arrangements have been made is eligible for forgiveness. However the proposed regulations do not prohibit borrowers with defaulted loans from receiving the benefits of the teacher loan forgiveness on any of their non-defaulted loans.

They also reflect the statutory provision that a borrower may not use the same qualifying teaching service to obtain benefits under the FFEL and Direct Loan forgiveness programs and a benefit for service the AmeriCorp program operated by the Corporation for National Service.

*Reasons:* During the negotiations, we originally proposed that the first year of qualifying teaching service begin with or after the 1998–1999 academic year. We believed that this approach was most consistent with the purpose of the law which is to encourage individuals to "enter and continue" in the teaching profession. Since the loan forgiveness provision was enacted into law during the 1998–1999 academic year, we concluded that loan forgiveness would not have been an incentive to enter the teaching profession for borrowers who were teaching prior to that date. Additionally, we were concerned that the legislative history, including the cost estimate for the program, could indicate that Congress intended for 1998–1999 to be the first academic year of any qualified teaching.

Some non-federal negotiators, however, argued that the qualifying teaching service should include periods

before the 1998–1999 academic year. These negotiators argued that the purpose of the law is not only to encourage borrowers to enter the teaching profession, but also to encourage other borrowers, who were already teaching in low-income schools, to continue doing so. They also noted that although the law provides that the teacher must be a new borrower on or after October 1, 1998 and that there must be five consecutive complete years of teaching, the law does not specifically state when the five years of teaching must begin.

Based on the arguments put forward by the non-federal negotiators, we agreed to propose loan forgiveness for qualified borrowers who have been employed as full-time teachers for five consecutive complete academic years as long as one of the years is after the 1997–1998 academic year.

The provisions included in the proposed regulations related to the specific teaching preparation and abilities of the elementary or secondary teacher reflect the language in sections 428J(b)(1)(B)&(C) and 460(b)(1)(A)(ii)&(iii) of the HEA.

The draft regulations include three exemptions that prevent certain specified periods during which the borrower does not teach from breaking the five consecutive years needed to qualify for the loan forgiveness. The negotiators determined that these specific breaks in teaching should not disrupt the borrower's otherwise consecutive complete pattern of service. Two of these exceptions were adopted by the committee in recognition of the fact that these circumstances are outside of the borrower's control and do not reflect a choice by the borrower to leave qualified teaching. These particular circumstances are a condition covered under the Family and Medical Leave Act of 1993, or a call or order to active duty status for a member of a reserve component of the Armed Forces. The third exemption is the borrower's return to postsecondary education that is directly related to the qualifying teaching service. This exception was included to directly support one of the fundamental purposes of the teacher loan forgiveness provision—to encourage teachers to continue teaching.

These proposed regulations would also allow a borrower to teach at more than one qualified school and meet the requirement for full-time teaching. This provision was requested by many of the non-federal negotiators and mirrors a provision in the Federal Perkins Loan Program.

*Sections 682.215(d) and 685.217(d)*  
*Forgiveness Amount*

*Statute:* Sections 428)(c) and 460(c)(1) include specific provisions governing the amount of loans that may be forgiven and specify which loans are eligible for forgiveness.

*Proposed Regulations:* These proposed regulations reflect the statute and provide that \$5,000 is the maximum amount that may be forgiven for an individual teacher under these programs. The \$5,000 includes principal, including any interest that has been capitalized, and any accrued interest outstanding at the time of forgiveness. These proposed regulations also reflect the statutory provisions which allow certain portions of consolidation loans to be forgiven and that prohibit any refund of payments that the borrower may have made toward a qualifying loan. Finally, they make clear that the \$5,000 maximum loan forgiveness amount applies to all of a borrower's qualifying loans including loans under both the FFEL and Direct Loan programs.

*Reasons:* These proposed regulations reflect the requirements of the statute.

*Sections 682.215(f) and 685.217(e)*  
*Application and Processing*

*Proposed Regulations:* These provisions explain the application process for both the borrower and the lender or holder. They include the steps the holder must take to inform the borrower of the status of a forgiveness application and, in the case of the FFEL Program, the steps that the holder and guaranty agency must take for coordination of payment of the forgiveness amount.

On the application, borrowers will be required to certify whether or not they have another pending application for teacher loan forgiveness under either the FFEL Program or the Direct Loan Program. If they have applied for loan forgiveness in both programs, the proposed regulations clarify that the total combined loan forgiveness amount cannot exceed \$5,000.

*Reasons:* The proposed regulations for teacher loan forgiveness are generally consistent in both the FFEL and the Direct Loan programs. The negotiators agreed that having consistent rules in both programs would help to ensure consistent administration and fair treatment for all borrowers. Accordingly, all borrowers will be required to submit a completed application for teacher loan forgiveness.

A borrower must provide the certification concerning multiple applications to ensure that the borrower

is not receiving benefits for which he or she is not eligible to receive under the HEA.

**Executive Order 12866:**

*1. Potential Costs and Benefits*

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined as necessary for administering these programs effectively and efficiently.

These proposed regulations implement a program under which borrowers who serve for five consecutive, complete, school years as teachers in certain high-poverty schools qualify for up to \$5,000 in loan forgiveness benefits. In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits would justify the costs.

*2. Clarity of the Regulations*

Executive Order 12866 and the President's Memorandum of June 1, 1998 on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 685.217(d) *Forgiveness Amount*.)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These proposed regulations would affect individual FFEL and Direct Loan borrowers, who are not considered "small entities" under the Regulatory Flexibility Act.

The Secretary invites comments on this determination, and welcomes proposals on any significant alternatives that would satisfy the same legal and policy objectives of these proposals while minimizing the economic impact on small entities.

**Paperwork Reduction Act of 1995**

Sections 682.211 and 682.215(c) in FFEL Program and §§ 685.205 and 685.217 in Direct Loans contain an information collection requirement. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

*Collection of Information:* Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program.

*Section 682.211 Forbearance*

This proposed provision would allow a borrower who is a teacher to receive a forbearance during the period in which the borrower is completing the teaching requirements for teacher loan forgiveness. This provision has information collection requirements that would affect borrowers. Borrowers will be required to complete a form certifying their eligibility for the forbearance and agreeing to the terms of the forbearance. We will develop a form following publication of the final regulations and, when cleared, the form will account for the burden to the borrowers.

*Section 682.215 Teacher Loan Forgiveness*

This proposed provision would allow a borrower who is a teacher and who meets certain requirements to have up to \$5,000 of his or her loan debt forgiven. This provision has information collection requirements that would affect borrowers and lenders. The burden for lenders is currently included in our current inventory based on the prior teaching loan forgiveness program. Borrowers will be required to complete a form to apply for teacher loan forgiveness. This form will be developed following publication of the

final regulations and, when cleared, will account for the burden to the borrowers.

Section 685.205 Forbearance

This proposed provision would allow a borrower who is a teacher to receive a forbearance during the period in which the borrower is completing the teaching requirements for teacher loan forgiveness. This provision has information collection requirements that would affect borrowers. Borrowers will be required to complete a form certifying their eligibility for the forbearance and agreeing to the terms of the forbearance. We will modify our current General Forbearance Request form (OMB No. 1845-0031) following publication of the final regulations and, when cleared, the form will account for the burden to the borrowers.

Section 685.217 Teacher Loan Forgiveness

This proposed provision would allow a borrower who is a teacher and who meets certain requirements to have up to \$5,000 of his or her loan debt forgiven. This provision has information collection requirements that would affect borrowers. Borrowers will be required to complete a form to apply for teacher loan forgiveness. This form will be developed following publication of the final regulations and, when cleared, will account for the burden to the borrowers.

If you want to comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education. You may also send a copy of these comments to the Department representative named in the ADDRESSES section of this preamble.

We consider your comments on these proposed collections of information in—

- Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information

technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the proposed regulations.

Intergovernmental Review

These programs are not subject to Executive Order 12372 and the regulations in 34 CFR 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document in text or Adobe Portable Document Format (PDF) on the Internet at the following sites:

http://ocfo.ed.gov/fedreg.htm
http://ifap.ed.gov/csb\_html/fedreg.htm

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at the first of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, D.C., area at (202) 512-1530.

Note: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

(Catalog of Federal Domestic Assistance Numbers 84.032 Federal Family Education Loan Program, and 84.268 William D. Ford Federal Direct Loan Program)

List of Subjects in 34 CFR Parts 682 and 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: July 27, 2000.

Richard W. Riley, Secretary of Education.

For the reasons stated in the preamble, the Secretary proposes to amend title 34 of the Code of Federal Regulations by revising parts 682 and 685 as follows:

PART 682—FEDERAL FAMILY EDUCATION LOAN PROGRAM

(1) The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087-2, unless otherwise noted.

2. Section 682.211 is amended as follows:

A. In paragraph (h)(2)(ii)(B), by removing the period at the end and adding in its place, “; or”.

B. By adding a new paragraph (h)(2)(ii)(C).

C. By adding a new paragraph (h)(3)(iii).

The additions and revisions read as follows:

§ 682.211 Forbearance.

- \* \* \* \* \*
- (h) \* \* \*
- (2) \* \* \*
- (ii) \* \* \*

(C) Is performing the type of service that would qualify the borrower for loan forgiveness and associated forbearance under the requirements of the Teacher loan forgiveness program in § 682.215.

- \* \* \* \* \*
- (3) \* \* \*

(iii) Before granting a forbearance to a borrower under paragraph (h)(2)(ii)(C) of this section, the lender must require the borrower to—

(A) Submit documentation for the period of the annual forbearance request showing the beginning and anticipated ending dates that the borrower is expected to perform, for that year, the type of service described in § 682.215(c); and

(B) Certify the borrower’s intent to satisfy the requirements of § 682.215(c).

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3. A new § 682.215 is added to read as follows:

§ 682.215 Teacher loan forgiveness program.

(a) General. The Teacher loan forgiveness program is intended to encourage individuals to enter and continue in the teaching profession. For new borrowers, the Secretary repays up to \$5,000 of subsidized and unsubsidized Federal Stafford Loans, Direct Subsidized Loans, Direct Unsubsidized Loans, and in certain cases, Federal Consolidation Loans or

Direct Consolidation Loans. The forgiveness program is only available to a borrower who has no outstanding loan balance under the Federal Family Education Loan (FFEL) Program or the William D. Ford Federal Direct Loan (Direct Loan) Program on October 1, 1998 or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998. In addition, the borrower must have been employed as a full-time teacher for five consecutive complete academic years, at least one of which was after the 1997-1998 academic year, in certain eligible elementary or secondary schools that serve low-income families. The loan for which forgiveness is sought must have been made prior to the end of the borrower's fifth year of qualifying teaching service.

(b) *Definitions.* The following definitions apply to this section:

*Academic year* means one complete school year at the same school, or two complete and consecutive half years at different schools, or two complete and consecutive half years from different school years at either the same school or different schools. Half years exclude summer sessions and generally fall within a twelve-month period. For schools that have a year-round program of instruction, nine months is considered an academic year.

*Elementary school* means a public or nonprofit private school that provides elementary education as determined by State law or the Secretary if that school is not in a State.

*Full-time* means the standard used by a State in defining full-time employment as a teacher. For a borrower teaching in more than one school, the determination of full-time is based on the combination of all qualifying employment.

*Secondary school* means a public or nonprofit private school that provides secondary education as determined by State law or the Secretary if the school is not in a State.

*Teacher* means a person who provides direct classroom teaching or classroom-type teaching in a non-classroom setting, including Special Education teachers.

(c) *Borrower eligibility.* (1) A borrower may obtain loan forgiveness under this program if he or she has been employed as a full-time teacher for five consecutive complete academic years, at least one of which was after the 1997-1998 academic year, in an elementary or secondary school that—

(i) Is in a school district that qualifies for funds under title I of the Elementary and Secondary Education Act of 1965, as amended;

(ii) Has been selected by the Secretary based on a determination that more than 30 percent of the school's total enrollment is made up of children who qualify for services provided under title I; and

(iii) Is listed in the *Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits*. If this directory is not available before May 1 of any year, the previous year's directory may be used.

(2) If the school at which the borrower is employed meets the requirements specified in paragraph (c)(1) of this section for at least one year of the borrower's five consecutive complete academic years of teaching and the school fails to meet those requirements in subsequent years, those subsequent years of teaching qualify for purposes of this section for that borrower.

(3) A borrower who is employed as an elementary school teacher must demonstrate knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum, as certified by the chief administrative officer of the school in which the borrower was employed.

(4) A borrower who is employed as a secondary school teacher must teach in a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the school in which the borrower was employed.

(5) The academic year may be counted as one of the borrower's five consecutive complete academic years if the borrower completes at least one-half of the academic year and the borrower's employer considers the borrower to have fulfilled his or her contract requirements for the academic year for the purposes of salary increases, tenure, and retirement if the borrower is unable to complete an academic year due to—

(i) A return to postsecondary education, on at least a half-time basis, that is directly related to the performance of the service described in this section;

(ii) A condition that is covered under the Family and Medical Leave Act of 1993 (FMLA) (19 U.S.C. 2654); or

(iii) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code.

(6) A borrower's period of postsecondary education, qualifying FMLA condition, or military active duty as described in paragraph (c)(5)(i), (ii), and (iii) of this section does not constitute a break in the required five consecutive years of qualifying teaching service.

(7) A borrower who taught in more than one qualified school during an academic year and demonstrates that the combined teaching was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools involved, is considered to have completed one academic year of qualified teaching.

(8) A borrower is not eligible for teacher loan forgiveness on a defaulted loan unless the borrower has made satisfactory repayment arrangements to re-establish title IV eligibility, as defined in § 682.200.

(9) A borrower may not receive loan forgiveness for qualifying teaching service under this section if the borrower receives a benefit for the same teaching service under subtitle D of title I of the National and Community Service Act of 1990.

(d) *Forgiveness amount.* (1) A qualified borrower is eligible for forgiveness of up to \$5,000 of the aggregate amount of a borrower's subsidized or unsubsidized Federal Stafford or Federal Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as described in paragraph (c) of this section. Only the portion of the consolidation loan that was used to repay the outstanding portions of a subsidized or unsubsidized Federal Stafford loan, a Direct Subsidized Loan, or a Direct Unsubsidized Loan qualifies for loan forgiveness under this section.

(2) A borrower may not receive more than a total of \$5,000 in loan forgiveness under both this section and under section 34 CFR 685.217.

(3) The holder does not refund payments that were received from a borrower who qualifies for loan forgiveness under this section.

(e) *Authorized forbearance during qualifying teaching service and discharge processing.* (1) At the borrower's request, a lender grants a forbearance—

(i) Under § 682.211(h)(2)(ii)(C) and (h)(3)(iii), in annual increments during each of the five years of qualifying teaching service, if the lender believes that the cancellation amount will satisfy the anticipated remaining outstanding balance on the loan at the time of the expected cancellation;

(ii) For a period not to exceed 60 days while the lender is awaiting a completed teacher loan forgiveness application from the borrower; or

(iii) For the period beginning on the date the lender receives a completed loan forgiveness application to the date the lender receives either a denial of the

request or the loan discharge amount from the guaranty agency, in accordance with paragraph (f) of this section.

(2) At the conclusion of a forbearance authorized under paragraph (e)(1) of this section, the lender must resume collection activities and may capitalize any interest accrued and not paid during the forbearance period in accordance with § 682.202(b).

(3) Nothing in paragraph (e) of this section restricts holders from offering other forbearance options to borrowers who do not meet the requirements of paragraph (e)(1)(i) of this section.

(f) *Application and processing.* (1) A borrower, after completing the qualifying teaching service, requests loan forgiveness from the holder of the loan on a form approved by the Secretary.

(2)(i) The holder must file a request for payment with the guaranty agency on a teacher forgiveness discharge no later than 60 days after the receipt, from the borrower, of a completed teacher loan forgiveness application form including the certification form or forms submitted by the borrower and certified by the appropriate official or officials, as described in paragraph (c)(3) or (c)(4) of this section.

(ii) When filing a request for payment on a teacher forgiveness discharge, the holder must provide the guaranty agency with the completed loan forgiveness application submitted by the borrower and any required supporting documentation.

(3)(i) Within 45 days of receiving the holder's request for payment, the guaranty agency must determine if the borrower meets the eligibility requirements for loan forgiveness under this section and must notify the holder of its determination of the borrower's eligibility for loan forgiveness under this section.

(ii) If the guaranty agency approves the discharge, it must, within the same 45-day period, pay the holder the amount of the discharge, up to \$5,000, subject to paragraphs (c)(9) and (d)(2) of this section.

(4) After being notified by the guaranty agency of its determination of the eligibility of the borrower for the discharge, the holder must, within 30 days, inform the borrower of the determination. If the discharge is approved, the lender must also provide the borrower with information regarding any new repayment terms of remaining loan balances.

(5) Unless otherwise instructed by the borrower, the holder must apply the proceeds of the teacher forgiveness discharge first to any outstanding unsubsidized Federal Stafford loan

balances, next to any outstanding subsidized Federal Stafford loan balances, and lastly to any outstanding Federal Consolidation loan balances. (Authority: 20 U.S.C. 1078–10)

#### **PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM**

4. The authority citation for Part 685 continues to read as follows:

**Authority:** 20 U.S.C. 1087 *et seq.*, unless otherwise noted.

##### **§ 658.102 [Amended]**

5. Section 685.102(b) is amended in paragraph (2) of the definition of "Satisfactory repayment arrangement" by removing the reference to "34 CFR 685.215(d)(1)(ii)(E)" and adding, in its place, "34 CFR 685.220(d)(1)(ii)(E)".

##### **§ 658.200 [Amended]**

6. Section 685.200 is amended by:

A. Removing from paragraph (a)(1)(v) "34 CFR 668.7(b)" and adding, in its place, "34 CFR 668.32(e)(2) or (3)".

B. Removing from paragraph (b)(1)(iv) "34 CFR 668.7" and adding, in its place "34 CFR 668.32(g)".

C. Removing, from paragraph (c), "§ 685.215(d)(1)(ii)(F)" and adding, in its place, "685.220(d)(1)(ii)(F)".

##### **§ 685.201 [Amended]**

7. Section 685.201(c)(2) is amended by removing the reference to "§ 685.216" and by adding, in its place "§ 685.220".

8. Section 685.205 is amended by:

A. Redesignating paragraph (a)(5) as (a)(6).

B. Adding a new paragraph (a)(5).

C. Removing from paragraph (b)(6)(i) the reference to "§ 685.213" and adding, in its place, "§ 685.214".

D. Removing from paragraph (b)(6)(ii) the reference to "§ 685.214" and adding, in its place, "§ 685.215".

E. Removing from paragraph (b)(6)(iii) the reference to "§ 685.215; or" and adding, in its place, "§ 685.216";.

F. By redesignating paragraph (b)(6)(iv), as paragraph (b)(6)(v).

G. By adding a new paragraph (b)(6)(iv).

The additions read as follows:

##### **§ 685.205 Forbearance.**

(a) \* \* \*

(5) The borrower—

(i) Is performing the type of service that would qualify the borrower for loan forgiveness under the requirements of the Teacher loan forgiveness program in § 685.217; and

(ii) Is required, by the Secretary, before a forbearance is granted under § 685.205(a)(5)(i) to—

(A) Submit documentation for the period of the annual forbearance request

showing the beginning and ending dates that the borrower is expected to perform, for that year, the type of service described in § 685.217(c); and

(B) Certify the borrower's intent to satisfy the requirements of § 685.217(c).

\* \* \* \* \*

(b) \* \* \*

(6) \* \* \*

(iv) Under § 685.217; or

\* \* \* \* \*

##### **§ 685.210 [Amended]**

9. Section 685.210(b)(2)(ii) is amended by removing the reference to "§ 685.209(d)(2)" and by adding, in its place "§ 685.209(c)(4)".

##### **§ 685.211 [Amended]**

10. Section 685.211(e)(4) is amended by removing the reference to "§ 685.215" and by adding, in its place, "§ 685.220".

##### **§ 685.212 [Amended]**

11. Section 685.212 is amended by:

A. Removing from paragraph (d) the reference to "§ 685.213" and adding, in its place, "§ 685.214".

B. Removing from paragraph (e) the reference to "§ 685.214" and adding, in its place, "§ 685.215".

C. Removing from paragraph (f) the reference to "§ 685.215" and adding, in its place, "§ 685.216".

D. By adding a new paragraph (h).

The addition reads as follows:

##### **§ 685.212 Discharge of a loan obligation.**

\* \* \* \* \*

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

\* \* \* \* \*

##### **§ 685.215 [Amended]**

12. In § 685.215, paragraph (c)(5)(ii) is amended by removing the references to "§ 685.213(d)" and "§ 685.213(e)" and adding, in their place, "§ 685.214(d)" and "§ 685.214(e)", respectively.

##### **§ 685.216 [Amended]**

13. In § 685.216, paragraph (c)(1)(iii)(B) is amended by removing the references to "§ 685.213(d)" and "§ 685.213(e)" and adding, in their place, "§ 685.214(d)" and "§ 685.214(e)", respectively.

14. A new § 685.217 is added to read as follows:

##### **§ 685.217 Teacher loan forgiveness program.**

(a) *General.* The Teacher loan forgiveness program is intended to

encourage individuals to enter and continue in the teaching profession. For new borrowers, the Secretary will repay up to \$5,000 of subsidized and unsubsidized Federal Stafford Loans, Direct Subsidized Loans, Direct Unsubsidized Loans, and, in certain cases, Federal Consolidation Loans or Direct Consolidation Loans. The forgiveness program is only available to a borrower who has no outstanding loan balance under the Federal Family Education Loan (FFEL) Program or the William D. Ford Federal Direct Loan (Direct Loan) Program on October 1, 1998 or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998. In addition, the borrower must have been employed as a full-time teacher for five consecutive complete academic years, at least one of which was after the 1997–1998 academic year in certain eligible elementary or secondary schools that serve low-income families. The loan for which the borrower is seeking forgiveness must have been made prior to the end of the fifth year of qualifying teaching service.

(b) *Definitions.* The following definitions apply to this section:

*Academic year* means one complete school year at the same school, or two complete and consecutive half years at different schools, or two complete and consecutive half years from different school years at either the same school or different schools. Half years exclude summer sessions and generally fall within a twelve-month period. For schools that have a year-round program of instruction, a minimum of nine months is considered an academic year.

*Elementary school* means a public or nonprofit private school that provides elementary education as determined by State law or the Secretary if that school is not in a State.

*Full-time* means the standard used by a State in defining full-time employment as a teacher. For a borrower teaching in more than one school, the determination of full-time is based on the combination of all qualifying employment.

*Secondary school* means a public or nonprofit private school that provides secondary education as determined by State law or the Secretary if the school is not in a State.

*Teacher* means a person who provides direct classroom teaching or classroom-type teaching in a non-classroom setting, including Special Education teachers.

(c) *Borrower eligibility.* (1) A borrower may obtain loan forgiveness under this program if he or she has been employed as a full-time teacher for five

consecutive complete academic years, at least one of which was after the 1997–1998 academic year, in an elementary or secondary school that—

(i) Is in a school district that qualifies for funds under title I of the Elementary and Secondary Education Act of 1965, as amended;

(ii) Has been selected by the Secretary based on a determination that more than 30 percent of the school's total enrollment is made up of children who qualify for services provided under title I; or

(iii) Is listed in the *Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits*. If this directory is not available before May 1 of any year, the previous year's directory may be used.

(2) If the school at which the borrower is employed meets the requirements specified in paragraph (c)(1) of this section for at least one year of the borrower's five consecutive complete academic years of teaching and the school failed to meet those requirements in subsequent years, those subsequent years of teaching qualify for purposes of this section for that borrower.

(3) A borrower who is employed as an elementary school teacher must demonstrate knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum, as certified by the chief administrative officer of the school in which the borrower was employed.

(4) A borrower who is employed as a secondary school teacher must teach in a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the school in which the borrower was employed.

(5) The academic year may be counted as one of the borrower's five consecutive complete academic years if the borrower completes at least one-half of the academic year and the borrower's employer considers the borrower to have fulfilled his or her contract requirements for the academic year for the purposes of salary increases, tenure, and retirement if the borrower is unable to complete an academic year due to—

(i) A return to postsecondary education, on at least a half-time basis, that is directly related to the performance of the service described in this section;

(ii) A condition that is covered under the Family and Medical Leave Act of 1993 (FMLA) (19 U.S.C. 2654); or

(iii) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code.

(6) If a borrower meets the requirements of paragraph (c)(5) of this section, the borrower's period of postsecondary education, active duty, or qualifying FMLA condition does not constitute a break in the required five consecutive years of qualifying teaching service.

(7) A borrower who teaches in more than one qualified school during an academic year and demonstrates that the combined teaching was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools involved, is considered to have completed one academic year of qualified teaching.

(8) A borrower is not eligible for teacher loan forgiveness on a defaulted loan unless the borrower has made satisfactory repayment arrangements to re-establish title IV eligibility, as defined in § 685.200(b).

(9) A borrower may not receive loan forgiveness for qualifying teaching service under this section if the borrower receives a benefit for the same teaching service under subtitle D of title I of the National and Community Service Act of 1990.

(d) *Forgiveness amount.* (1) A qualified borrower is eligible for forgiveness of up to \$5,000 of the aggregate amount of a borrower's Direct Subsidized Loan, Direct Unsubsidized Loan, or Direct Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as described in paragraph (c) of this section. Only the portion of a Direct Consolidation Loan that was used to repay the outstanding portion of a subsidized or unsubsidized Federal Stafford loan, a Direct Subsidized Loan, or a Direct Unsubsidized Loan qualifies for loan forgiveness under this section.

(2) A borrower may not receive more than a total of \$5,000 in loan forgiveness under both this section and 34 CFR 682.215.

(3) The Secretary does not refund payments that were received from a borrower who qualifies for loan forgiveness under this section.

(e) *Application.* (1) A borrower, after completing the qualifying teacher service, must request loan forgiveness from the Secretary on a form provided by the Secretary.

(2) If the Secretary determines that the borrower meets the eligibility requirements for loan forgiveness under this section, the Secretary—

(i) Notifies the borrower of this determination; and

(ii) Unless otherwise instructed by the borrower, applies the proceeds of the

loan forgiveness first to any outstanding Direct Unsubsidized Loan balances, next to any outstanding Direct Subsidized Loan balances, any qualifying Direct Unsubsidized Consolidation Loan balances, and last to any qualifying outstanding Direct

Subsidized Consolidation Loan balances.

(3) If the Secretary determines that the borrower does not meet the eligibility requirements for loan forgiveness under this section, the Secretary notifies the borrower of this determination.

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

**§ 685.218 [Added and Removed]**

**§ 685.219 [Added and Removed]**

15. New §§ 685.218 and 685.219 are added and reserved.

[FR Doc. 00-20035 Filed 8-9-00; 8:45 am]

**BILLING CODE 4000-01-P**