

ineligible and any accrued interest, including interest subsidized by the Secretary, through the previous quarter.

(3) If a borrower fails to comply with the demand letter described in paragraph (e)(2) of this section, the borrower is in default on the entire loan.

(4) A borrower may not consolidate a loan under § 685.220 for which the borrower is wholly or partially ineligible.

(f) *Rehabilitation of defaulted loans.* A defaulted Direct Loan is rehabilitated if the borrower makes 12 consecutive on-time, reasonable, and affordable monthly payments. The amount of such a payment is determined on the basis of the borrower's total financial circumstances. If a defaulted loan is rehabilitated, the Secretary instructs any credit bureau to which the default was reported to remove the default from the borrower's credit history.

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

[59 FR 61690, Dec. 1, 1994, as amended at 64 FR 57961, Oct. 27, 1999; 64 FR 59043, Nov. 1, 1999; 65 FR 65629, Nov. 1, 2000; 66 FR 34765, June 29, 2001]

§ 685.212 Discharge of a loan obligation.

(a) *Death.* (1) If a borrower (or the student on whose behalf a parent borrowed a Direct PLUS Loan) dies, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan based on an original or certified copy of the borrower's (or student's in the case of a Direct PLUS loan) death certificate.

(2) If an original or certified copy of the death certificate is not available, the Secretary discharges the loan only based on other reliable documentation that establishes, to the Secretary's satisfaction, that the borrower (or student) has died. The Secretary discharges a loan based on documentation other than an original or certified copy of the death certificate only under exceptional circumstances and on a case-by-case basis.

(b) *Total and permanent disability.* If a borrower meets the requirements in § 685.213(c), the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan.

(c) *Bankruptcy.* If a borrower's obligation to repay a loan is discharged in bankruptcy, the Secretary does not require the borrower to make any further payments on the loan.

(d) *Closed schools.* If a borrower meets the requirements in § 685.214, 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.

(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 the borrower became totally and permanently disabled, as certified under § 685.213(b).

(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 of the borrower's Direct Subsidized Loans, Direct Unsubsidized Loans, and, in certain cases, Direct Consolidation Loans.

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

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

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§ 685.213 Total and permanent disability discharge.

(a) *General.* (1) If the Secretary makes an initial determination that a borrower is totally and permanently disabled, the Secretary—

(i) Notifies the borrower that the loan will be in a conditional discharge status for up to three years from the date that the borrower became totally and permanently disabled, as certified under 685.213(b). The Secretary also notifies the borrower of the conditions of the conditional discharge period, and that all or part of the three-year conditional discharge period may predate the Secretary's initial determination.

(ii) Suspends any efforts to collect on the loan from the date of the initial determination described in paragraph (a)(1) of this section until the end of the conditional discharge period.

(2) If the borrower continues to meet the eligibility requirements for total and permanent disability discharge during and at the end of the three-year conditional discharge period, the Secretary—

(i) Discharges the obligation of the borrower and any endorser to make any further payments on the loan at the end of that period; and

(ii) Returns to the borrower any payments received after the date the borrower became totally and permanently disabled, as certified under § 685.213(b).

(3) If the borrower does not continue to meet the eligibility requirements for a total and permanent disability discharge at any time during or at the end of the three-year conditional discharge period, the Secretary resumes collection activity on the loan. The Secretary does not require the borrower to pay any interest that accrued on the loan from the date of the initial determination described in paragraph (a)(1) of this section through the end of the conditional discharge period.

(4) Except as provided in paragraph (e)(1) of this section, a borrower is not considered totally and permanently disabled based on a condition that existed at the time the loan was made, unless the borrower's condition substantially deteriorated after the loan was made so as to render the borrower totally and permanently disabled.

(b) *Initial determination of total and permanent disability.* The Secretary makes an initial determination that a borrower is totally and permanently disabled if the borrower (or the borrower's representative) provides the Secretary with a certification (on a form approved by the Secretary) by a physician who is a doctor of medicine or osteopathy and legally authorized to practice in a State that the borrower is totally and permanently disabled as defined in 34 CFR 682.200(b).

(c) *Eligibility requirements for total and permanent disability discharge.* A borrower meets the eligibility requirements for total and permanent disability discharge if, during and at the end of the three-year conditional discharge period described in paragraph (a)(1) of this section—

(1) The borrower's annual earnings from employment do not exceed 100 percent of the poverty line for a family of two, as determined in accordance with the Community Service Block Grant Act; and

(2) The borrower does not receive a new loan under the Perkins, FFEL, or