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U.S. REGULATIONS

The Code of Federal Regulations (CFR) is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the U.S. government. Regulations relevant to administering the Federal Family Education Loan (FFEL) Program can be found in Volume 34 of the CFR. These regulations, authorized by Title IV of the Higher Education Act of 1965, as amended (HEA), govern how schools, lenders, and servicers administer the FFEL Program.

The Relationship of Law to Regulations

The statutory language that authorizes the Title IV programs specifies many of the eligibility and administrative requirements for participation in the program. Major changes are usually made every six years when the programs are reauthorized. The most recent reauthorization took place with the Higher Education Amendments of 1998. Other changes to the law may be made on an annual basis as a part of the appropriations process. Some legislative changes are incorporated directly into the regulations. In other cases, regulatory language must be developed that explains how the statute is to be implemented.

Proposed Rules, Final Rules, and Notices

New regulations may be issued as proposed regulations or final regulations and are published in a U.S. government publication called the *Federal Register*. Regulations are usually published first as a Notice of Proposed Rulemaking (NPRM). An NPRM includes background information, proposed changes to current regulations, and the address and closing date for receiving comments from the public. After the U.S. Department of Education (ED) receives comments from the public on an NPRM, it reviews the comments, incorporates any needed changes, and publishes final regulations.

In some cases, regulations are not preceded by an NPRM but are published as a Final Rule. When the regulation simply incorporates recent statutory changes, or when ED finds that solicitation of public comments would be impractical and contrary to public interest, final regulations supplement, amend, or replace earlier final regulations. Notices are also published in the *Federal Register* and generally concern procedural matters that do not require a review or comment period. The law requires some notices to be published annually, such as notices of program deadline dates and notices to update need-analysis charts.

How Regulations Are Developed

Regulations are developed by the appropriate organizational unit within ED. The text of the regulation, whether it is a notice, NPRM, or final regulation,

must be reviewed and approved by other offices within ED such as the Office of the General Counsel and the Office of Inspector General. Many proposed regulations undergo negotiated rulemaking, which involves input from members of the education community. After the input from these sources has been incorporated in the regulation or otherwise resolved, the draft regulation is submitted to the Office of Management and Budget (OMB) for review of:

- ◆ overall federal policy;
- ◆ budget implications;
- ◆ potential paperwork burden; *and*
- ◆ cost to schools, lenders, guaranty agencies, students, and parents.

The draft regulation is then published for written comments from the public. When ED publishes a proposed regulation, the preamble to the regulation will explain where comments should be sent and specify the length of the comment period. The comment period is usually 30, 45, 60, or 120 days. After the comment period ends, the offices that drafted the regulation review all of the comments, weigh the concerns voiced, and decide whether changes should be made as a result of the comments.

When final regulations are published, they include a summary of the comments received and ED's responses to them. Any changes incorporated into the final regulations that resulted from the comments are noted. In addition, if ED has not made changes for the final regulations as recommended in the comments, ED will explain its reasons for that decision.

Effective Dates

Generally, regulations become effective following a 45-day period prescribed by law that follows immediately after the date of publication in the *Federal Register*. However, if the U.S. Congress adjourns during the 45-day period, some provisions of the regulations may have a later effective date. In addition, some portions of the regulation that include recordkeeping requirements may have other effective dates that depend on the approval of these information collection requirements by OMB. These later effective dates are published in the *Federal Register* when they are known.

The effective dates for a regulation can depend on other constraints, as well. The master calendar specified in the HEA requires major regulations to be published in final form by November 1 in order to be effective for the next award year. The purpose of this provision is to give schools adequate time to adjust to new regulatory changes before the new award year begins on July 1.

How to Read Regulations



Web Site

- <http://SFA4schools.sfa.ed.gov>

The CFR is organized into 50 titles according to broad subject matter. U.S. federal regulations relating to education are designated as “Title 34 of the Code of Federal Regulations” or “34 CFR.” These regulations are available in printed publications as well as online. They can be accessed online at <http://sfa4schools.sfa.ed.gov>.

The *Compilation of Student Financial Aid Regulations*, an ED publication, contains a table of contents that gives a brief description by title of the program according to broad subject matter. The CFR has a uniform numbering system. The section is the basic unit. The regulations may be cited by the part, subpart, title, and section. The text is divided into descending levels of units. Below is a breakdown of how a regulation is listed:

- ◆ Part (682 - specific regulatory area)
- ◆ Subpart (682 Subpart B – a single provision of a program/function)
- ◆ Section (682.209 – all parts are organized into sections)
- ◆ Paragraph (682.209(a) – details specific requirements).

To find a particular regulation you may begin by looking in the table of contents for the specific part. Once you find the part, you should search for the section that applies and descend to the paragraph level that is applicable. See the example on the next page on how to read regulations.

Example:

Part 682 deals with the FFEL Program; Subpart B addresses the general provision of the FFEL Program; Section 682.209 deals with repayment of a loan. Sections are divided into subsections with the following sequential lettering and numbering system: (a), (1), (i), and (A). The first highlighted subsection (shown below) would be referred to as 682.209(a)(2)(i) and covers the PLUS Loan repayment period begin date; the second highlighted subsection would be referred to as 682.209(a)(3)(i)(A).

Sec. 682.209 Repayment of a loan.

(a) *Conversion of a loan to repayment status.* (1) For a Consolidation loan, the repayment period begins on the date the loan is disbursed. The first payment is due within 60 days after the date the loan is disbursed.

(2)(i) For a PLUS loan, the repayment period begins on the date of the last disbursement made on the loan. The first payment is due within 60 days after the date the loan is fully disbursed. Interest accrues and is due and payable from the date of the first disbursement of the loan.

682.290(a)(2)(i)

(ii) For an SLS loan, the repayment period begins on the date the loan is disbursed, or, if the loan is disbursed in multiple installments, on the date of the last disbursement of the loan. Interest accrues and is due and payable from the date of the first disbursement of the loan. Except as provided in paragraph (a)(2)(iii), (a)(2)(iv), and (a)(2)(v) of this section the first payment is due within 60 days after the date the loan is fully disbursed.

(iii) For an SLS borrower who has not yet entered repayment on a Stafford loan, the borrower may postpone payment, consistent with the grace period on the borrower's Stafford loan.

(iv) If the lender first learns after the fact that an SLS borrower has entered the repayment period, the repayment begins no later than 75 days after the date the lender learns that the borrower has entered the repayment period.

(v) The lender may establish a first payment due date that is no more than an additional 30 days beyond the period specified in paragraphs (a)(2)(i)–(a)(2)(iv) of this section in order for the lender to comply with the required deadline contained in Sec. 682.205(c)(1).

(3)(i) Except as provided in paragraphs (a)(4) and (5) of this section, for a Stafford loan the repayment period begins—

(A) For a borrower with a loan for which the applicable interest rate is 7 percent per year, not less than 9 nor more than 12 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an eligible school. The length of this grace period is determined by the lender for loans made under the FISL Program, and by the guaranty agency for loans guaranteed by the agency;

682.209(a)(3)(i)(A)

(B) For a borrower with a loan for which the initial applicable interest rate is 8 or 9 percent per year, the day after 6 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an institution of higher education and