



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

Proposed Regulatory Text
Student Debt Relief
Negotiated Rulemaking, Session 3
December 11-12, 2023

34 CFR PART 30—DEBT COLLECTION

Subpart A—General

§ 30.1 What administrative actions may the Secretary take to collect a debt?

(a) The Secretary may take one or more of the following actions to collect a debt owed to the United States:

(1) Collect the debt under the procedures authorized in the regulations in this part.

(2) Refer the debt to the ~~General Accounting~~Government Accountability Office for collection in accordance with § 30.8070(f).

(3) Refer the debt to the Department of Justice for compromise, collection, or litigation.

(4) Take any other action authorized by law.

(b) In taking any of the actions listed in paragraph (a) of this section, the Secretary complies with the requirements of the Federal Claims Collection Standards (FCCS) at 431 CFR parts 900-904~~101-105~~ that are not inconsistent with the requirements of this part.

(c) The Secretary may—

(1) Collect the debt under the offset procedures in subpart C of this part;

(2) Report a debt to a consumer reporting agency under the procedures in subpart C of this part;

(3) Charge interest on the debt as provided in the FCCS;

(4) Impose upon a debtor a charge based on the costs of collection as determined under subpart E of this part;

(5) Impose upon a debtor a penalty for failure to pay a debt when due under subpart E of this part;

(6) Compromise a debt, or suspend or terminate collection of a debt, under subpart F of this part;

(7) Waive repayment of a debt under subpart G of this part;

(78) Take any other actions under the procedures of the FCCS in order to protect the United States Government's interests; or

(89) Use any combination of the procedures listed in this paragraph (c) as may be appropriate in a particular case.

§ 30.9 Severability. If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any other person, act, or practice will not be affected thereby.

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Subpart C-- What Provisions Apply to Administrative Offset?

§ 30.20 To what do §§ 30.20-30.31 apply?

(a) (1)

(i) Sections 30.20-30.31 establish the general procedures used by the Secretary to collect debts by administrative offset.

(ii) The Secretary uses the procedures established under other regulations, including § 30.33, What procedures does the Secretary follow for IRS tax refund Treasury Offset Program offsets?, 34 CFR part 31, Salary Offset for Federal Employees Who Are Indebted to the United States Under Programs Administred by the Secretary of Education, and 34 CFR part 32,

Salary Offset to Recover Overpayments of Pay or Allowances from Department of Education Employees, if the conditions requiring application of those special procedures exist~~s~~.

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(b) The Secretary does not rely on 31 U.S.C. 3716 as authority for offset if:

(1) The debt is owed by a State or local government;

(2) The debt, or the payment against which offset would be taken, arises under the Social Security Act; or

(3) The debt is owed under:

(i) The Internal Revenue Code of 1954; or

(ii) The tariff laws of the United States. ~~or~~

~~(4) The right to collect the debt first accrued more than ten years before initiation of the offset.~~

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§ 30.23 How must a debtor request an opportunity to inspect and copy records relating to a debt?

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(b) A request filed under paragraph (a) of this section must contain:

(1) All information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor, ~~and~~ the debt, ~~including the debtor's Social Security number~~ and the program under which the debt arose, together with any corrections of that identifying information; and

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§ 30.25 How may a debtor obtain an oral hearing?

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(c) The Secretary grants a debtor's request for an oral hearing regarding the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) only if:

(1) (i) A statute authorizes or requires the Secretary to consider waiver of the indebtedness involved;

(ii) The debtor files a request for waiver of the indebtedness with the request for review filed under paragraph (a) ~~(1)~~ of this section; and

(iii) The question of waiver of the indebtedness turns on an issue of credibility or veracity; or

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§ 30.27 When does the Secretary enter into a repayment agreement rather than offset?

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(c) If the Secretary receives a request filed in accordance with this section, the Secretary may enter into a written agreement requiring repayment in accordance with, 31 CFR 901.8, ~~4 CFR 102.3~~ instead of offsetting the debt.

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§ 30.29 What procedures apply when the Secretary offsets to collect a debt owed another agency?

The Secretary may initiate offset to collect a debt owed another Federal agency if:

(a) An official of that agency certifies in writing:

(1) That the debtor owes a debt to the United States;

(2) The amount of the debt; and

(3) That the agency has complied with 31 CFR 901.34 ~~CFR 102.3~~; and

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§ 30.30 What procedures apply when the Secretary requests another agency to offset a debt owed under a program or activity of the Department?

(a) The Secretary may request another Federal agency to offset a debt owed under a program or activity of the Department if the Secretary certifies in writing to the other Federal agency:

- (1) That the debtor owes a debt to the United States;
- (2) The amount of the debt; and

(3) That the Secretary has complied with ~~4 CFR 102.3~~ 31 CFR 901.3.

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§ 30.33 What procedures does the Secretary follow for ~~IRS tax refund~~ Treasury Offset Program offsets?

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§ 30.39 Severability. If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the subpart or the application of its provisions to any other person, act, or practice will not be affected thereby.

Subpart E--What Costs and Penalties Does the Secretary Impose on Delinquent Debtors?

§ 30.62 When does the Secretary forego interest, administrative costs, or penalties?

(a) For a debt of any amount based on a loan, the Secretary may refrain from collecting interest or charging administrative costs or penalties to the extent that compromise of these amounts is appropriate under the standards for compromise of a debt contained in 431 CFR 902~~103~~, or to the extent that waiver of repayment of these amounts is appropriate under §30.80.

(b) For a debt not based on a loan, the Secretary may waive, or partially waive, the charging of interest, or the collection of administrative costs or penalties, if-

(1) Compromise of these amounts is appropriate under the standards for compromise of a debt contained in ~~4 CFR 103.31~~ CFR part 902; or

(2) The Secretary determines that the charging of interest or the collection of administrative costs or penalties is—

(i) Against equity and good conscience; or

(ii) Not in the best interests of the United States.

(c) The Secretary may exercise waiver under paragraph (b) (1) of this section without regard to the amount of the debt.

(d) The Secretary may exercise waiver under paragraph (b) (2) of this section if—

(1) The Secretary has accepted an installment plan under ~~4 CFR 102.1131~~ CFR 901.8;

(2) There is no indication of fault or lack of good faith on the part of the debtor; and

(3) The amount of interest, administrative costs, and penalties is such a large portion of the installments that the debt may never be repaid if that amount is collected.

(e) (1) The Secretary does not charge interest on any portion of a debt, other than a loan, owed by a person subject to 31 U.S.C. 3717 if the debt is paid within 30 days after the date of the first demand for payment.

(2) The Secretary may extend the period under paragraph (e) (1) of this section if the Secretary determines that the extension is appropriate.

§ 30.69 Severability. If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the subpart or the application of its provisions to any other person, act, or practice will not be affected thereby.

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Subpart F—What Requirements Apply to the Compromise of a Debt or the Suspension or Termination of Collection Action?

§ 30.70 How does the Secretary exercise discretion to compromise a debt or to suspend or terminate collection of a debt?

(a) (1) The Secretary may ~~uses~~ the standards in the FCCS, 31 CFR part 902, to determine whether compromise of a debt is appropriate if the debt arises under a program administered by the Department, unless compromise of the debt is subject to paragraph (b) of this section.

(2) If the amount of the debt is more than \$100,000, or such higher amount as the Department of Justice may prescribe, the Secretary refers a proposed compromise of the debt to the Department of Justice for approval, unless the compromise is subject to paragraph (b) of this section or the debt is one described in paragraph (e) of this section.

(b) Under the provisions in 34 CFR 81.36, the Secretary may enter into certain compromises of debts arising because a recipient of a grant or cooperative agreement under an applicable Department program has spent some of these funds in a manner that is not allowable. For purposes of this section, neither a program authorized under the Higher Education Act of 1965, as amended (HEA), nor the Impact Aid Program is an applicable Department program.

(c) (1) The Secretary may ~~uses~~ the standards in the FCCS, 31 CFR part 903, to determine whether suspension or termination of collection action on a debt is appropriate.

(2) Except as provided in paragraph (e) of this section, the Secretary—

(i) Refers the debt to the Department of Justice to decide whether to suspend or terminate collection action if the amount of the debt outstanding at the time of the referral is more than \$100,000 or such higher amount as the Department of Justice may prescribe; or

(ii) May suspend or terminate collection action if the amount of the debt outstanding at the time of the Secretary's determination that suspension or termination is warranted is less than or equal to \$100,000 or such higher amount as the Department of Justice may prescribe.

(d) In determining the amount of a debt under paragraph (a), (b), or (c) of this section, the Secretary deducts any partial

payments or recoveries already received, and excludes interest, penalties, and administrative costs.

(e) (1) Subject to paragraph (e) (2) of this section, under the provisions of 31 CFR part 902 or 903, the Secretary may compromise a debt in any amount, or suspend or terminate collection of a debt in any amount, if the debt arises under the Federal Family Education Loan Program authorized under title IV, part B, of the HEA, the William D. Ford Federal Direct Loan Program authorized under title IV, part D of the HEA, ~~or~~ the Perkins Loan Program authorized under title IV, part E, of the HEA, or the Health Education Assistance Loan Program authorized by sections 701-720 of the Public Health Service Act, 42 U.S.C. 292-292o.

(2) The Secretary refers a proposed compromise, or suspension or termination of collection, of a debt that exceeds \$1,000,000 and that arises under a loan program described in paragraph (e) (1) of this section to the Department of Justice for review. The Secretary does not compromise, or suspend or terminate collection of, a debt referred to the Department of Justice for review until the Department of Justice has provided a response to that request.

(f) The Secretary refers a proposed resolution of a debt to the Government Accountability Office (GAO) for review and approval before referring the debt to the Department of Justice if—

(1) The debt arose from an audit exception taken by GAO to a payment made by the Department; and

(2) The GAO has not granted an exception from the GAO referral requirement.

(g) Nothing in this section precludes—

(1) A contracting officer from exercising his authority under applicable statutes, regulations, or common law to settle disputed claims relating to a contract; or

(2) The Secretary from redetermining a claim.

(h) Nothing in this section authorizes the Secretary to compromise, or suspend or terminate collection of, a debt—

(1) Based in whole or in part on conduct in violation of the antitrust laws; or

(2) Involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim.

§ 30.79 Severability. If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the subpart or the application of its provisions to any other person, act, or practice will not be affected thereby.

Subpart G-- Waiver of Federal Student Loan Debts

§ 30.80 Waiver of Federal student loan debts.

The Secretary may waive all or part of any debts owed to the Department arising under the Federal Family Education Loan Program authorized under title IV, part B, of the HEA, the William D. Ford Federal Direct Loan Program authorized under title IV, part D, of the HEA, the Federal Perkins Loan Program authorized under title IV, part E, of the HEA, and the Health Education Assistance Loan Program authorized by sections 701-720 of the Public Health Service Act, 42 U.S.C. 292-292o, under the conditions included in, but not limited to, §§ 30.81 through 30.90.

§ 30.81 Waiver when the current balance exceeds the original principal balance for low-income borrowers on an IDR plan. (a) Pursuant to the authority to waive debt that the Secretary is unable to collect in full under the standards prescribed in 31 U.S.C. 3711(d), and subject to paragraphs (b) and (c) of this section, the Secretary may waive the lesser of \$20,000 or the amount by which a borrower's loans cumulatively have a total outstanding balance that exceeds—

(1) The original principal balance of the loans for loans disbursed before January 1, 2005;

(2) The balance of the loans on the final day of their grace period for loans disbursed on or after January 1, 2005; or

(3) The total original principal balance of all loans repaid by a Federal Consolidation Loan or a Direct Consolidation Loan.

(b) A borrower is eligible for the waiver described in paragraph (a) of this section if—

(1) The borrower is enrolled in an IDR plan under §§ 682.215, 685.209, or 685.221 as of a date determined by the Secretary; and

(2) The borrower's adjusted gross income or other documentation of income acceptable to the Secretary demonstrates that the borrower's annual income is equal to or less than 225 percent of the applicable Federal Poverty Guideline as described in § 685.209.

(c) A borrower who has received a waiver under § 30.82 is not eligible for a waiver under paragraph (a) of this section.

§ 30.82 Waiver when the current balance exceeds the original principal balance for borrowers on the SAVE plan. (a) Subject to paragraphs (b) and (c) of this section, the Secretary may waive the lesser of \$20,000 or the amount by which a borrower's loans cumulatively have a total outstanding balance that exceeds-

(1) The original principal balance of the loans for loans disbursed before January 1, 2005;

(2) The balance of the loans on the final day of their grace period for loans disbursed on or after January 1, 2005; or

(3) The total original principal balance of all loans repaid by a Federal Consolidation Loan or a Direct Consolidation Loan.

(b) A borrower is eligible for the waiver described in paragraph (a) of this section if-

(1) The borrower is enrolled in the Saving on a Valuable Education Plan under §685.209 as of a date determined by the Secretary; and

(2) The borrower's adjusted gross income or other documentation of income acceptable to the Secretary demonstrates that the borrower's annual income as calculated under §685.209 is either-

(i) Less than or equal to \$125,000; or

(ii) Less than or equal to \$250,000 if the borrower is married and files a joint Federal tax return.

(c) A borrower who has received a waiver under § 30.81 is not eligible for a waiver under paragraph (a) of this section.

§ 30.83 Waiver when a loan first entered repayment 20 or 25 years ago. (a) The Secretary may waive the outstanding balance of a loan if the loan first entered repayment on or before July 1, 2005, and the borrower only received loans as an undergraduate student or a Federal Consolidation Loan or Direct Consolidation Loan that repaid only loans the borrower received as an undergraduate student.

(b) The Secretary may waive the outstanding balance of a loan if the loan first entered repayment on or before July 1, 2000, and the borrower received loans other than loans received as an undergraduate student or a Federal Consolidation Loan or Direct Consolidation Loan that repaid loans other than loans the borrower received as an undergraduate student.

(c) For the purpose of this section, a loan enters repayment on—

(1) For a Federal Stafford Loan, a Direct Subsidized Loan, or a Direct Unsubsidized Loan, the day after the initial grace period ends;

(2) For a Federal PLUS Loan or a Direct PLUS Loan, the day the loan is fully disbursed; ~~or~~

(3) For a Federal Consolidation Loan or Direct Consolidation Loan made before July 1, 2023, the earliest day as determined under paragraph (c)(1) and (2) of this section for any loan that was repaid by that consolidation loan; ~~or—~~

(4) For a Federal Consolidation Loan or Direct Consolidation Loan made on or after July 1, 2023, the day that represents the middle point between the earliest and latest day as determined under paragraph (c)(1) and (2) of this section for loan that were repaid by that consolidation loan.

§ 30.84 Waiver when a loan is eligible for forgiveness based upon repayment plan. The Secretary may waive the entire outstanding balance of a loan if the Secretary determines that a borrower is not enrolled in, but otherwise meets the eligibility requirements for forgiveness under—

(a) An income-based repayment plan under § 682.215 or § 685.221;

(b) An income-contingent repayment plan under § 685.209; or

(c) An alternative repayment plan under § 685.208(1).

§ 30.85 Waiver when a loan is eligible for a targeted forgiveness opportunity. (a) The Secretary may waive the entire outstanding balance of a loan if the Secretary determines that a borrower has not applied or not successfully applied for, but otherwise meets the eligibility requirements for, any loan discharge, cancellation, or forgiveness opportunity under part 682 or 685.

(b) If the conditions for waiver in paragraph (a) of this section are met but the loan has been repaid by a Federal Consolidation Loan or Direct Consolidation Loan that has an outstanding balance, the Secretary may waive the portion of the outstanding balance of the consolidation loan attributable to such loan.

§ 30.86 Waiver based upon Secretarial actions. (a) Subject to paragraph (b) of this section, the Secretary may waive the entire outstanding balance of a loan associated with attending an institution or a program at an institution if the Secretary or other authorized Department official has issued a final decision that terminated the institution or program's participation in the title IV, HEA programs or denied the institution's request for recertification, or the Secretary or other authorized Department official has otherwise determined that the institution or the program in which the student was enrolled is no longer eligible for its students to receive assistance under the title IV, HEA programs and that decision, denial, or determination was due, in whole or in part, to any of the following circumstances:

(1) The program or institution has failed to meet an accountability standard based on student outcomes established under the HEA or its implementing regulations for determining eligibility for participation in the title IV, HEA programs.

(2) The program or institution has failed to deliver sufficient financial value to students, including in situations where the institution or program has engaged in substantial misrepresentations, substantial omissions, misconduct affecting student eligibility, or other similar activities; this paragraph applies to circumstances when the institution or program has lost accreditation at least in part due to such activities.

(b) The waiver described in paragraph (a) of this section is limited to loans that were borrowed to attend that program or

institution during the period that corresponds with the findings or outcomes data that forms the basis for the action described in paragraph (a) of this section, unless the Secretary determines that the use of a different period is appropriate.

(c) If the conditions for waiver in paragraph (a) of this section are met but the loan has been repaid by a Federal Consolidation Loan or Direct Consolidation Loan that has an outstanding balance, the Secretary may waive the portion of the outstanding balance of the consolidation loan attributable to such loan.

§ 30.87 Waiver following a closure prior to Secretarial actions. (a) Subject to paragraph (b) of this section, the Secretary may waive the entire outstanding balance of a loan associated with attending a program or institution if the program or institution has closed and the Secretary or other authorized Department official has ~~made a final~~ determination that—

(1) Based on the most recent reliable data for that program or institution, the program or institution has not satisfied, for at least one year, an accountability standard based on student outcomes established under the HEA or its implementing regulations for determining eligibility for participation in the title IV, HEA programs; or

(2) The program or institution—

(i) Failed to deliver sufficient financial value to students including in situations where the institution or program has engaged in substantial misrepresentations, substantial omissions, misconduct affecting student eligibility, or other similar activities; this paragraph applies to circumstances when the institution or program has lost accreditation at least in part due to such activities; and

(ii) Is the subject of a program review, investigation, or any other Department action that remains unresolved at the time of closure and that is based, in whole or in part, on the conduct described in paragraph (a)(2)(i) of this section.

(b) The waiver described in paragraph (a) of this section is limited to loans that were borrowed to attend that program or institution during the period that corresponds with the findings or outcomes data that forms the basis for the action described

in paragraph (a) of this section, unless the Secretary determines that the use of a different period is appropriate.

(c) If the conditions for waiver in paragraph (a) of this section are met but the loan has been repaid by a Federal Consolidation Loan or Direct Consolidation Loan that has an outstanding balance, the Secretary may waive the portion of the outstanding balance of the consolidation loan attributable to such loan.

§ 30.88 Waiver for closed Gainful Employment programs with high debt-to-earnings rates or low median earnings.

(a) The Secretary may waive the outstanding balance of a loan received by a borrower associated with enrollment in a Gainful Employment (GE) program as described in 20 U.S.C. 1002(b)(1)(A)(i) and (c)(1)(A) if--

(1) The program or institution closed;

(2) The Secretary makes the determination that this was not a program that prepares students to ~~determines the program was not preparing students to~~ become a doctor of medicine or osteopathy or a doctor of dental science; and

(3) For the period in which the borrower received loans for enrollment in the program, the Secretary has reliable and available data demonstrating that, for students who received title IV, HEA assistance--

(i)(A) The median annual loan payment of graduates from the program is greater than 20 percent of the median annual earnings for graduates, minus 150 percent of the applicable Federal Poverty Guideline for the year being measured or the denominator of such calculation is zero or negative; and

(B) The median annual loan payment of graduates from the program is greater than 8 percent of the median annual earnings for graduates of the program or the denominator of such calculation is zero; or

(ii) The median annual earnings of graduates from the program are equal to or less than the median annual earnings for working adults aged 25-34, who either worked during the year or indicated they were unemployed (i.e., not employed but looking

for and available to work) when interviewed, with only a high school diploma (or recognized equivalent)-

(A) In the State in which the institution is located; or

(B) Nationally, if fewer than 50 percent of the students in the program are from the State where the institution is located, or if the institution is a foreign institution.

(b) In determining whether a program meets the requirements under paragraph (a) of this section, the Secretary-

(1) Identifies a program using the program's six-digit CIP code as assigned by the institution or determined by the Secretary, in combination with the institution's six-digit Office of Postsecondary Education ID (OPEID) number and the program's credential level, unless the Secretary does not have reliable and available data at the six digit-level, in which case the Secretary will use the four-digit CIP code;

(2) Calculates the annual loan payment based upon the average of-

(i) The interest rate on Direct Unsubsidized Loans for undergraduate students for the three consecutive award years ending in the latest completion year for the students whose median debt payment is being calculated for graduates of undergraduate certificate programs, post-baccalaureate certificate programs, and associate degree programs; or

(ii) The interest rate on Direct Unsubsidized Loans for graduate students for the three consecutive award years ending in the latest completion year for the students whose median debt payment is being calculated for graduates of graduate certificate programs and master's degree programs; or

(iii) The interest rate on Direct Unsubsidized Loans for undergraduate students for the six consecutive award years ending in the latest completion year for the students whose median debt payment is being calculated for graduates of bachelor's degree programs; or

(iv) The interest rate on Direct Unsubsidized Loans for graduate students for the six consecutive award years ending in the latest completion year for the students whose median debt

payment is being calculated for graduates of doctoral programs and first professional degree programs; and

(3) Calculates the median annual earnings of program graduates by considering earnings in the third year subsequent to graduation.

(c) The Secretary may also apply the waiver described in paragraph (a) of this section for loans received for enrollment in a GE program at an institution--

(1) If the institution has since closed;

(2) Prior to the closure, the institution received a majority of its title IV, HEA funds from programs that met the conditions described in paragraph (a)(3) of this section; and

(3) The Secretary did not have ~~reliable~~ data to evaluate the program's performance as described in paragraph (a)(3) of this section.

(d) If the conditions for waiver in paragraph (a) or (c) of this section are met but the loan has been repaid by a Federal Consolidation Loan or Direct Consolidation Loan that has an outstanding balance, the Secretary may waive the portion of the outstanding balance of the consolidation loan attributable to such loan.

§ 30.89 Waiver when the current balance exceeds the original principal balance. (a) Subject to paragraph (b) of this section, the Secretary may waive the lesser of \$10,000 or the amount by which a borrower's loans cumulatively have a total outstanding balance that exceeds-

(1) The original principal balance of the loans for loans disbursed before January 1, 2005;

(2) The balance of the loans on the final day of their grace period for loans disbursed on or after January 1, 2005; or

(3) The total original principal balance of all loans repaid by a Federal Consolidation Loan or a Direct Consolidation Loan.

(b) A borrower who has received a waiver under § 30.81 or § 30.82 is not eligible for a waiver under paragraph (a) of this section.

§ 30.90 Waiver when the current balance exceeds the original principal balance for low-income borrowers not on an IDR plan.

(a) Pursuant to the authority to waive debt that the Secretary is unable to collect in full under the standards prescribed in 31 U.S.C. 3711(d), and subject to paragraphs (b) and (c) of this section, the Secretary may waive the lesser of \$10,000 or the amount by which a borrower's loans cumulatively have a total outstanding balance that exceeds—

(1) The original principal balance of the loans for loans disbursed before January 1, 2005;

(2) The balance of the loans on the final day of their grace period for loans disbursed on or after January 1, 2005; or

(3) The total original principal balance of all loans repaid by a Federal Consolidation Loan or a Direct Consolidation Loan.

(b) A borrower is eligible for the waiver described in paragraph (a) of this section if—

(1) The borrower is either not enrolled in an IDR plan under §§ 682.215, 685.209, or 685.221 or is enrolled in an IDR plan under §§ 682.215, 685.209, or 685.221 but has not previously provided their adjusted gross income or other documentation of income acceptable to the Secretary that demonstrates the borrower's annual income; and

(2) The borrower's adjusted gross income or other documentation of income acceptable to the Secretary demonstrates that the borrower's annual income is equal to or less than 225 percent of the applicable Federal Poverty Guideline as described in § 685.209.

(c) A borrower who has received a waiver under §§ 30.81 or 30.82 is not eligible for a waiver under paragraph (a) of this section.

§ 30.91 Severability. If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the subpart or the application of its provisions to any other person, act, or practice will not be affected thereby.

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§ 682.403 Waiver of FFEL Program loan debt.

(a) General.

(1) This section specifies the rules and procedures under which--

(i) The Secretary determines that a FFEL Program loan qualifies for a waiver of all or a portion of the outstanding balance and notifies the lender of any such determination;

(ii) The lender submits a waiver claim to the applicable guaranty agency;

(iii) The guaranty agency pays the claim, is reimbursed by the Secretary, and assigns the loan to the Secretary; and

(iv) The Secretary grants the waiver.

(2) For the purposes of this section, references to--

(i) "The lender" includes the guaranty agency if the guaranty agency is the holder of the loan at the time the Secretary determines that the loan qualifies for a waiver, except that the waiver claim filing requirements applicable to the lender do not apply to the guaranty agency; and

(ii) "The guaranty agency" means the guaranty agency that guarantees the loan.

(b) Determination of qualification for a waiver by the Secretary. The Secretary may waive the borrower's obligation to repay up to the entire outstanding balance on an FFEL Program loan if the loan qualifies for a waiver under one of the following conditions:

(1) First entered repayment 20 or 25 years ago. (i) ~~The Secretary may waive the outstanding balance of a loan if the loan first entered repayment on or before July 1, 2005, and the borrower only received loans as an undergraduate student or a Federal Consolidation Loan or Direct Consolidation Loan that repaid only loans the borrower received as an undergraduate student.~~

~~(ii)~~ The Secretary may waive the outstanding balance of a loan if the loan first entered repayment on or before July 1, 2000, and the borrower received loans other than loans received as an undergraduate student or a Federal Consolidation Loan or Direct

Consolidation Loan that repaid loans other than loans the borrower received as an undergraduate student.

(ii~~±~~) For the purpose of this section, a loan enters repayment on—

(A) For a Federal Stafford Loan, the day after the initial grace period ends;

(B) For a Federal PLUS Loan, the day the loan is fully disbursed; or

(C) For a Federal Consolidation Loan, the earliest day as determined under paragraph (iii)(A) and (B) of this section for any loan that was repaid by that consolidation loan.

(2) Closed school discharge. The Secretary may waive the borrower's obligation to repay up to the entire outstanding balance of a loan where the Secretary determines that a borrower has not applied or not successfully applied for, but otherwise meets the eligibility requirements for, a closed school discharge on that loan under § 682.402(d).

(3) Cohort default rate. For loans received for attendance at an institution that lost its eligibility to participate in any title IV, HEA program because of its cohort default rate, as defined in 20 U.S.C. 1085(m), the Secretary may waive the outstanding balance of the loan, provided that the borrower was included in the cohort whose debt was used to calculate the cohort default rate or rates that were the basis for the loss of eligibility.

(c) Notification. If the Secretary determines that a loan qualifies for a waiver under paragraph (b) of this section, the Secretary provides notice to the lender that the lender must--

(1) Submit a waiver claim to the applicable guaranty agency; and

(2) Suspend collection activity, or maintain a suspension of collection activity, on the borrower's FFEL Program loan.

(d) Claim procedures.

(1) The guaranty agency must establish and enforce standards and procedures for the timely filing by lenders of waiver claims.

(2) The lender must submit a claim for the full outstanding balance of the loan to the guaranty agency, within 75 days of the date the lender received the notification from the Secretary described in paragraph (c) of this section.

(3) The lender must provide the guaranty agency with the following documentation when filing a waiver claim:

(i) An original or a true and exact copy of the promissory note.

(ii) The notification described in paragraph (c) of this section.

(4) The guaranty agency must review the waiver claim and determine whether the claim meets the requirements of paragraph (d)(3) of this section.

(5) If the guaranty agency determines the waiver claim meets the requirements of paragraph (d)(3) of this section, the guaranty agency must pay the claim within 30 days of the date the claim was received by the guaranty agency.

(6) If the lender receives any payments on the loan from or on behalf of the borrower after receiving a claim payment from the guaranty agency, the lender must promptly return the payments to the sender.

(7) The Secretary reimburses the guaranty agency for the full amount of a claim paid to the lender after the agency pays the claim to the lender.

(8) The guaranty agency must assign the loan to the Secretary within 75 days of—

(i) The date the guaranty agency pays the claim and receives the reimbursement payment; or

(ii) The date the guaranty agency receives the notification described in paragraph (c) of this section if the guaranty agency is the lender.

(9) After the guaranty agency assigns the loan, the Secretary may waive the borrower's obligation to repay up to the entire outstanding balance of the loan.

(10) After the Secretary grants the waiver, the Secretary notifies the borrower, the lender, and the guaranty agency that the borrower's obligation to repay the debt or a portion of the debt, has been waived.

(e) Payments received after the Secretary's payment of a waiver claim.

(1) If the guaranty agency receives any payments from or on behalf of the borrower on a loan that has been assigned to the Secretary in accordance with paragraph (d) of this section, the guaranty agency must promptly return these payments to the sender. At the same time that the agency returns the payments, it must notify the borrower that there is no obligation to make payments on the loan after the Secretary has granted a waiver unless—

(i) The borrower received a partial waiver of the outstanding balance of the loan; or

(ii) The Secretary directs the borrower otherwise.

(2) If the guaranty agency has returned a payment to the borrower, or the borrower's representative, with the notice described in paragraph (e)(1) of this section, and the borrower (or representative) continues to send payments to the guaranty agency, the agency must remit all of those payments to the Secretary.

(3) If the Secretary receives any payments from or on behalf of the borrower on the loan after the Secretary waives the entire outstanding balance of a loan, the Secretary returns the payments to the sender.

(f) If the conditions for waiver in paragraph (b) of this section are met but the loan has been repaid by a Federal Consolidation Loan that has an outstanding balance, the Secretary may waive the portion of the outstanding balance of the consolidation loan attributable to such loan once the loan has been assigned to the Secretary.