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the law applicable to the claim on which relief was granted; or

(B) For a claim asserted under § 685.222, the limitation period in § 685.222(b), (c), or (d), as applicable.

(iv) The Secretary returns to the borrower a payment made by the borrower or otherwise recovered on the loan described in this paragraph (k)(2) only if—

(A) The payment was made directly to the Secretary on the loan; and

(B) The borrower proves that the loan to which the payment was credited was not legally enforceable under applicable law in the amount for which that payment was applied.

(3) If a borrower's application for a discharge of a loan based on a borrower defense is approved under § 685.206(e), the Secretary discharges the obligation of the borrower, in whole or in part, in accordance with the procedures described in § 685.206(e).

(4) If a borrower's application for a discharge of a loan based on a borrower defense is approved under 34 CFR part 685, subpart D, the Secretary discharges the obligation of the borrower, in accordance with the procedures described in subpart D of this part.

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

[59 FR 61690, Dec. 1, 1994]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 685.212, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

**§ 685.213 Total and permanent disability discharge.**

(a) *General.* (1) A borrower's Direct Loan is discharged if the borrower becomes totally and permanently disabled, as defined in § 685.102(b), and satisfies the eligibility requirements in this section.

(2) For a borrower who becomes totally and permanently disabled as described in paragraph (1) of the definition of that term in § 685.102(b), the borrower's loan discharge application is processed in accordance with paragraph (b) of this section.

(3) For veterans who are totally and permanently disabled as described in paragraph (2) of the definition of that term in § 685.102(b), the veteran's loan

discharge application is processed in accordance with paragraph (c) of this section.

(4) For purposes of this section, a borrower's representative or a veteran's representative is a member of the borrower's family, the borrower's attorney, or another individual authorized to act on behalf of the borrower in connection with the borrower's total and permanent disability discharge application. References to a "borrower" or a "veteran" include, if applicable, the borrower's representative or the veteran's representative for purposes of applying for a total and permanent disability discharge, providing notifications or information to the Secretary, and receiving notifications from the Secretary.

(b) *Discharge application process for a borrower who is totally and permanently disabled as described in paragraph (1) of the definition of that term in § 685.102(b)—*

(1) *Borrower application for discharge.* Except as provided in paragraph (d)(2) of this section, to qualify for a discharge of a Direct Loan based on a total and permanent disability, a borrower must submit a discharge application to the Secretary on a form approved by the Secretary. If the borrower notifies the Secretary that the borrower claims to be totally and permanently disabled prior to submitting a total and permanent disability discharge application, the Secretary—

(i) Provides the borrower with information needed for the borrower to apply for a total and permanent disability discharge;

(ii) Suspends collection activity on any of the borrower's title IV loans held by the Secretary, and notifies the borrower's other title IV loan holders to suspend collection activity on the borrower's title IV loans for a period not to exceed 120 days; and

(iii) Informs the borrower that the suspension of collection activity will end after 120 days and collection will resume on the loans if the borrower does not submit a total and permanent disability discharge application to the Secretary within that time.

(2) *Disability certification or Social Security Administration (SSA) disability determination.* The application must contain—

(i) A certification by a physician, who is a doctor of medicine or osteopathy legally authorized to practice in a State, that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in § 685.102(b);

(ii) A certification by a nurse practitioner or physician assistant licensed by a State, or a certified psychologist at the independent practice level who are licensed to practice in the United States, that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in § 685.102(b); or

(iii) An SSA Benefit Planning Query (BPQY) or an SSA notice of award, or other documentation deemed acceptable by the Secretary, indicating that—

(A) The borrower qualifies for Social Security Disability Insurance (SSDI) benefits or Supplemental Security Income (SSI) based on disability, and the borrower's next continuing disability review has been scheduled between 5 and 7 years;

(B) The borrower qualifies for SSDI benefits or SSI based on disability and the borrower's next continuing disability review has been scheduled at 3 years;

(C) The borrower has an established onset date for SSDI benefits or SSI of at least 5 years prior to the application for a disability discharge or has been receiving SSDI benefits or SSI based on disability for at least 5 years prior to the application for a TPD discharge;

(D) The borrower qualifies for SSDI or SSI based on a compassionate allowance; or

(E) For borrowers currently receiving SSA retirement benefits, documentation that, prior to the borrower qualifying for SSA retirement benefits, the borrower met the requirements in paragraphs (b)(2)(iii)(A) through (D) of this section.

(3) *Deadline for application submission.* The borrower must submit the application described in paragraph (b)(1) of this section to the Secretary within 90 days of the date the physician, nurse practitioner, physician assistant, or psychologist certifies the application, if applicable. Upon receipt of the borrower's application, the Secretary—

(i) Identifies all title IV loans owed by the borrower, notifies the lenders that the Secretary has received a total and permanent disability discharge application from the borrower and directs the lenders to suspend collection activity or maintain the suspension of collection activity on the borrower's title IV loans;

(ii) If the application is incomplete, notifies the borrower of the missing information and requests the missing information from the borrower or the physician, nurse practitioner, physician assistant, or psychologist who certified the application, as appropriate, and does not make a determination of eligibility for discharge until the application is complete;

(iii) Notifies the borrower that no payments are due on the loan while the Secretary determines the borrower's eligibility for discharge; and

(iv) Explains the process for the Secretary's review of total and permanent disability discharge applications.

(4) *Determination of eligibility.* (i) If, after reviewing the borrower's completed application, the Secretary determines that the data described in paragraph (b)(2) of this section supports the conclusion that the borrower meets the criteria for a total and permanent disability discharge, as described in paragraph (1) of the definition of that term in § 685.102(b), the borrower is considered totally and permanently disabled—

(A) As of the date the physician, nurse practitioner, physician assistant, or psychologist certified the borrower's application; or

(B) As of the date the Secretary received the SSA data described in paragraph (b)(2)(iii) of this section.

(ii) If the Secretary determines that the borrower's application does not support the conclusion that the borrower is totally and permanently disabled as described in paragraph (1) of the definition of that term in § 685.102(b), the Secretary may require the borrower to submit additional medical evidence. As part of the Secretary's review of the borrower's discharge application, the Secretary may require and arrange for an additional review of the borrower's condition by

an independent physician or other medical professional identified by the Secretary at no expense to the borrower.

(iii) After determining that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in §685.102(b), the Secretary discharges the borrower's obligation to make any further payments on the loan, notifies the borrower that the loan has been discharged, and returns to the person who made the payments on the loan any payments received after the date the physician, nurse practitioner, physician assistant, or psychologist certified the borrower's loan discharge application or the date the Secretary received the SSA data described in paragraph (b)(2)(iii) of this section. The notification to the borrower explains the terms and conditions under which the borrower's obligation to repay the loan will be reinstated, as specified in paragraph (b)(7)(i) of this section.

(iv) If the Secretary determines that the physician, nurse practitioner, physician assistant, or psychologist certification or the SSA data described in paragraph (b)(2)(iii) of this section provided by the borrower does not support the conclusion that the borrower is totally and permanently disabled, as described in paragraph (1) of the definition of that term in §685.102(b), the Secretary notifies the borrower that the application for a disability discharge has been denied. The notification to the borrower includes—

(A) The reason or reasons for the denial;

(B) A statement that the loan is due and payable to the Secretary under the terms of the promissory note and that the loan will return to the status that would have existed if the total and permanent disability discharge application had not been received;

(C) The date that the borrower must resume making payments;

(D) An explanation that the borrower is not required to submit a new total and permanent disability discharge application if the borrower requests that the Secretary re-evaluate the borrower's application for discharge by providing, within 12 months of the date of the notification, additional informa-

tion that supports the borrower's eligibility for discharge; and

(E) An explanation that if the borrower does not request re-evaluation of the borrower's prior discharge application within 12 months of the date of the notification, the borrower must submit a new total and permanent disability discharge application to the Secretary if the borrower wishes the Secretary to re-evaluate the borrower's eligibility for a total and permanent disability discharge.

(v) If the borrower requests re-evaluation in accordance with paragraph (b)(4)(iv)(D) of this section or submits a new total and permanent disability discharge application in accordance with paragraph (b)(4)(iv)(E) of this section, the request must include new information regarding the borrower's disabling condition that was not provided to the Secretary in connection with the prior application at the time the Secretary reviewed the borrower's initial application for total and permanent disability discharge.

(5) *Treatment of disbursements made during the period from the date of the certification or the date the Secretary received the SSA data until the date of discharge.* If a borrower received a title IV loan or TEACH Grant before the date the physician, nurse practitioner, physician assistant, or psychologist certified the borrower's discharge application or before the date the Secretary received the SSA data described in paragraph (b)(2)(iii) of this section and a disbursement of that loan or grant is made during the period from the date of the physician, nurse practitioner, physician assistant, or psychologist certification or the receipt of the SSA data described in paragraph (b)(2)(iii) of this section until the date the Secretary grants a discharge under this section, the processing of the borrower's loan discharge request will be suspended until the borrower ensures that the full amount of the disbursement has been returned to the loan holder or to the Secretary, as applicable.

(6) *Receipt of new title IV loans or TEACH Grants certification, on or after the date the Secretary received the SSA data.* If a borrower receives a disbursement of a new title IV loan or receives

a new TEACH Grant made on or after the date the physician, nurse practitioner, physician assistant, or psychologist certified the borrower's discharge application or on or after the date the Secretary received the SSA data described in paragraph (b)(2)(iii) of this section and before the date the Secretary grants a discharge under this section, the Secretary denies the borrower's discharge request and resumes collection on the borrower's loan.

(7) *Conditions for reinstatement of a loan after a total and permanent disability discharge.* (i) The Secretary reinstates a borrower's obligation to repay a loan that was discharged in accordance with paragraph (b)(4)(iii) of this section if, within 3 years after the date the Secretary granted the discharge, the borrower receives a new TEACH Grant or a new loan under the Direct Loan Program, except for a Direct Consolidation Loan that includes loans that were not discharged.

(ii) If the borrower's obligation to repay the loan is reinstated, the Secretary—

(A) Notifies the borrower that the borrower's obligation to repay the loan has been reinstated;

(B) Returns the loan to the status that would have existed if the total and permanent disability discharge application had not been received; and

(C) Does not require the borrower to pay interest on the loan for the period from the date the loan was discharged until the date the borrower's obligation to repay the loan was reinstated.

(iii) The Secretary's notification under paragraph (b)(7)(ii)(A) of this section will include—

(A) The reason or reasons for the reinstatement;

(B) An explanation that the first payment due date on the loan following reinstatement will be no earlier than 90 days after the date of the notification of reinstatement; and

(C) Information on how the borrower may contact the Secretary if the borrower has questions about the reinstatement or believes that the obligation to repay the loan was reinstated based on incorrect information.

(c) *Discharge application process for veterans who are totally and permanently disabled as described in paragraph (2) of*

*the definition of that term in § 685.102(b)—*

(1) *Veteran's application for discharge.* Except as provided in paragraph (d)(1) of this section, to qualify for a discharge of a Direct Loan based on a total and permanent disability as described in paragraph (2) of the definition of that term in § 685.102(b), a veteran must submit a discharge application to the Secretary on a form approved by the Secretary. The application must be accompanied by documentation from the Department of Veterans Affairs showing that the Department of Veterans Affairs has determined that the veteran is unemployable due to a service-connected disability. The Secretary does not require the veteran to provide any additional documentation related to the veteran's disability. Upon receipt of the veteran's application, the Secretary—

(i) Identifies all title IV loans owed by the veteran and notifies the lenders that the Secretary has received a total and permanent disability discharge application from the borrower;

(ii) If the application is incomplete, requests the missing information from the veteran and does not make a determination of eligibility for discharge until the application is complete;

(iii) Notifies the veteran that no payments are due on the loan while the Secretary determines the veteran's eligibility for discharge; and

(iv) Explains the Secretary's process for reviewing total and permanent disability discharge applications.

(2) *Determination of eligibility.* (i) If the Secretary determines, based on a review of the documentation from the Department of Veterans Affairs, that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in § 685.102(b), the Secretary discharges the veteran's obligation to make any further payments on the loan and returns to the person who made the payments on the loan any payments received on or after the effective date of the determination by the Department of Veterans Affairs that the veteran is unemployable due to a service-connected disability.

(ii) If the Secretary determines, based on a review of the documentation

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from the Department of Veterans Affairs, that the veteran is not totally and permanently disabled as described in paragraph (2) of the definition of that term in §685.102(b), the Secretary notifies the veteran that the application for a disability discharge has been denied. The notification to the veteran includes—

(A) The reason or reasons for the denial;

(B) An explanation that the loan is due and payable to the Secretary under the terms of the promissory note and that the loan will return to the status it was in at the time the veteran applied for a total and permanent disability discharge;

(C) The date that the veteran must resume making payments;

(D) An explanation that the veteran is not required to submit a new total and permanent disability discharge application if the veteran requests that the Secretary re-evaluate the veteran’s application for discharge by providing, within 12 months of the date of the notification, additional documentation from the Department of Veterans Affairs that supports the veteran’s eligibility for discharge; and

(E) Information on how the veteran may reapply for a total and permanent disability discharge in accordance with the procedures described in paragraph (b) of this section if the documentation from the Department of Veterans Affairs does not indicate that the veteran is totally and permanently disabled as described in paragraph (2) of the definition of that term in §685.102(b), but indicates that the veteran may be totally and permanently disabled as described in paragraph (1) of the definition of that term.

(d) *Discharge without an application.*

(1) The Secretary will discharge a loan under this section without an application or any additional documentation from the borrower if the Secretary:

(i) Obtains data from the Department of Veterans Affairs showing that the borrower is unemployable due to a service-connected disability; or

(ii) Obtains data from the Social Security Administration (SSA) described in paragraph (b)(2)(iii) of this section

(2) [Reserved]

(e) *Notification to the borrower.* (1) After determining that a borrower qualifies for a total and permanent disability discharge under paragraph (d) of this section, the Secretary sends a notification to the borrower informing the borrower that the Secretary will discharge the borrower’s title IV loans unless the borrower notifies the Secretary, by a date specified in the Secretary’s notification, that the borrower does not wish to receive the loan discharge.

(2) Unless the borrower notifies the Secretary that the borrower does not wish to receive the discharge the Secretary discharges the loan:

(i) In accordance with paragraph (b)(4)(iii) of this section for a discharge based on data from the SSA; or

(ii) In accordance with paragraph (c)(2)(i) of this section for a discharge based on data from VA.

(3) If the borrower notifies the Secretary that they do not wish to receive the discharge, the borrower will remain responsible for repayment of the borrower’s loans in accordance with the terms and conditions of the promissory notes that the borrower signed.

[77 FR 66142, Nov. 1, 2012, as amended at 84 FR 65007, Nov. 26, 2019; 86 FR 46982, Aug. 23, 2021; 87 FR 66058, Nov. 1, 2022; 88 FR 43065, July 6, 2023]

**§ 685.214 Closed school discharge.**

(a) *General.* (1) The Secretary discharges the borrower’s (and any endorser’s) obligation to repay a Direct Loan in accordance with the provisions of this section if the borrower (or the student on whose behalf a parent borrowed) did not complete the program of study for which the loan was made because the school at which the borrower (or student) was enrolled closed, as described in paragraph (d) of this section.

(2) For purposes of this section—

(i) If a school has closed, the school’s closure date is the earlier of: the date, determined by the Secretary, that the school ceased to provide educational instruction in programs in which most students at the school were enrolled, or a date determined by the Secretary that reflects when the school ceased to provide educational instruction for all of its students;