

Code of Federal Regulations

Title 34. Education

Subtitle B. Regulations of the Offices of the Department of Education

Chapter VI. Office of Postsecondary Education, Department of Education

Part 685. William D. Ford Federal Direct Loan Program (Refs & Annos)

Subpart B. Borrower Provisions

34 C.F.R. § 685.209

§ 685.209 Income-contingent repayment plans.

Effective: July 1, 2017

Currentness

(a) Pay As You Earn repayment plan: The Pay As You Earn repayment plan is an income-contingent repayment plan for eligible new borrowers.

(1) Definitions. As used in this section, other than as expressly provided for in paragraph (c) of this section—

(i) Adjusted gross income (AGI) means the borrower's adjusted gross income as reported to the Internal Revenue Service. For a married borrower filing jointly, AGI includes both the borrower's and spouse's income. For a married borrower filing separately, AGI includes only the borrower's income;

(ii) Eligible loan, for purposes of determining whether a borrower has a partial financial hardship in accordance with paragraph (a)(1)(v) of this section or adjusting a borrower's monthly payment amount in accordance with paragraph (a)(2)(ii) of this section, means any outstanding loan made to a borrower under the Direct Loan Program or the FFEL Program ~~except for a defaulted loan~~, a Direct PLUS Loan or Federal PLUS Loan made to a parent borrower, or a Direct Consolidation Loan or Federal Consolidation Loan that repaid a Direct PLUS Loan or Federal PLUS Loan made to a parent borrower;

(iii) Eligible new borrower means an individual who—

...

(6) Loan forgiveness.

(i) To qualify for loan forgiveness after 20 years, a borrower must have participated in the Pay As You Earn repayment plan and satisfied at least one of the following conditions during that period:

(A) Made reduced monthly payments under a partial financial hardship as provided in paragraph (a)(2)(i) or (a)(2)(ii) of this section, including a monthly payment amount of \$0.00, as provided under paragraph (a)(2)(ii)(C) of this section.

(B) Made reduced monthly payments after the borrower no longer had a partial financial hardship or stopped making income-contingent payments as provided in paragraph (a)(4)(i) of this section.

(C) Made monthly payments under any repayment plan, that were not less than the amount required under the Direct Loan standard repayment plan described in § 685.208(b) with a 10–year repayment period.

(D) Made monthly payments under the Direct Loan standard repayment plan described in § 685.208(b) for the amount of the borrower’s loans that were outstanding at the time the borrower first selected the Pay As You Earn repayment plan.

(E) Made monthly payments under the income-contingent repayment plan described in paragraph (b) of this section, the Revised Pay As You Earn repayment plan described in paragraph (c) of this section, or the income-based repayment plan described in § 685.221, including a calculated monthly payment amount of \$0.00.

(F) Made monthly payments under the alternative repayment plan described in paragraph (c)(4)(v) of this section prior to changing to a repayment plan described under this section or § 685.221;

(G) Received an economic hardship deferment on eligible Direct Loans;

(H) Made payments under § 685.211(d).

(ii) As provided under paragraph (a)(6)(v) of this section, the Secretary cancels any outstanding balance of principal and accrued interest on Direct loans for which the borrower qualifies for forgiveness if the Secretary determines that—

(A) The borrower made monthly payments under one or more of the repayment plans described in paragraph (a)(6)(i) of this section, including a monthly payment amount of \$0.00, as provided under paragraph (a)(2)(ii)(C) of this section; and

(B)(1) The borrower made those monthly payments each year for a 20–year period; or

(2) Through a combination of monthly payments and economic hardship deferments, the borrower has made the equivalent of 20 years of payments.

(iii) For a borrower who qualifies for the Pay As You Earn repayment plan, the beginning date for the 20-year period is—

(A) If the borrower made payments under the income-contingent repayment plan described in paragraph (b) of this section, the Revised Pay As You Earn repayment plan described in paragraph (c) of this section, or the income-based repayment plan described in § 685.221, the earliest date the borrower made a payment on the loan under one of those plans at any time after October 1, 2007; or

(B) If the borrower did not make payments under the income-contingent repayment plan described in paragraph (b) of this section, the Revised Pay As You Earn repayment plan described in paragraph (c) of this section, or the income-based repayment plan described in § 685.221—

(1) For a borrower who has an eligible Direct Consolidation Loan, the date the borrower made a payment or received an economic hardship deferment on that loan, before the date the borrower qualified for the Pay As You Earn repayment plan. The beginning date is the date the borrower made the payment or received the deferment after October 1, 2007;

(2) For a borrower who has one or more other eligible Direct Loans, the date the borrower made a payment or received an economic hardship deferment on that loan. The beginning date is the date the borrower made that payment or received the deferment on that loan after October 1, 2007;

(3) For a borrower who did not make a payment or receive an economic hardship deferment on the loan under paragraph (a)(6)(iii)(B)(1) or (a)(6)(iii)(B)(2) of this section, the date the borrower made a payment on the loan under the Pay As You Earn repayment plan;

(4) If the borrower consolidates his or her eligible loans, the date the borrower made a payment on the Direct Consolidation Loan that met the requirements of paragraph (a)(6)(i) of this section; or

(5) If the borrower did not make a payment or receive an economic hardship deferment on the loan under paragraph (a)(6)(iii)(A) or (a)(6)(iii)(B) of this section, the date the borrower made a payment on the loan under the Pay As You Earn repayment plan.

~~(iv) Any payments made on a defaulted loan are not made under a qualifying repayment plan and are not counted toward~~

~~the 20-year forgiveness period.~~

(v)(A) When the Secretary determines that a borrower has satisfied the loan forgiveness requirements under paragraph (a)(6) of this section on an eligible loan, the Secretary cancels the outstanding balance and accrued interest on that loan. No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the Secretary sends the borrower a written notice that includes—

- (1) An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;
- (2) A reminder that the borrower must continue to make the borrower's scheduled monthly payments; and
- (3) General information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.

(B) The Secretary determines when a borrower has met the loan forgiveness requirements in paragraph (a)(6) of this section and does not require the borrower to submit a request for loan forgiveness.

(C) After determining that a borrower has satisfied the loan forgiveness requirements, the Secretary—

- (1) Notifies the borrower that the borrower's obligation on the loans is satisfied;
- (2) Provides the borrower with the information described in paragraph (a)(6)(v)(A)(3) of this section; and
- (3) Returns to the sender any payment received on a loan after loan forgiveness has been granted.

(b) Income-contingent repayment plan: The income-contingent repayment (ICR) plan is an income-contingent repayment plan under which a borrower's monthly payment amount is generally based on the total amount of the borrower's Direct Loans, family size, and AGI.

...

(iii) Repayment period.

- (A) The maximum repayment period under the ICR plan is 25 years.
- (B) The repayment period includes—
- (1) ~~Periods in which the borrower makes payments under the ICR plan on loans that are not in default~~ Periods in which payments are collected under § 685.211(d);
  - (2) Periods in which the borrower makes reduced monthly payments under the income-based repayment plan or a recalculated reduced monthly payment after the borrower no longer has a partial financial hardship or stops making income-based payments, as provided in § 685.221(d)(1)(i);
  - (3) Periods in which the borrower made monthly payments under the Pay As You Earn repayment plan or the Revised Pay As You Earn repayment plan;
  - (4) Periods in which the borrower made monthly payments under the alternative repayment plan described in paragraph (c)(4)(v) of this section prior to changing to a repayment plan described under this section or § 685.221;
  - (5) Periods in which the borrower made monthly payments under the standard repayment plan after leaving the income-based repayment plan as provided in § 685.221(d)(2);
  - (6) Periods in which the borrower makes payments under the standard repayment plan described in § 685.208(b);
  - (7) For borrowers who entered repayment before October 1, 2007, and if the repayment period is not more than 12 years, periods in which the borrower makes monthly payments under the extended repayment plans described in § 685.208(d) and (e), or the standard repayment plan described in § 685.208(c);
  - (8) Periods after October 1, 2007, in which the borrower makes monthly payments under any other repayment plan that are not less than the amount required under the standard repayment plan described in § 685.208(b); or
  - (9) Periods of economic hardship deferment.

...

(c) Revised Pay As You Earn repayment plan. The Revised Pay As You Earn repayment plan (REPAYE plan) is an income-contingent repayment plan under which a borrower's monthly payment amount is based on the borrower's AGI and family size.

(1) Definitions. As used in this paragraph (c)—

...

(ii) Eligible loan, for purposes of adjusting a borrower's monthly payment amount in accordance with paragraph (c)(2)(ii) of this section, means any outstanding loan made to a borrower under the Direct Loan Program or the FFEL Program ~~except for a defaulted loan~~, a Direct PLUS Loan or Federal PLUS Loan made to a parent borrower, or a Direct Consolidation Loan or Federal Consolidation Loan that repaid a Direct PLUS Loan or Federal PLUS Loan made to a parent borrower;

...

(5) Loan forgiveness.

(i) A borrower who meets the requirements specified in paragraph (c)(5)(iii) of this section may qualify for loan forgiveness after 20 or 25 years, as determined in accordance with paragraph (c)(5)(ii) of this section.

(ii)(A) A borrower whose loans being repaid under the REPAYE plan include only loans the borrower received as an undergraduate student or a consolidation loan that repaid only loans the borrower received as an undergraduate student may qualify for forgiveness after 20 years.

(B) A borrower whose loans being repaid under the REPAYE plan include a loan the borrower received as a graduate or professional student or a consolidation loan that repaid a loan received as a graduate or professional student may qualify for forgiveness after 25 years.

(iii) The Secretary cancels any remaining outstanding balance of principal and accrued interest on a borrower's Direct Loans that are being repaid under the REPAYE plan after—

(A) The borrower has made the equivalent of 240 or 300, as applicable, qualifying monthly payments as defined in paragraph (c)(5)(iv) of this section; and

(B) Twenty or 25 years, as applicable, have elapsed, beginning on the date determined in accordance with paragraph

(c)(5)(v) of this section.

(iv) For the purpose of paragraph (c)(5)(iii)(A) of this section, a qualifying monthly payment is—

(A) A monthly payment under the REPAYE plan, including a monthly payment amount of \$0.00, as provided under paragraph (c)(2)(ii)(C) of this section;

(B) A monthly payment under the Pay As You Earn repayment plan described in paragraph (a) of this section, the income-contingent repayment plan described in paragraph (b) of this section, or the income-based repayment plan described in § 685.221, including a monthly payment amount of \$0.00;

(C) A monthly payment made under—

(1) The Direct Loan standard repayment plan described in § 685.208(b);

(2) The alternative repayment plan described in paragraphs (c)(4)(v) of this section prior to changing to a repayment plan described in paragraph (a), (b), or (c) of this section or § 685.221;

(3) Any other Direct Loan repayment plan, if the amount of the payment was not less than the amount required under the Direct Loan standard repayment plan described in § 685.208(b);

(4) The collection of a defaulted loan described in § 685.211(d) or

(D) A month during which the borrower was not required to make a payment due to receiving an economic hardship deferment on his or her eligible Direct Loans.

(v) For a borrower who makes payments under the REPAYE plan, the beginning date for the 20-year or 25-year repayment period is—

(A) If the borrower made payments under the Pay As You Earn repayment plan described in paragraph (a) of this section, the income-contingent repayment plan described in paragraph (b) of this section, or the income-based repayment plan described in § 685.221, the earliest date the borrower made a payment on the loan under one of those plans; or

(B) If the borrower did not make payments under the Pay As You Earn repayment plan described in paragraph (a) of this section, the income-contingent repayment plan described in paragraph (b) of this section, or the income-based repayment plan described in § 685.221—

(1) For a borrower who has an eligible Direct Consolidation Loan, the date the borrower made a qualifying monthly payment on the consolidation loan, before the date the borrower began repayment under the REPAYE plan;

(2) For a borrower who has one or more other eligible Direct Loans, the date the borrower made a qualifying monthly payment on that loan, before the date the borrower began repayment under the REPAYE plan;

(3) For a borrower who did not make a qualifying monthly payment on the loan under paragraph (c)(5)(v)(B)(1) or (2) of this section, the date the borrower made a payment on the loan under the REPAYE plan;

(4) If the borrower consolidates his or her eligible loans, the date the borrower made a qualifying monthly payment on the Direct Consolidation Loan; or

(5) If the borrower did not make a qualifying monthly payment on the loan under paragraph (c)(5)(v)(A) or (B) of this section, the date the borrower made a payment on the loan under the REPAYE plan.

~~(vi) Any payments made on a defaulted loan are not qualifying monthly payments and are not counted toward the 20-year or 25-year forgiveness period.~~

(vii)(A) When the Secretary determines that a borrower has satisfied the loan forgiveness requirements under paragraph (c)(5) of this section on an eligible loan, the Secretary cancels the outstanding balance and accrued interest on that loan. No later than six months prior to the anticipated date that the borrower will meet the forgiveness requirements, the Secretary sends the borrower a written notice that includes—

(1) An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness;

(2) A reminder that the borrower must continue to make the borrower's scheduled monthly payments; and

(3) General information on the current treatment of the forgiveness amount for tax purposes, and instructions for the borrower to contact the Internal Revenue Service for more information.



(B) The Secretary determines when a borrower has met the loan forgiveness requirements in paragraph (c)(5) of this section and does not require the borrower to submit a request for loan forgiveness.

(C) After determining that a borrower has satisfied the loan forgiveness requirements, the Secretary—

(1) Notifies the borrower that the borrower's obligation on the loans is satisfied;

(2) Provides the borrower with the information described in paragraph (c)(5)(vii)(A)(3) of this section; and

(3) Returns to the sender any payment received on a loan after loan forgiveness has been granted.

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

(Authority: [20 U.S.C. 1087a et seq.](#))

### Credits

[[60 FR 33345](#), June 28, 1995; [60 FR 61823](#), Dec. 1, 1995; [61 FR 24447](#), May 15, 1996; [61 FR 31359](#), June 19, 1996; [64 FR 29183](#), May 28, 1999; [64 FR 58972](#), Nov. 1, 1999; [71 FR 45714](#), Aug. 9, 2006; [73 FR 63256](#), Oct. 23, 2008; [77 FR 66136](#), Nov. 1, 2012; [80 FR 67238](#), Oct. 30, 2015; [81 FR 76081](#), Nov. 1, 2016]

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Notes of Decisions (21)

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