



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

§685.219 Public Service Loan Forgiveness Program.

(a) *General.* The Public Service Loan Forgiveness Program is intended to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining balance of their Direct loans after they satisfy the public service and loan payment requirements of this section.

(b) *Definitions.* The following definitions apply to this ~~section~~:

AmeriCorps position means a position approved by the Corporation for National and Community Service under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573).

Early childhood education program means an early childhood education program as defined in Section 103 (8) of the Act (20 U.S.C. 1003).

Eligible Federal Direct loan means a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct PLUS loan, or a Direct Consolidation loan.

Employee or employed means an individual ~~who is hired and paid by a public service organization to whom an organization issues an IRS Form W-2 or who receives an IRS Form W-2 from an organization that contracts services providing human resources or other administrative requirements.~~

Full-time :

(1) means working in qualifying employment in one or more jobs ~~for the greater of—~~

(i) (A) At least 30 hours per week, or

(B), At least 30 hours per week throughout a contractual or employment period of at least eight months (like those of elementary and secondary school teachers); or

(C) The equivalent of 30 hours per week by converting each credit hour taught into at least 2.5 hours worked each week, for adjunct faculty employment.

~~(2) Unless the qualifying employment is with two or more employers, the number of hours the employer considers full-time.~~

~~(23) When determining whether a borrower works full-time, the Secretary includes vacation or leave time provided by the employer or leave taken for a condition that is a qualifying reason for leave under the Family and Medical Leave Act of 1993, 29 U.S.C. 2612(a)(1) and (3), is not considered in determining the average hours worked on an annual or contract basis toward the number of hours worked per week.~~

Commented [A1]: ED proposes adding a few additional definitions to help clarify what employment qualifies under these categories and clarifying others with more streamlined language.

Commented [A2]: Converts 12 credit hours (full-time for a student receiving Federal financial aid) to 30 hours a week.

Commented [A3]: Is this the right term? Should the Department adopt something different?

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~~**Government employee** means an individual who is employed by a local, State, Federal, or Tribal government, but does not include a member of the U.S. Congress.~~

~~Law enforcement~~ means service ~~performed by an employee of a public service organization~~ that is publicly funded and whose principal activities pertain to crime prevention, control or reduction of crime, or the enforcement of criminal law.

~~Military service~~, ~~for uniformed members of the U.S. Armed Forces or the National Guard, means “active duty” service or “full-time National Guard duty” as defined in section 101(d)(1) and (d)(5) of title 10 in the United States Code, but does not include active duty for training or attendance at a service school. For civilians, “Military service” means~~ ~~is service as an employee of or on behalf of the U.S. Armed Forces or the National Guard~~ ~~performed by an employee of a public service organization.~~

~~Peace Corps position~~ means a full-time assignment under the Peace Corps Act as provided for under 22 U.S.C. 2504.

~~Public health~~ means ~~nurses, nurse practitioners, and nurses in a clinical setting; and those engaged in health care practitioner occupations, health care support occupations, and counselors, social workers, and other community and social service specialist occupations, as such those terms are defined by the Bureau of Labor Statistics.~~

~~Public interest law~~ refers to legal services provided by a public service organization that are funded in whole or in part by a local, State, Federal, or Tribal government.

~~Public service~~ means ~~emergency management, military service, public safety, law enforcement, public interest law services, early childhood education, public service for individuals with disabilities and the elderly, public health, public education, public library services, school library, or other school-based services.~~

~~Public service organization~~ ~~Qualifying employer~~ means:

~~(1) A United States-based~~ Federal, State, local, or Tribal government organization, agency, or entity;

~~(ii) A public child or family service agency;~~

(2) A non-profit organization under section 501(c)(3) of the Internal Revenue Code ~~of 1986~~ that is exempt from taxation under section 501(a) of the Internal Revenue Code; ~~or~~

~~((iv) A Tribal college or university; or~~

~~(v) An private~~ organization that -

~~(i) Provides the following public services: Emergency management, military service, public safety, law enforcement, public interest law services, early childhood education (including licensed or regulated child care, Head Start, and State funded pre-kindergarten), public service for individuals with disabilities and the elderly, public health~~

Commented [A4]: These changes simplify the qualifying employer definition and avoid some redundancies. For example, working at a Tribal College or University would be captured under (1) or (2) and is not needed separately. Additionally, the definition of public service is incorporated separately above and does not need to be restated here.

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~~(including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics), public education, public library services, school library or other school-based services~~ a public service; and

(ii) Is not a business organized for profit, a labor union, or a partisan political organization.

Qualifying repayment plan means:

- (1) An income-based repayment plan under §685.221;
- (2) An income-contingent repayment plan under §685.209;
- (3) The 10-year standard repayment plan under §685.208(b) or consolidation standard repayment plan with a 10-year repayment term under §685.208(b); or
- (4) Except for the alternative repayment plan, any other repayment plan if the monthly payment amount is not less than what would have been paid under the 10-year standard repayment plan under §685.208(b).

(c) Borrower eligibility. (1) A borrower may obtain loan forgiveness under this program if ~~he or the borrower she~~—

(i) Is not in default on the loan for which forgiveness is requested;

(ii) Is employed full-time by a ~~public service organization~~ qualifying employer or serving in a full-time AmeriCorps or Peace Corps position—

(A) ~~During the month for which~~ When the borrower ~~makes satisfied~~ the 120 monthly payments described under paragraph (c)(1)(iii) of this section; and

~~(B) At the time of application for loan forgiveness; and~~

~~(CB) At the time the remaining principal and accrued interest are forgiven~~ borrower applies for forgiveness under paragraph (e) of this section; and

(iii) ~~Makes Satisfied the equivalent of 120 separate~~ monthly payments after October 1, 2007, as described in paragraph (c)(2) of this section, on eligible Direct loans, ~~for which forgiveness is sought.~~ Except as provided in paragraph (c)(2) of this section for a borrower in an AmeriCorps or Peace Corps position or who qualifies for partial repayment of his or her loans under the student loan repayment programs under 10 U.S.C. 2171, 2173, 2174, or any other student loan repayment programs administered by the Department of Defense, ~~the borrower must make the monthly payments within 15 days of the scheduled due date for the full scheduled installment amount; and~~

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~~(iv) Makes the required 120 monthly payments under one or more of the following repayment plans—~~

~~(A) Except for a parent PLUS borrower, an income-based repayment plan, as determined in accordance with §685.221;~~

~~(B) Except for a parent PLUS borrower, an income-contingent repayment plan, as determined in accordance with §685.209;~~

~~(C) A standard repayment plan, as determined in accordance with §685.208(b); or~~

~~(D) Except for the alternative repayment plan, any other repayment plan if the monthly payment amount is not less than what would have been paid under the Direct Loan standard repayment plan described in §685.208(b).~~

(2) A borrower may satisfy monthly payments under paragraph (c)(1)(iii) of this section by—

(i) Paying the full scheduled amount due for a monthly payment under the qualifying repayment plan;

(ii) Paying in multiple installments that equal the full scheduled amount due for a monthly payment under the qualifying repayment plan;

(iii) Paying a lump sum or monthly payment amount equal to or greater than the full scheduled amount in advance of the borrower's scheduled payment due date for a period of months not to exceed the period from the Secretary's receipt of the payment until the borrower's next annual repayment plan recertification date under the qualifying repayment plan in which the borrower is enrolled. ~~(2) If a borrower makes a lump sum payment on an eligible loan for which the borrower is seeking forgiveness by using all or part of a Segal Education Award received after a year of AmeriCorps service, or by using all or part of a Peace Corps transition payment if the lump sum payment is made no later than six months after leaving the Peace Corps or if a lump sum payment is made on behalf of the borrower through the student loan repayment programs under 10 U.S.C. 2171, 2173, or any other student loan repayment programs administered by the Department of Defense, the Secretary will consider the borrower to have made qualifying payments equal to the lesser of —~~

(iv) Receiving one of the following deferments:

(A) A cancer treatment deferment under 455(f)(3) of the Act;

(B) A Peace Corps service deferment under §682.210(k), as applicable to Direct Loan borrowers under §685.204(i);

(C) An economic hardship deferment under §685.204(g); or

(D) A military service deferment under §685.204(h);

Commented [A5]: ED incorporated this into the definition of a qualifying repayment plan above.

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(v) Deferring or forbearing payments--

(A) One time, for up to 12 months, due to service in an AmeriCorps position, if the borrower subsequently applies a Segal Education award to the borrower's eligible Direct Loans; or

(B) For as many periods as the borrower's employment causes them to receive a U.S. Department of Defense-administered student loan repayment benefit under 10 U.S.C. 2171, 2173, 2174 and 16302, except that in no case may a borrower satisfy monthly payments under this section for more than 12 months in a year; or

(vi) On a Direct Consolidation Loan, meeting the criteria in paragraph (c)(2)(i)-(iii) on an eligible Direct Loan that was consolidated.

(3) Service as a member of U.S. Congress is not qualifying employment.

(4) Under paragraph (c)(2)(iii) of this section, a borrower will be deemed to have satisfied the number of monthly repayment obligations that is the lesser of-

(i) The number of ~~payments-months~~ resulting after dividing the amount of the ~~lump sum~~-payment received under paragraph (c)(2)(iii) of this section by the monthly payment amount the borrower would have been obligated to make under paragraph (c)(2) of this section had the borrower not received the deferment or forbearance; or by the monthly payment amount the borrower would have made under paragraph (c)(1)(iv) of this section; or

(ii) Twelve payments.

(d) *Forgiveness Amount.* The Secretary forgives the principal and accrued interest that remains on all ~~eligible loans for which~~ the borrower meets the requirements of paragraph (c) of this section as of the date the borrower satisfied the last required monthly payment obligation. ~~Loan forgiveness is requested by the borrower. The Secretary forgives this amount after the borrower makes the 120 monthly qualifying payments under paragraph (c) of this section.~~

(e) *Application Process.* (1) ~~Notwithstanding paragraph (f) in this section,~~ After making the 120 monthly qualifying payments on the eligible loans for which loan forgiveness is requested, a borrower may request a determination of loan forgiveness on a form ~~provided-approved~~ by the Secretary. ~~(2) If the Secretary determines that the borrower meets the eligibility requirements for loan forgiveness under this section, the Secretary--~~

(2) To receive a determination under paragraph (1) of this section--

(i) A borrower shall provide information about the borrower's employment and employer on a form approved by the Secretary.

(ii) If the borrower is unable to secure a signature from an employer, the Secretary may determine the borrower's qualifying employment or payments based on the documentation provided by the borrower at the Secretary's request.

Commented [A6]: Moved from an earlier place in the regulatory text.

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(iii) The Secretary may request additional documentation pertaining to the borrower’s employer or employment before providing a determination.

(23) If the Secretary determines that the borrower meets the eligibility requirements for loan forgiveness under this section, the Secretary -

- (i) Notifies the borrower of this determination; and
- (ii) Forgives the outstanding balance of the eligible loans.

(34) If the Secretary determines that the borrower does not meet the eligibility requirements for loan forgiveness under this section, the Secretary resumes collection of the loan and grants forbearance of payment on both principal and interest for the period in which collection activity was suspended. The Secretary notifies the borrower that the application has been denied, provides the basis for the denial, and informs the borrower that the Secretary will resume collection of the loan. The Secretary may capitalize any interest accrued and not paid during this period.

(f) Application not required. The Secretary may forgive a loan under this section without an application from the borrower if the Secretary has sufficient information in the Secretary’s possession to determine the borrower has satisfied the requirements for forgiveness under this section.

(g) Reconsideration Process. (1) Within 90 days of receiving a notice under paragraph (e)(4) -of this section, the borrower may request that the Secretary reconsider whether the borrower’s employer or any payment qualifies for PSLF by requesting reconsideration on a form approved by the Secretary. Borrowers who were denied prior to [EFFECTIVE DATE OF REGS], shall have 90 days from that date to request reconsideration.

(2) To evaluate a reconsideration request, the Secretary considers any relevant evidence that is-

- (i) Reasonably obtainable or currently in the Secretary’s possession; and
- (ii) Additional supporting documentation not previously provided by the borrower or employer.

(3) The Secretary notifies the borrower of the reconsideration decision and the reason for the Secretary’s determination.

(4) If the Secretary grants some or all of the borrower’s request for reconsideration, then the Secretary adjusts the borrower’s number of qualifying payments or forgives the loan, as appropriate.

(5) After the Secretary makes a decision on the borrower’s reconsideration request, the Secretary’s decision is final, and the borrower is not permitted to request an additional reconsideration without any additional evidence.

§682.205 Disclosure requirements for lenders.

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(a) *Repayment information* (1) Disclosures at or prior to repayment. The lender must disclose the information described in paragraph (a)(2) of this section, in simple and understandable terms, in a statement provided to the borrower at or prior to the beginning of the repayment period. In the case of a Federal Stafford or Federal PLUS loan, the disclosures required by this paragraph must be made not less than 30 days nor more than 150 days before the first payment on the loan is due from the borrower. If the borrower enters the repayment period without the lender's knowledge, the lender must provide the required disclosures to the borrower immediately upon discovering that the borrower has entered the repayment period.

(2) The lender shall provide the borrower with—

(i) The lender's name, a toll-free telephone number accessible from within the United States that the borrower can use to obtain additional loan information, and the address to which correspondence with the lender and payments should be sent;

(ii) The scheduled date the repayment period is to begin, or a deferment under §682.210(v), if applicable, is to end;

(iii) The estimated balance, including the estimated amount of interest to be capitalized, owed by the borrower as of the date upon which the repayment period is to begin, a deferment under §682.210(v), if applicable, is to end, or the date of the disclosure, whichever is later;

(iv) The actual interest rate on the loan;

(v) An explanation of any fees that may accrue or be charged to the borrower during the repayment period;

(vi) The borrower's repayment schedule, including the due date of the first installment and the number, amount, and frequency of payments based on the repayment schedule selected by the borrower;

(vii) Except in the case of a Consolidation loan, an explanation of any special options the borrower may have for consolidating or refinancing the loan and of the availability and terms of such other options;

(viii) The estimated total amount of interest to be paid on the loan, assuming that payments are made in accordance with the repayment schedule, and if interest has been paid, the amount of interest paid;

(ix) A statement that the borrower has the right to prepay all or part of the loan at any time, without penalty;

(x) Information on any special loan repayment benefits offered on the loan, including benefits that are contingent on repayment behavior, and any other special loan repayment benefits for which the borrower may be eligible that would reduce the amount or length of repayment; and at the request of the borrower, an explanation of the effect of a reduced interest rate on the borrower's total payoff amount and time for repayment;

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(xi) If the lender provides a repayment benefit, any limitations on that benefit, any circumstances in which the borrower could lose that benefit, and whether and how the borrower may regain eligibility for the repayment benefit;

(xii) A description of all the repayment plans available to the borrower and a statement that the borrower may change plans during the repayment period at least annually;

(xiii) A description of the options available to the borrower to avoid or be removed from default, as well as any fees associated with those options; and

(xiv) Any additional resources, including nonprofit organizations, advocates and counselors, including the Department of Education's Student Loan Ombudsman, the lender is aware of where the borrower may obtain additional advice and assistance on loan repayment.

(3) *Required disclosures during repayment.* In addition to the disclosures required in paragraph (a)(1) of this section, the lender must provide the borrower of a FFEL loan with a bill or statement that corresponds to each payment installment time period in which a payment is due that includes in simple and understandable terms—

(i) The original principal amount of the borrower's loan;

(ii) The borrower's current balance, as of the time of the bill or statement;

(iii) The interest rate on the loan;

(iv) The total amount of interest for the preceding installment paid by the borrower;

(v) The aggregate amount paid by the borrower on the loan, and separately identifying the amount the borrower has paid in interest on the loan, the amount of fees the borrower has paid on the loan, and the amount paid against the balance in principal;

(vi) A description of each fee the borrower has been charged for the most recent preceding installment time period;

(vii) The date by which a payment must be made to avoid additional fees and the amount of that payment and the fees;

(viii) The lender's or servicer's address and toll-free telephone number for repayment options, payments and billing error purposes; and

(ix) A reminder that the borrower may change repayment plans, a list of all of the repayment plans that are available to the borrower, a link to the Department of Education's Web site for repayment plan information, and directions on how the borrower may request a change in repayment plans from the lender.

(x) A reminder about the Public Service Loan Forgiveness Program, including the address of the Department of Education's website for PSLF.

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(4) *Required disclosures for borrowers having difficulty making payments.* (i) Except as provided in paragraph (a)(4)(ii) of this section, the lender must provide a borrower who has notified the lender that he or she is having difficulty making payments with—

(A) A description of the repayment plans available to the borrower, and how the borrower may request a change in repayment plan;

(B) A description of the requirements for obtaining forbearance on the loan and any costs associated with forbearance; and

(C) A description of the options available to the borrower to avoid default and any fees or costs associated with those options.

(ii) A disclosure under paragraph (a)(4)(i) of this section is not required if the borrower's difficulty has been resolved through contact with the borrower resulting from an earlier disclosure or other communication between the lender and the borrower.

(5) *Required disclosures for borrowers who are 60-days delinquent in making payments on a loan.* (i) The lender shall provide to a borrower who is 60 days delinquent in making required payments a notice of—

(A) The date on which the loan will default if no payment is made;

(B) The minimum payment the borrower must make, as of the date of the notice, to avoid default, including the payment amount needed to bring the loan current or payment in full;

(C) A description of the options available to the borrower to avoid default, including deferment and forbearance and any fees and costs associated with those options;

(D) Any options for discharging the loan that may be available to the borrower; and

(E) Any additional resources, including nonprofit organizations, advocates and counselors, including the Department of Education's Student Loan Ombudsman, the lender is aware of where the borrower may obtain additional advice and assistance on loan repayment.

(ii) The notice must be sent within five business days of the date the borrower becomes 60 days delinquent, unless the lender has sent such a notice within the previous 120 days.

(b) *Exception to disclosure requirement.* In the case of a Federal Unsubsidized Stafford loan or a Federal PLUS loan, the lender is not required to provide the information in paragraph (a)(2)(viii) of this section if the lender, instead of that disclosure, provides the borrower with sample projections of the monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower or student on whose behalf the loan is made is in school. Sample projections must disclose the cost to the borrower of principal and interest, interest only, and capitalized interest. The lender may rely on the Stafford and PLUS promissory notes and associated materials approved by the Secretary for purposes of complying with this section.

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(c) *Borrower may not be charged for disclosures.* The lender must provide the information required by this section at no cost to the borrower.

(d) *Method of disclosure.* Any disclosure of information by a lender under this section may be through written or electronic means.

(e) *Notice of availability of income-sensitive and income-based repayment options.* (1) At the time of offering a borrower a loan and at the time of offering a borrower repayment options, the lender must provide the borrower with a notice that informs the borrower of the availability of income-sensitive and, except for parent PLUS borrowers and Consolidation Loan borrowers whose Consolidation Loan paid off one or more parent PLUS Loans, income-based repayment plans. This information may be provided in a separate notice or as part of the other disclosures required by this section. The notice must inform the borrower—

(i) That the borrower is eligible for income-sensitive repayment and may be eligible for income-based repayment, including through loan consolidation;

(ii) Of the procedures by which the borrower can elect income-sensitive or income-based repayment; and

(iii) Of where and how the borrower may obtain more information concerning income-sensitive and income-based repayment plans.

(2) The promissory note and associated materials approved by the Secretary satisfy the loan origination notice requirements provided for in paragraph (e)(1) of this section.

(f) *Disclosure procedures when a borrower's address is not available.* If a lender receives information indicating it does not know the borrower's current address, the lender is excused from providing disclosure information under this section unless it receives communication indicating a valid borrower address before the 241st day of delinquency, at which point the lender must resume providing the installment bill or statement, and any other disclosure information required under this section not previously provided.

(Approved by the Office of Management and Budget under control number 1845-0020)

(Authority: 20 U.S.C. 1077, 1078, 1078-1, 1078-2, 1078-3, 1082, 1083(a))

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