



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

Proposed Regulatory Text for Issue Papers #6, 7, and 8: Borrower Defense to Repayment
Session 2: November 1-5, 2021

§ 685.103 Applicability of subparts.

(a) Subpart A contains general provisions regarding the purpose and scope of the Direct Loan Program.

(b) Subpart B contains provisions regarding borrowers in the Direct Loan Program.

(c) Subpart C contains certain requirements regarding schools in the Direct Loan Program.

(d) Subpart D contains provisions regarding ~~school eligibility for participation and origination in the Direct Loan Program~~ borrower defense to repayment in the Direct Loan Program.

BD proposed regulatory text session two 2

§ 685.206 Borrower responsibilities and defenses.

* * *

* * * * *

(e) Borrower defense to repayment for loans first disbursed on or after July 1, 2020 and before July 1, 2023. This paragraph (e) applies to borrower defense to repayment for loans first disbursed on or after July 1, 2020 and before July 1, 2023.

BD proposed regulatory text session two 3

[NEW TEXT]

SUBPART D: Borrower Defense to Repayment

§685.400 Scope and Purpose

This subpart sets forth the provisions under which a borrower defense to repayment may be asserted and applies to borrower defense applications received on or after July 1, 2023 and to applications pending with the Secretary on July 1, 2023.

§685.401 Borrower Defense-General

(a) Definitions. For the purposes of this subpart, the following definitions apply:

(1) “Borrower” means

(i) The borrower; and

(ii) In the case of a Direct PLUS Loan, any endorsers, and for a Direct PLUS Loan made to a parent, the student on whose behalf the parent borrowed.

(2) A “borrower defense to repayment” means an act or omission of the school attended by the student that relates to the making of a Direct Loan for enrollment at the school or the provision of educational services for which the loan was provided, and includes one or both of the following:

(i) A defense to repayment of amounts owed to the Secretary on a Direct Loan, or a Direct Consolidation Loan that was used to repay a Direct Loan, FFEL Program Loan, Federal Perkins Loan, Health Professions Student Loan, Loan for Disadvantaged Students under subpart II of part A of title VII of the Public Health Service Act, Health Education Assistance Loan, or Nursing Loan made under part E of the Public Health Service Act; and

(ii) Any accompanying request for reimbursement of payments previously made to the Secretary on the Direct Loan or on a loan repaid by the Direct Consolidation Loan. The Secretary does not limit the period on a borrower’s ability to receive a reimbursement of payments previously made that are associated with a fully or partially approved claim.

(3) The “Department official” means the individual who administers the group process as described in section 685.402 and the institutional response process in § 685.405.

(4) A “Direct Loan” means a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct PLUS Loan, or a Direct Consolidation Loan.

(5) The term “provision of educational services” means the educational resources provided by the institution that are required by an accreditation agency or a State licensing or authorizing agency for the completion of the student’s educational program.

Commented [A1]: For negotiators: This language comes from 2016 regulations. Any comments?

(6) The terms “school” and “institution” may be used interchangeably and include an eligible institution as defined in section 600.2, one of its representatives, or any ineligible institution, organization, or person with whom the eligible institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting, or admissions services. “School” or “institution” also includes persons affiliated with the institution as described in § 668.174(b).

(b) Federal standard for borrower defense applications received on or after July 1, 2023 and for applications pending with the Secretary on July 1, 2023. A borrower with a balance due on a Direct Loan or other federal student loan that could be consolidated into a Federal Direct Consolidation Loan may assert a defense to repayment under this subpart, at any time, if the borrower establishes by a preponderance of the evidence that -

(1) The institution, any of its representatives, or any institution, organization, or person with whom the institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting, or admissions services, made a misrepresentation as defined in 34 CFR part 668,

BD proposed regulatory text session two 5

Subpart F, in connection with the borrower's decision to attend, or to continue attending, the institution or decision to take out a Direct Loan or other federal student loan that could be consolidated into the Federal Direct Consolidation Loan Program;

Commented [A2]: For negotiators: please see revised definition of "misrepresentation" and revisions to subpart F, part 668.

(2) The institution, any of its representatives, or any institution, organization, or person with whom the institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting, or admissions services, made an omission of fact, as defined in 34 CFR part 668, Subpart F, in connection with the borrower's decision to attend, or to continue attending, the institution or decision to take out a Direct Loan or other federal student loan that could be consolidated into the Federal Direct Consolidation Loan Program;

Commented [A3]: For negotiators: please see separate document for proposed options on defining "omission of fact" in subpart F, part 668.

(3) The institution that the borrower received the Direct Loan or other federal student loan that could be consolidated into the Federal Direct Consolidation Loan Program to attend failed to perform its obligations under the terms of a contract with the student;

Commented [A4]: For negotiators: This comes from 2016 regulation. Should this be tied to the provision of education services or not?

(4) The institution, any of its representatives, or any institution, organization, or person with whom the institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting, or admissions services, engaged in aggressive and deceptive recruitment tactics as defined in section 685.401(c), in connection with the borrower's decision to attend, or to continue attending, the institution or decision to take out a Direct Loan or other federal student loan that could be consolidated into the Federal Direct Consolidation Loan Program; or,

(5)(i) The borrower, whether as an individual or as a member of a class, or a governmental agency, has obtained against the institution a favorable judgment based on State or Federal law in a court or administrative tribunal of competent jurisdiction in connection with the borrower's decision to attend, or to continue attending, the institution or decision to take out a Direct Loan or other federal student loan that could be consolidated into the Federal Direct Consolidation Loan Program;

(ii) The Secretary sanctioned or otherwise took adverse action against the institution at which the borrower enrolled; or,

(iii) The institution's institutional or programmatic accrediting agency took corrective action, sanctioned, or otherwise took adverse action against the institution at which the borrower enrolled.

(c) ~~[RESERVE FOR AGGRESSIVE AND DECEPTIVE RECRUITMENT TACTICS DEFINITION]~~ [\[separate document\]](#)

Commented [A5]: For negotiators: please see separate document on proposed options on defining "aggressive and deceptive recruitment"

(d) Exclusions. An institution's violation of an eligibility or compliance requirement in the Act or its implementing regulations is not a basis for a borrower defense under this subpart unless the violation would otherwise constitute a basis for a borrower defense under this subpart.

§685.402 Group Process for Borrower Defense

(a) Group process, generally. Upon consideration of factors including, but not limited to, common facts and claims, fiscal impact, and the promotion of compliance by an institution or other title IV, HEA program participant, the Secretary may initiate a process to determine whether a group of borrowers identified by the Secretary has a borrower defense under this subpart.

(b) Secretary initiated group process. The Secretary may create a group based upon information from sources that include but are not limited to--

(1) Actions by the federal government, State attorneys general, other State agencies or officials, or other law enforcement activity;

(2) Lawsuits related to educational programs filed against institutions or judgments rendered against institutions; or,

(3) Individual borrower defense claims pursuant to § 685.403.

(c) State initiated group process. The Secretary shall consider a request to form a group from States, State attorneys general, or State oversight or regulatory agencies, in which they

(1) Submit an application to the Secretary, on a form approved by the Secretary—

(i) Identifying the requested group, including at minimum:

(A) The name of the institution;

(B) Campuses or programs, if applicable;

(C) A description of the conduct that forms the basis for the borrower defense claim under the federal standard in section 685.401(b); and,

(D) The period under which the activity in (c)(1)(C) of this section occurred;

(ii) Providing evidence that supports the claims made in paragraph (c)(1); and,

(2) Provide any other information or supporting documentation reasonably requested by the Secretary.

(3) There shall be a rebuttable presumption that the Secretary will form a group based upon a request received under paragraph (c) of this section unless the Secretary already has formed a similar group under paragraph (b) of this section.

(4) The Secretary shall provide a response to any State initiated group request under paragraph (c) within 180 days of receipt. That response shall include:

(i) Whether the Secretary will choose to form a group and a definition of the group formed;

(ii) If the Secretary chooses not to form a group, the reasons for not doing so, including rebuttal of the presumption in favor of group formation; and

BD proposed regulatory text session two 7

(iii) Any additional information needed from the State, State attorney general, or State oversight or regulatory agency to continue the State initiated group process.

(5)(i) A State, State attorney general, or State oversight or regulatory agency may request that the Secretary reconsider the group formed under this State initiated group process if the Secretary denies the request to create a group in whole or in part upon the identification of new evidence that was not previously available to the Secretary in forming the group.

(ii) The State, State attorney general, or State oversight or regulatory agency must request reconsideration in forming the group under subsection (c) of this section no later than 90 days from the date of the Secretary's initial decision regarding formation of the group.

(iii) The Secretary shall provide a response to the State, State attorney general, or State oversight or regulatory agency's reconsideration request to form the group within 90 days of receipt of the reconsideration request to form the group. That response must include a definition of the group formed.

(d) Borrower status after group formation. (1) Upon formation of a group of borrowers under this section, the Secretary—

(i) Designates a Department official to present the group's claim in the institutional response process described in § 685.405; and,

(ii) For borrowers who have an application pending with the Secretary prior to the formation of the group, notifies those borrowers that they are an identified member of the group formed under this section and follows 685.403(d) or 685.403(e) as appropriate.

§685.403 Individual Process for Borrower Defense

(a) Individual process, generally. If § 685.402 does not apply to an individual borrower who has submitted a borrower defense application, the Secretary shall initiate a process to determine whether an individual borrower has a borrower defense under this subpart.

(b) Individual process. (1) The Secretary shall consider a request from an individual borrower in which the borrower--

(i) Submits an application to the Secretary, on a form approved by the Secretary; and,

(ii) Provides evidence that supports the application claims made in paragraph (b)(1)(i);

(2) The individual must provide any other information or supporting documentation reasonably requested by the Secretary.

(c) Individual borrower status. (1) Upon receipt of a materially complete application under this section, the Secretary—

(i) Designates a Department official to present the individual's claim in the institutional response process described in § 685.405;

(ii) Notifies the borrower that it will adjudicate the claim under § 685.406(a)(3); and

(iii) Places all the borrower's loans under forbearance in accordance with subsection (d) of this section or stopped enforcement collections in accordance with subsection (e) of this section, as applicable.

(d) If the borrower is not in default on the loan for which a borrower defense has been asserted, grants forbearance on all of the borrower's Title IV loans in accordance with § 685.205(b)(6)(i) and—

(i) Notifies the borrower of the option to decline the forbearance and to continue making payments on the loan and the availability of the income-contingent repayment plans under § 685.209 and the income-based repayment plan under § 685.221; and,

(ii) Ceases charging the borrower interest on the borrower's loans 180 days from the date the borrower was initially granted forbearance in accordance with subsection (d) of this section, if the Department official has failed to make a determination on the borrower's claim.

(e)(1) If the borrower is in default on the loan for which a borrower defense has been asserted, the Secretary—

(i) Suspends collection activity on all loans until the Secretary issues a decision on the borrower defense claim;

(ii) Ceases charging the borrower interest on the borrower's loans 180 days from the date the Secretary initially suspended collection activity in accordance with (e)(1)(i) of this section;

(ii) Notifies the borrower of the suspension of collection activity and explains that collection activity will resume no earlier than 90 days following final adjudication of the borrower defense claim if the Secretary determines that the borrower does not qualify for a full discharge; and

Commented [A6]: For negotiators: If we grant a forbearance, we believe we have to do it on all the borrower's loans because we may not be able to differentiate the ones tied to the borrower defense claim.

BD proposed regulatory text session two 9

(iii) Notifies the borrower of the option to continue making payments under a rehabilitation agreement or other repayment agreement on the defaulted loan.

§685.404 Group Process Based on Prior Secretarial Final Actions

(a) For purposes of forming a Secretary group process in accordance with § 685.402(b), the Department official may consider final actions imposed by the Secretary that directly relate to section 685.401(b). Such final actions include but are not limited to:

- (1) Actions arising from a final program review determination or final audit determination defined under § 668.112(a) or (b), respectively;
- (2) An institution's failure to meet its administrative capability requirements that relate to the education provided by the institution, in accordance with § 668.16;
- (3) An institution's loss of eligibility due to its cohort default rates, in accordance with 34 CFR part 668, subpart N;
- (4) Fines, limitations, suspension, or other emergency actions taken by the Secretary that relate to misrepresentation, aggressive recruitment, or omissions of fact to borrowers;
- (5) Other final actions as determined by the Secretary.

(b) For groups based on prior Secretarial final actions in accordance with this section, section 685.405 shall not apply to the affected institutions.

§685.405 Institutional Response

(a) The Department official notifies the institution of the basis for the group's borrower defense under section 685.402 or individual borrower defense under § 685.403 for purposes of adjudicating the borrower defense claim and to request a response from the school.

(b)(1) The notification in subsection (a) of this section waives any limitation period by which the Secretary may recover from the institution under § 685.409.

(2) The Department official requests a response from the institution within 60 days from the Department official's notification.

(c) The institution must submit an affidavit to the Department official, on a form approved by the Secretary, certifying under penalty of perjury that the information submitted to the Department official is true and correct.

(d) If the institution does not respond to the information request, the Department official shall presume that the institution does not contest the borrowers' defense to repayment claim.

§685.406 Adjudication of borrower defense applications

(a) The Department official adjudicates the borrower defense claim in accordance with this section.

(b)(1) Group process, adjudication. For a group formed under § 685.402, the Department official considers any evidence related to the claim, including materials submitted as part of the group application, individual claims that are part of the group, evidence in the Secretary's possession, evidence provided during the institutional response process described in § 685.405, and any other relevant information.

(2) For a group of borrowers under § 685.402, for which the Department official determines that there may be a borrower defense under § 685.401(b) there is a rebuttable presumption that each member of the group was affected by the act or omission or reasonably relied on such act or omission.

(c) Individual process, adjudication. For an individual process under § 685.403, the Department official adjudicates the borrower defense using the information available to it. The Department official considers any evidence related to the claim, including materials submitted as part of the individual application, evidence in the Secretary's possession, evidence provided during the institutional response process described in § 685.405, and any other relevant information.

(d) If the Department official requires additional information from the school, the school must respond to the Department official's information request within a reasonable timeframe.

(e) The Department official issues a written decision as follows:

(1)(i) If the Department official approves some or all of the allegations in the borrower defense, the written decision states that determination and the relief provided on the basis of that claim as determined under § 685.408.

(ii) If the Department official approves some or all of the allegations in the borrower defense, the Secretary places the borrower's Direct Loans associated with the group borrower defense claim under an interest-free forbearance until the Secretary discharges the loan obligations under § 685.212(k).

(2)(i) Full denial, group. If the Department official denies the borrower defense in full, the written decision states the reasons for the denial, the evidence that was relied upon, the portion of the loans that are due and payable to the Secretary, and whether reimbursement of amounts previously collected is granted, and informs the borrowers that if any balance remains on the Direct Loans associated with the group borrower defense claim, those loans will return to their status prior to the group claim process. The Secretary resumes collection activities on those Direct Loans associated with the group borrower defense claim no earlier than 90 days from the date the Department official issues a written decision. The Department official also informs members of the group of the opportunity to request reconsideration of the claim pursuant to § 685.407.

(ii) Denial, individual. If the Department official denies the borrower defense in full, the written decision states the reasons for the denial, the evidence that was relied upon, the portion of the loans that are due and payable to the Secretary, and whether reimbursement of amounts previously collected is granted, and informs the borrowers that if any balance remains on the Direct Loans associated with

the borrower defense claim, those loans will return to their status prior to the claim process. The Secretary resumes collection activities on those Direct Loans associated with the borrower defense claim no earlier than 90 days from the date the Department official issues a written decision. The Department official also informs the borrower of the opportunity to request reconsideration of the claim pursuant to § 685.407.

(3) The Secretary provides copies of the written decision in this subsection to:

- (i) An individual who was adjudicated under § 685.406(b)(3), as applicable;
- (ii) The members of the group who were adjudicated under § 685.406(b)(1), as applicable; and,
- (iii) To the school, to the extent practicable.

§685.407 Reconsideration

(a) The decision of the Department official is final as to the merits of the group borrower defense and any relief that may be granted on the group claim. Notwithstanding the foregoing—

(1) If the borrower defense is denied in full or in part, an individual or a borrower from the group may request that the Secretary reconsider the borrower defense for reasons including:

(i) Consideration under an otherwise applicable State law standard under § 685.206(c) in lieu of the federal standard; or,

(ii) Identification of evidence that was not previously provided by the borrower and that the final decision did not identify as a basis for the final decision;

(2) Request by a State, State attorney general, or State oversight or regulatory agency that the Secretary reconsider the borrower defense in accordance with subsection (a)(1)(i) of this section. Any such request must provide:

(i) The applicable State law standard;

(ii) Why the State, State attorney general, or State oversight or regulatory agency requests use of such applicable State law standard;

(iii) Why application of the State law standard would result in a different outcome for the group than adjudication under the federal standard; and

(iv) Why the applicable State law standard would lead to a borrower defense; and

(3) The borrower must request reconsideration under this section no later than 90 days from the date of the Department official's written decision, for any decisions issued on or after the effective date of these regulations.

(b) The Department official follows the procedures in § 685.405 to notify the institution of the basis for the group's borrower defense under § 685.402 or individual borrower defense under § 685.403 for purposes of adjudicating reconsideration of the borrower defense claim and to request a response from the school to the reconsideration request;

(c) If accepted for reconsideration by the Secretary, the Department official follows the procedures in §§ 685.402(d)(2) or 685.403(d) for granting forbearance and §§ 685.402(d)(3) or 685.403(e) for defaulted loans, as applicable; and,

(d) The Department official adjudicates the borrower's reconsideration request under § 685.406 and provides notice of the final decision upon reconsideration in accordance with § 685.406(e).

(e) The Secretary may reopen a borrower defense application at any time to consider evidence that was not considered in making the previous decision. If a borrower defense application is reopened by the Secretary, the Secretary follows the procedures in §§ 685.402(d)(2) or 685.403(d) for granting forbearance and for §§ 685.402(d)(3) or 685.403(e) for defaulted loans, as applicable.

§685.408 Relief

(a) There is a rebuttable presumption that a borrower with an approved claim under § 685.406(c) or § 685.406(b) is eligible for full relief unless the Department official is presented with countervailing evidence to the contrary.

(b) The Department official may rebut the presumption that the borrower or borrowers are eligible for full relief under the following conditions:

(i) The borrower or borrowers' borrower defense claim did not cover systemic problems at the school; or,

(ii) The level of harm incurred by the borrower or borrowers was of a *de minimis* value or of a value clearly below that of full relief.

(c) In rebutting the presumption that the borrower or borrowers are eligible for full relief under (b) of this section, the Department official may consider the examples in Table A to this subpart.

(d) The Department official recommends an appropriate amount of relief to the Secretary, which may include a discharge of all amounts owed to the Secretary on the loan at issue and the reimbursement of amounts previously collected by the Secretary on the loan, or some lesser amount.

(e) The Secretary renders a final decision after taking into account the Department official's recommendation and the record compiled under §§ 685.402, 685.403, 685.404, 685.405, and 685.407, as applicable.

(f) The Secretary issues a written decision setting forth the relief granted, after which the designated Department official deciding the claim notifies the borrower of the relief provided and—

(i) Specifies the relief determination;

(ii) Advises that there may be tax implications; and

(iii) If the borrower does not receive a full discharge of all loans covered by the claim, advises the borrower of the requirements to file a request for reconsideration in accordance with section 685.407.

(g) Consistent with the determination of relief under this section, the Secretary discharges the borrower's obligation to repay all or part of the loan and associated costs and fees that the borrower would otherwise be obligated to pay and, if applicable, reimburses the borrower for amounts paid toward the loan voluntarily or through enforced collection.

(h) The Secretary affords the borrower such further relief as appropriate under the circumstances. Such further relief includes, but is not limited to, one or both of the following:

(1) Determining that the borrower is not in default on the loan and is eligible to receive assistance under title IV of the Act.

(2) Updating reports to consumer reporting agencies to which the Secretary previously made adverse credit reports regarding the borrower's Direct Loan.

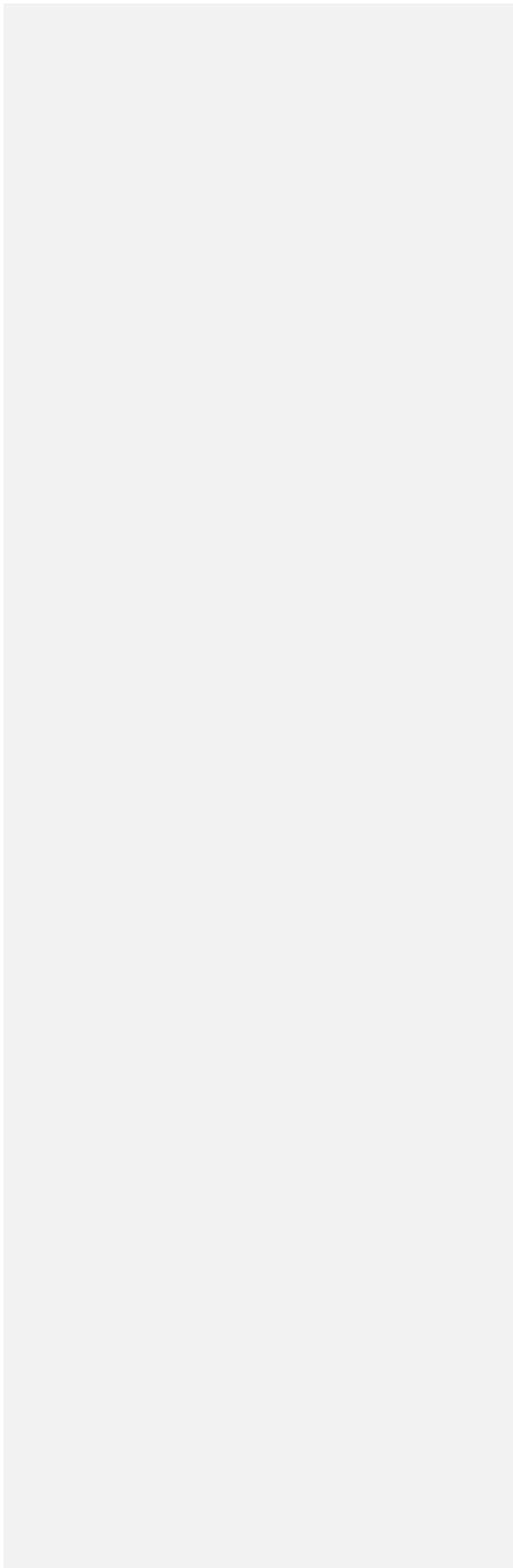
(i) The total amount of relief granted with respect to a borrower defense cannot exceed the amount of the loan and any associated costs and fees, and will be reduced by the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, compromise, or any other financial benefit received by, or on behalf of, the borrower that was related to the borrower defense. The relief to the borrower may not include non-pecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages.

TABLE A:

SCENARIO	EXAMPLE	APPROPRIATE RELIEF
Issues that do not speak to systemic problems	A school represents in its marketing materials that one of its faculty members in a particular course received the highest award in their field. That course is not foundational or a core part of the academic program. A borrower enrolls in that program in reliance on the representation about this renowned faculty member. The school failed to update the marketing materials to reflect the fact that the award-winning faculty is on sabbatical for the next two years.	Appropriate relief: The borrower should receive no relief. Although the borrower reasonably relied on a misrepresentation about the faculty in deciding to enroll at this school, she still received the value of the program and that course was not foundational or a core part of the academic program. Furthermore, the faculty member's absence in one course does not speak to systemic problems at the institution. Therefore, no relief is appropriate.
Easily quantifiable <i>de minimis</i> levels of harm	A school represents to current and prospective students, in widely disseminated materials, that its required books and materials to complete the program cost \$1,200 and can only be purchased from the institution. It then charges student \$1,500 to purchase the materials.	Appropriate relief: This borrower should receive partial relief of \$300. Although the Department presumes that students and prospective students all rely on widely disseminated published materials, the harm is a quantifiable <i>de minimis</i> amount. The school provided the education that the student was seeking but misrepresented the cost of books and materials and it set the price that students were required to pay.
	An institution promises a borrower a free set of materials valued at \$150. The institution ultimately provides the materials, but not for free. The	Appropriate relief: This borrower should receive partial relief equal to the total cost of materials, which is \$150. The institution promised to provide

BD proposed regulatory text session two 17

	borrower takes out \$5,000 in loans to attend the institution.	a specific item with a clear value and did not do so.
--	--	---



§685.409 Recovery from Institution

(a) For loans first disbursed on or after July 1, 2023, the Secretary shall collect from the school, or in the case of a closed school, a person affiliated with the school as described in § 668.174(b), any liability to the Secretary for any amounts discharged or reimbursed to borrowers under the relief process as described under § 685.408.

(b) Notwithstanding the foregoing subsection (a), the Secretary may choose not to collect from the school, or in the case of a closed school, a person affiliated with the school as described in § 668.174(b), any liability to the Secretary for any amounts discharged or reimbursed to borrowers under the relief process as described under § 685.408 under the following conditions:

- (1) The cost of collecting would exceed the amounts received;
- (2) The claims were approved outside of the limitations period in subsection (c) of this section;
- (3) A pre-existing settlement agreement determined by a court or administrative tribunal of competent jurisdiction precludes seeking additional financial recoveries; or
- (4) The Secretary previously collected on the claim in a separate proceeding.

(c)(1) Limitations period to recover from school. The Secretary shall initiate a proceeding to collect from the school the amount of relief resulting from a borrower defense under § 685.408 no later than six years after the borrower's last date of attendance at the institution;

(2) The limitations period described in paragraph (c)(1) of this section shall not apply if the Department official notifies the school of the borrower's claim in accordance with § 685.405(b) prior to the end of the limitations period.

BD proposed regulatory text session two 19

§685.410 Cooperation by the Borrower

To obtain relief under this subpart, a borrower must reasonably cooperate with the Secretary in any proceeding under this subpart.

§685.411 Transfer to the Secretary of the Borrower's Right of Recovery Against Third Parties

(a) Upon the granting of any relief under this subpart, the borrower is deemed to have assigned to, and relinquished in favor of, the Secretary any right to a loan refund (up to the amount discharged) that the borrower may have by contract or applicable law with respect to the loan or the contract for educational services for which the loan was received, against the school, its principals, its affiliates, and their successors, its sureties, and any private fund. If the borrower asserts a claim to, and recovers from, a public fund, the Secretary may reinstate the borrower's obligation to repay on the loan an amount based on the amount recovered from the public fund, if the Secretary determines that the borrower's recovery from the public fund was based on the same borrower defense and for the same loan for which the discharge was granted under this subpart.

(b) The provisions of this section apply notwithstanding any provision of State law that would otherwise restrict transfer of those rights by the borrower, limit or prevent a transferee from exercising those rights, or establish procedures or a scheme of distribution that would prejudice the Secretary's ability to recover on those rights.

(c) Nothing in this section limits or forecloses the borrower's right to pursue legal and equitable relief against a party described in this section for recovery of any portion of a claim exceeding that assigned to the Secretary or any other claims arising from matters unrelated to the claim on which the loan is discharged.

BD proposed regulatory text session two 21

§685.499 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 person, act, or practice shall not be affected thereby.

Last updated 10/25/2021