

## § 682.209

## 34 CFR Ch. VI (7–1–10 Edition)

notice must indicate that a corresponding notice will be sent by the other party to the assignment.

(3) For purposes of this paragraph, the term “assigned” is defined in § 682.401(b)(17)(ii).

(4) The assignee, or the assignor on behalf of the assignee, shall notify the guaranty agency that guaranteed the loan within 45 days of the date the assignee acquires a legally enforceable right to receive payment from the borrower on the loan of—

(i) The assignment; and

(ii) The name and address of the assignee, and the telephone number of the assignee that can be used to obtain information about the repayment of the loan.

(5) The requirements of this paragraph (e), as to borrower notification, apply if the borrower is in a grace period or has entered the repayment period.

(f)(1) Notwithstanding an error by the school or lender, a lender shall follow the procedures in § 682.412 whenever it receives information that can be substantiated that the borrower, or the student on whose behalf a parent has borrowed, has been convicted of, or has pled *nolo contendere* or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance, provided false or erroneous information or took actions that caused the student or borrower—

(i) To be ineligible for all or a portion of a loan made under this part;

(ii) To receive a Stafford loan subject to payment of Federal interest benefits as provided under § 682.301, for which he or she was ineligible; or

(iii) To receive loan proceeds that were not paid to the school or repaid to the lender by or on behalf of a registered student who—

(A) The school notifies the lender under 34 CFR 668.21(a)(2)(ii) has withdrawn or been expelled prior to the first day of classes for the period of enrollment for which the loan was intended; or

(B) Failed to attend school during that period.

(2) For purposes of this section, the term “guaranty agency” in § 682.412(e) refers to the Secretary in the case of a Federal GSL loan.

(g) If, during a period when the borrower is not delinquent, a lender receives information indicating it does not know the borrower’s address, it may commence the skip-tracing activities specified in § 682.411(g).

(h) *Notifying the borrower about a servicing change.* If an FFEL Program loan has not been assigned, but there is a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loan, the holder of the loan shall, no later than 45 days after the date of the change, provide notice to the borrower of the name, telephone number, and address of the party to whom subsequent payments or communications must be sent. The requirements of this paragraph apply if the borrower is in a grace period or has entered the repayment period.

(i) A lender shall report enrollment and loan status information, or any Title IV loan-related data required by the Secretary, to the guaranty agency or to the Secretary, as applicable, by the deadline date established by the Secretary.

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(Authority: 20 U.S.C. 1077, 1078, 1078–1, 1078–2, 1078–3, 1079, 1080, 1082, 1085)

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### § 682.209 Repayment of a loan.

(a) *Conversion of a loan to repayment status.* (1) For a Consolidation loan, the repayment period begins on the date the loan is disbursed. The first payment is due within 60 days after the date the loan is disbursed.

(2)(i) For a PLUS loan, the repayment period begins on the date of the last disbursement made on the loan. Interest accrues and is due and payable from the date of the first disbursement of the loan. The first payment is due within 60 days after the date the loan is fully disbursed.

(ii) For an SLS loan, the repayment period begins on the date the loan is disbursed, or, if the loan is disbursed in

multiple installments, on the date of the last disbursement of the loan. Interest accrues and is due and payable from the date of the first disbursement of the loan. Except as provided in paragraph (a)(2)(iii), (a)(2)(iv), and (a)(2)(v) of this section the first payment is due within 60 days after the date the loan is fully disbursed.

(iii) For an SLS borrower who has not yet entered repayment on a Stafford loan, the borrower may postpone payment, consistent with the grace period on the borrower's Stafford loan.

(iv) If the lender first learns after the fact that an SLS borrower has entered the repayment period, the repayment begins no later than 75 days after the date the lender learns that the borrower has entered the repayment period.

(v) The lender may establish a first payment due date that is no more than an additional 30 days beyond the period specified in paragraphs (a)(2)(i)–(a)(2)(iv) of this section in order for the lender to comply with the required deadline contained in § 682.205(c)(1).

(3)(i) Except as provided in paragraph (a)(4) of this section, for a Stafford loan the repayment period begins—

(A) For a borrower with a loan for which the applicable interest rate is 7 percent per year, not less than 9 nor more than 12 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an eligible school. The length of this grace period is determined by the lender for loans made under the FISL Program, and by the guaranty agency for loans guaranteed by the agency;

(B) For a borrower with a loan for which the initial applicable interest rate is 8 or 9 percent per year, the day after 6 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an institution of higher education; and

(C) For a borrower with a loan with a variable interest rate, the day after 6 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an institution of higher education.

(ii) The first payment on a Stafford loan is due on a date established by the lender that is no more than—

(A) 60 days following the first day that the repayment period begins;

(B) 60 days from the expiration of a deferment or forbearance period;

(C) 60 days following the end of the post deferment grace period;

(D) If the lender first learns after the fact that the borrower has entered the repayment period, no later than 75 days after the date the lender learns that the borrower has entered the repayment period; or

(E) An additional 30 days beyond the periods specified in paragraphs (a)(3)(ii)(A)–(a)(3)(ii)(D) of this section in order for the lender to comply with the required deadlines contained in § 682.205(c)(1).

(iii) When determining the date that the student was no longer enrolled on at least a half-time basis, the lender must use a new date it receives from a school, unless the lender has already disclosed repayment terms to the borrower and the new date is within the same month and year as the most recent date reported to the lender.

(4) For a borrower of a Stafford loan who is a correspondence student, the grace period specified in paragraph (a)(3)(i) of this section begins on the earliest of—

(i) The day after the borrower completes the program;

(ii) The day after withdrawal as determined pursuant to 34 CFR 668.22; or

(iii) 60 days following the last day for completing the program as established by the school.

(5) For purposes of establishing the beginning of the repayment period for Stafford and SLS loans, the grace periods referenced in paragraphs (a)(2)(iii) and (a)(3)(i) of this section exclude any period during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code is called or ordered to active duty for a period of more than 30 days. Any single excluded period may not exceed three years and includes the time necessary for the borrower to resume enrollment at the next available regular enrollment period. Any Stafford or SLS borrower who is in a grace period when called or ordered to active duty as specified in this paragraph is entitled

**§ 682.209**

**34 CFR Ch. VI (7-1-10 Edition)**

to a full grace period upon completion of the excluded period.

(6)(i) The repayment schedule may provide for substantially equal installment payments or for installment payments that increase or decrease in amount during the repayment period. If the loan has a variable interest rate that changes annually, the lender may establish a repayment schedule that—

(A) Provides for adjustments of the amount of the installment payment to reflect annual changes in the variable interest rate; or

(B) Contains no provision for an adjustment of the amount of the installment payment to reflect annual changes in the variable interest rate, but requires the lender to grant a forbearance to the borrower (or endorser, if applicable) for a period of up to 3 years of payments in accordance with § 682.211(i)(5) in cases where the effect of a variable interest rate on a standard or graduated repayment schedule would result in a loan not being repaid within the maximum repayment term.

(ii) If a graduated or income-sensitive repayment schedule is established, it may not provide for any single installment that is more than three times greater than any other installment. An agreement as specified in paragraph (c)(1)(ii) of this section is not required if the schedule provides for less than the minimum annual payment amount specified in paragraph (c)(1)(i) of this section.

(iii) Not more than six months prior to the date that the borrower's first payment is due, the lender must offer the borrower a choice of a standard, income-sensitive, income-based, graduated, or, if applicable, an extended repayment schedule.

(iv) Except in the case of an income-based repayment schedule, the repayment schedule must require that each payment equal at least the interest that accrues during the interval between scheduled payments.

(v) The lender shall require the borrower to repay the loan under a standard repayment schedule described in paragraph (a)(6)(vi) of this section if the borrower—

(A) Does not select an income-sensitive, income-based, graduated, or, if applicable, an extended repayment

schedule within 45 days after being notified by the lender to choose a repayment schedule;

(B) Chooses an income-sensitive repayment schedule, but does not provide the documentation requested by the lender under paragraph (a)(6)(viii)(C) of this section within the time period specified by the lender; or

(C) Chooses an income-based repayment schedule, but does not provide the income documentation requested by the lender under § 682.215(e)(1)(i) within the time period specified by the lender.

(vi) Under a standard repayment schedule, the borrower is scheduled to pay either—

(A) The same amount for each installment payment made during the repayment period, except that the borrower's final payment may be slightly more or less than the other payments; or

(B) An installment amount that will be adjusted to reflect annual changes in the loan's variable interest rate.

(vii) Under a graduated repayment schedule—

(A)(1) The amount of the borrower's installment payment is scheduled to change (usually by increasing) during the course of the repayment period; or

(2) If the loan has a variable interest rate that changes annually, the lender may establish a repayment schedule that may have adjustments in the payment amount as provided under paragraph (a)(6)(i) of this section; and

(B) An agreement as specified in paragraph (c)(1)(ii) of this section is not required if the schedule provides for less than the minimum annual payment amount specified in paragraph (c)(1)(i) of this section.

(viii) Under an income-sensitive repayment schedule—

(A)(1) The amount of the borrower's installment payment is adjusted annually, based on the borrower's expected total monthly gross income received by the borrower from employment and from other sources during the course of the repayment period; or

(2) If the loan has a variable interest rate that changes annually, the lender may establish a repayment schedule

that may have adjustments in the payment amount as provided under paragraph (a)(6)(i) of this section; and

(B) In general, the lender shall request the borrower to inform the lender of his or her income no earlier than 90 days prior to the due date of the borrower's initial installment payment and subsequent annual payment adjustment under an income-sensitive repayment schedule. The income information must be sufficient for the lender to make a reasonable determination of what the borrower's payment amount should be. If the lender receives late notification that the borrower has dropped below half-time enrollment status at a school, the lender may request that income information earlier than 90 days prior to the due date of the borrower's initial installment payment;

(C) If the borrower reports income to the lender that the lender considers to be insufficient for establishing monthly installment payments that would repay the loan within the applicable maximum repayment period, the lender shall require the borrower to submit evidence showing the amount of the most recent total monthly gross income received by the borrower from employment and from other sources including, if applicable, pay statements from employers and documentation of any income received by the borrower from other parties;

(D) The lender shall grant a forbearance to the borrower (or endorser, if applicable) for a period of up to 5 years of payments in accordance with § 682.211(i)(5) in cases where the effect of decreased installment amounts paid under an income-sensitive repayment schedule would result in a loan not being repaid within the maximum repayment term; and

(E) The lender shall inform the borrower that the loan must be repaid within the time limits specified under paragraph (a)(7) of this section.

(ix) Under an extended repayment schedule, a new borrower whose total outstanding principal and interest in FFEL loans exceed \$30,000 may repay the loan on a fixed annual repayment amount or a graduated repayment amount for a period that may not exceed 25 years. For purposes of this sec-

tion, a "new borrower" is an individual who has no outstanding principal or interest balance on an FFEL Program loan as of October 7, 1998, or on the date he or she obtains an FFEL Program loan after October 7, 1998.

(x) Under an income-based repayment schedule, the borrower repays the loan in accordance with § 682.215.

(xi) A borrower may request a change in the repayment schedule on a loan. The lender must permit the borrower to change the repayment schedule no less frequently than annually, or at any time in the case of a borrower in an income-based repayment plan.

(xii) For purposes of this section, a lender shall, to the extent practicable require that all FFEL loans owed by a borrower to the lender be combined into one account and repaid under one repayment schedule. In that event, the word "loan" in this section shall mean all of the borrower's loans that were combined by the lender into that account.

(7)(i) Subject to paragraphs (a)(7)(ii) through (iv) of this section, and except as provided in paragraph (a)(6)(ix) a lender shall allow a borrower at least 5 years, but not more than 10 years, or 25 years under an extended repayment plan to repay a Stafford, SLS, or PLUS loan, calculated from the beginning of the repayment period. Except in the case of a FISL loan for a period of enrollment beginning on or after July 1, 1986, the lender shall require a borrower to fully repay a FISL loan within 15 years after it is made.

(ii) If the borrower receives an authorized deferment or is granted forbearance, as described in § 682.210 or § 682.211 respectively, the periods of deferment or forbearance are excluded from determinations of the 5-, 10-, and 15- and 25-year periods, and from the 10-, 12-, 15-, 20-, 25-, and 30-year periods for repayment of a Consolidation loan pursuant to § 682.209(h).

(iii) If the minimum annual repayment required in paragraph (c) of this section would result in complete repayment of the loan in less than 5 years, the borrower is not entitled to the full 5-year period.

(iv) The borrower may, prior to the beginning of the repayment period, request and be granted by the lender a

repayment period of less than 5 years. Subject to paragraph (a)(7)(iii) of this section, a borrower who makes such a request may notify the lender at any time to extend the repayment period to a minimum of 5 years.

(8) If, with respect to the aggregate of all loans held by a lender, the total payment made by a borrower for a monthly or similar payment period would not otherwise be a multiple of five dollars, except in the case of payments made under an income-based repayment plan, the lender may round that periodic payment to the next highest whole dollar amount that is a multiple of five dollars.

(b) *Payment application and prepayment.* (1) Except in the case of payments made under an income-based repayment plan, the lender may credit the entire payment amount first to any late charges accrued or collection costs and then to any outstanding interest and then to outstanding principal.

(2)(i) The borrower may prepay the whole or any part of a loan at any time without penalty.

(ii) If the prepayment amount equals or exceeds the monthly payment amount under the repayment schedule established for the loan, the lender shall apply the prepayment to future installments by advancing the next payment due date, unless the borrower requests otherwise. The lender must either inform the borrower in advance using a prominent statement in the borrower's coupon book or billing statement that any additional full payment amounts submitted without instructions to the lender as to their handling will be applied to future scheduled payments with the borrower's next scheduled payment due date advanced consistent with the number of additional payments received, or provide a notification to the borrower after the payments are received informing the borrower that the payments have been so applied and the date of the borrower's next scheduled payment due date. Information related to next scheduled payment due date need not be provided to borrower's making such prepayments while in an in-school, grace, deferment, or forbearance period when payments are not due.

(c) *Minimum annual payment.* (1)(i) Subject to paragraph (c)(1)(ii) of this section and except as otherwise provided by a graduated, income-sensitive, extended, or income-based repayment plan selected by the borrower, during each year of the repayment period, a borrower's total payments to all holders of the borrower's FFEL Program loans must total at least \$600 or the unpaid balance of all loans, including interest, whichever amount is less.

(ii) If the borrower and the lender agree, the amount paid may be less.

(2) The provisions of paragraphs (c)(1)(i) and (ii) of this section may not result in an extension of the maximum repayment period unless forbearance as described in § 682.211, or deferment described in § 682.210, has been approved.

(d) *Combined repayment of a borrower's student PLUS and SLS loans held by a lender.* (1) A lender may, at the request of a student borrower, combine the borrower's, student PLUS and SLS loans held by it into a single repayment schedule.

(2) The repayment period on the loans included in the combined repayment schedule must be calculated based on the beginning of repayment of the most recent included loan.

(3) The interest rate on the loans included in the new combined repayment schedule must be the weighted average of the rates of all included loans.

(e) *Refinancing a fixed-rate PLUS or SLS Program loan to secure a variable interest rate.* (1) Subject to paragraph (g) of this section, a lender may, at the request of a borrower, refinance a PLUS or SLS loan with a fixed interest rate in order to permit the borrower to obtain a variable interest rate.

(2) A loan made under paragraph (e)(1) of this section—

(i) Must bear interest at the variable rate described in § 682.202(a)(2)(ii) and (3)(ii) as appropriate; and

(ii) May not extend the repayment period provided for in paragraph (a)(7)(i) of this section.

(3) The lender may not charge an additional insurance premium or Federal default fee on the loan, but may charge the borrower an administrative fee pursuant to § 682.202(e).

(f) *Refinancing of a fixed-rate PLUS or SLS Program loan to secure a variable interest rate by discharge of previous loan.*

(1) Subject to paragraph (g) of this section, a borrower who has applied for, but been denied, a refinanced loan authorized under paragraph (e) of this section by the holder of the borrower's fixed-rate PLUS or SLS loan, may obtain a loan from another lender for the purpose of discharging the fixed-rate loan and obtaining a variable interest rate.

(2) A loan made under paragraph (f)(1) of this section—

(i) Must bear interest at the variable interest rate described in § 682.202(a)(2)(ii) and (3)(ii) as appropriate;

(ii) May not operate to extend the repayment period provided for in paragraph (a)(7)(i) of this section; and

(iii) Must be disbursed to the holder of the fixed-rate loan to discharge the borrower's obligation thereon.

(3) Upon receipt of the proceeds of a loan made under paragraph (f)(1) of this section, the holder of the fixed-rate loan shall, within five business days, apply the proceeds to discharge the borrower's obligation on the fixed-rate loan, and provide the refinancing lender with either a copy of the borrower's original promissory note evidencing the fixed-rate loan or the holder's written certification that the borrower's obligation on the fixed-rate loan has been fully discharged.

(4) The refinancing lender may charge the borrower an insurance premium on a loan made under paragraph (f)(1) of this section, but may not charge a fee to cover administrative costs.

(5) For purposes of deferments under § 682.210, the refinancing loan—

(i) Is considered a PLUS loan if any of the included loans is a PLUS loan made to a parent;

(ii) Is considered an SLS loan if the combined loan does not include a PLUS loan made to a parent; or

(iii) Is considered a loan to a "new borrower" as defined in § 682.210(b)(7), if all the loans that were refinanced were made on or after July 1, 1987, for a period of enrollment beginning on or after that date.

(g) *Conditions for refinancing certain loans.* (1) A lender may not refinance a loan under paragraphs (e) or (f) of this section if that loan is in default, involves a violation of a condition of reinsurance described in § 682.406, or, in the case of a Federal SLS or Federal PLUS loan, is uninsured by the Secretary.

(2)(i) Prior to refinancing a fixed-rate loan under paragraph (f) of this section, the lender shall obtain a written statement from the holder of the loan certifying that—

(A) The holder has refused to refinance the fixed-rate loan under paragraph (e) of this section; and

(B) The fixed-rate loan is eligible for insurance or reinsurance under paragraph (g)(1) of this section.

(ii) The holder of the fixed-rate loan shall, within 10 business days of receiving a lender's written request to provide a certification under paragraph (g)(2)(i) of this section, provide the lender with that certification, or provide the lender and the guarantor on the loan with a written explanation of the reasons for its inability to provide the certification to the requesting lender.

(iii) The refinancing lender may rely in good faith on the certification provided by the holder of the fixed-rate loan under paragraph (g)(2)(ii) of this section.

(h) *Consolidation loans.* (1) For a Consolidation loan, the repayment period begins on the day of disbursement, with the first payment due within 60 days after the date of disbursement.

(2) If the sum of the amount of the Consolidation loan and the unpaid balance on other student loans to the applicant—

(i) Is less than \$7,500, the borrower shall repay the Consolidation loan in not more than 10 years;

(ii) Is equal to or greater than \$7,500 but less than \$10,000, the borrower shall repay the Consolidation loan in not more than 12 years;

(iii) Is equal to or greater than \$10,000 but less than \$20,000, the borrower shall repay the Consolidation loan in not more than 15 years;

(iv) Is equal to or greater than \$20,000 but less than \$40,000, the borrower shall

**§ 682.210**

**34 CFR Ch. VI (7-1-10 Edition)**

repay the Consolidation loan in not more than 20 years;

(v) Is equal to or greater than \$40,000 but less than \$60,000, the borrower shall repay the Consolidation loan in not more than 25 years; or

(vi) Is equal to or greater than \$60,000, the borrower shall repay the Consolidation loan in not more than 30 years.

(3) For the purpose of paragraph (h)(2) of this section, the unpaid balance on other student loans—

(i) May not exceed the amount of the Consolidation loan; and

(ii) With the exception of the defaulted title IV loans on which the borrower has made satisfactory repayment arrangements with the holder of the loan, does not include the unpaid balance on any defaulted loans.

(4) A repayment schedule for a Consolidation loan—

(i) Must be established by the lender;

(ii) Must require that each payment equal at least the interest that accrues during the interval between scheduled payments.

(5) Upon receipt of the proceeds of a loan made under paragraph (h)(2) of this section, the holder of the underlying loan shall promptly apply the proceeds to discharge fully the borrower's obligation on the underlying loan, and provide the consolidating lender with the holder's written certification that the borrower's obligation on the underlying loan has been fully discharged.

(i) *Treatment by a lender of borrowers' title IV, HEA program funds received from schools if the borrower withdraws.* (1) A lender shall treat a refund or a return of title IV, HEA program funds under § 668.22 when a student withdraws received by the lender from a school as a credit against the principal amount owed by the borrower on the borrower's loan.

(2)(i) If a lender receives a refund or a return of title IV, HEA program funds under § 668.22 when a student withdraws from a school on a loan that is no longer held by that lender, or that has been discharged by another lender by refinancing under § 682.209(f) or by a Consolidation loan, the lender must transmit the amount of the payment, within 30 days of its receipt, to the

lender to whom it assigned the loan, or to the lender that discharged the prior loan, with an explanation of the source of the payment.

(ii) Upon receipt of a refund or a return of title IV, HEA program funds transmitted under paragraph (i)(2)(i) of this section, the holder of the loan promptly must provide written notice to the borrower that the holder has received the return of title IV, HEA program funds.

(j) *Certification on loans to be repaid through consolidation.* Within 10 business days after receiving a written request for a certification from a lender under § 682.206(f), a holder shall either provide the requesting lender the certification or, if it is unable to certify to the matters described in that paragraph, provide the requesting lender and the guarantor on the loan at issue with a written explanation of the reasons for its inability to provide the certification.

(k) Any lender holding a loan is subject to all claims and defenses that the borrower could assert against the school with respect to that loan if—

(1) The loan was made by the school or a school-affiliated organization;

(2) The lender who made the loan provided an improper inducement, as described in paragraph (5)(i) of the definition of *Lender* in § 682.200(b), to the school or any other party in connection with the making of the loan;

(3) The school refers borrowers to the lender; or

(4) The school is affiliated with the lender by common control, contract, or business arrangement.

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 682.209, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 682.210 Deferment.**

(a) *General.* (1)(i) A borrower is entitled to have periodic installment payments of principal deferred during authorized periods after the beginning of