

and loans received by the student, or, if unknown, the loan amount.

(iii) In the case of a student who completes 60 percent or more of the loan period, the Secretary does not discharge any amount because a student who completes 60 percent or more of the loan period is not entitled to a refund.

(e) *Discharge procedures.* (1) Except as provided in paragraph (c)(2) of this section, if the Secretary learns that a school did not make a refund of loan proceeds owed under applicable law and regulations, the Secretary sends the borrower a discharge application and an explanation of the qualifications and procedures for obtaining a discharge. The Secretary also promptly suspends any efforts to collect from the borrower on any affected loan. The Secretary may continue to receive borrower payments.

(2) If a borrower who is sent a discharge application fails to submit the application within 60 days of the Secretary's sending the discharge application, the Secretary resumes collection and grants forbearance of principal and interest for the period in which collection activity was suspended. The Secretary may capitalize any interest accrued and not paid during that period.

(3) If a borrower qualifies for a discharge, the Secretary notifies the borrower in writing. The Secretary resumes collection and grants forbearance of principal and interest on the portion of the loan not discharged for the period in which collection activity was suspended. The Secretary may capitalize any interest accrued and not paid during that period.

(4) If a borrower does not qualify for a discharge, the Secretary notifies the borrower in writing of the reasons for the determination. The Secretary resumes collection and grants forbearance of principal and interest for the period in which collection activity was suspended. The Secretary may cap-

italize any interest accrued and not paid during that period.

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

(Authority: 20 U.S.C. 1087a *et seq.*)

[64 FR 58969, Nov. 1, 1999. Redesignated and amended at 65 FR 65629, Nov. 1, 2000; 66 FR 34765, June 29, 2001]

§ 685.217 Teacher loan forgiveness program.

(a) *General.* (1) The teacher loan forgiveness program is intended to encourage individuals to enter and continue in the teaching profession. For new borrowers, the Secretary repays the amount specified in this paragraph (a) on the borrower's subsidized and unsubsidized Federal Stafford Loans, Direct Subsidized Loans, Direct Unsubsidized Loans, and in certain cases, Federal Consolidation Loans or Direct Consolidation Loans. The forgiveness program is only available to a borrower who has no outstanding loan balance under the FFEL Program or the Direct Loan Program on October 1, 1998 or who has no outstanding loan balance on the date he or she obtains a loan after October 1, 1998.

(2)(i) The borrower must have been employed at an eligible elementary or secondary school that serves low-income families or by an educational service agency that serves low-income families as a full-time teacher for five consecutive complete academic years. The required five years of teaching may include any combination of qualifying teaching service at an eligible elementary or secondary school or an eligible educational service agency.

(ii) Teaching at an eligible elementary or secondary school may be counted toward the required five consecutive complete academic years only if at least one year of teaching was after the 1997-1998 academic year.

(iii) Teaching at an eligible educational service agency may be counted toward the required five consecutive complete academic years only if the consecutive five-year period includes qualifying service at an eligible educational service agency performed after the 2007-2008 academic year.

(3) All borrowers eligible for teacher loan forgiveness may receive loan forgiveness of up to a combined total of \$5,000 on the borrower's eligible FFEL and Direct Loan Program loans.

(4) A borrower may receive loan forgiveness of up to a combined total of \$17,500 on the borrower's eligible FFEL and Direct Loan Program loans if the borrower was employed for five consecutive years—

(i) At an eligible secondary school as a highly qualified mathematics or science teacher, or at an eligible educational service agency as a highly qualified teacher of mathematics or science to secondary school students; or

(ii) At an eligible elementary or secondary school or educational service agency as a highly qualified special education teacher.

(5) The loan for which the borrower is seeking forgiveness must have been made prior to the end of the borrower's fifth year of qualifying teaching service.

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

Academic year means one complete school year at the same school, or two complete and consecutive half years at different schools, or two complete and consecutive half years from different school years at either the same school or different schools. Half years exclude summer sessions and generally fall within a twelve-month period. For schools that have a year-round program of instruction, a minimum of nine months is considered an academic year.

Educational service agency means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies, as defined in section 9101 of the Elementary and Secondary Education Act of 1965, as amended.

Elementary school means a public or nonprofit private school that provides elementary education as determined by State law or the Secretary if that school is not in a State.

Full-time means the standard used by a State in defining full-time employment as a teacher. For a borrower teaching in more than one school, the

determination of full-time is based on the combination of all qualifying employment.

Highly qualified means highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965, as amended.

Secondary school means a public or nonprofit private school that provides secondary education as determined by State law or the Secretary if the school is not in a State.

Teacher means a person who provides direct classroom teaching or classroom-type teaching in a non-classroom setting, including Special Education teachers.

(c) *Borrower eligibility.* (1) A borrower who has been employed at an elementary or secondary school or an educational service agency as a full-time teacher for five consecutive complete academic years may obtain loan forgiveness under this program if the elementary or secondary school or educational service agency—

(i) Is in a school district that qualifies for funds under title I of the Elementary and Secondary Education Act of 1965, as amended;

(ii) Has been selected by the Secretary based on a determination that more than 30 percent of the school's or educational service agency's total enrollment is made up of children who qualify for services provided under title I; and

(iii) Is listed in the *Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits*. If this directory is not available before May 1 of any year, the previous year's directory may be used. The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Education (BIE) or operated on Indian reservations by Indian tribal groups under contract with the BIE to qualify as schools serving low-income students.

(2) If the school or educational service agency at which the borrower is employed meets the requirements specified in paragraph (c)(1) of this section for at least one year of the borrower's five consecutive complete academic years of teaching and fails to meet those requirements in subsequent

years, those subsequent years of teaching qualify for purposes of this section for that borrower.

(3) In the case of a borrower whose five consecutive complete years of qualifying teaching service began before October 30, 2004, the borrower—

(i) May receive up to \$5,000 of loan forgiveness if the borrower—

(A) Demonstrated knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum, as certified by the chief administrative officer of the eligible elementary school or educational service agency where the borrower was employed; or

(B) Taught in a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the eligible secondary school or educational service agency where the borrower was employed.

(ii) May receive up to \$17,500 of loan forgiveness if the borrower—

(A) Taught mathematics or science on a full-time basis at an eligible secondary school, or taught mathematics or science to secondary school students on a full-time basis at an eligible educational service agency, and was a highly qualified mathematics or science teacher; or

(B) Taught as a special education teacher on a full-time basis to children with disabilities at an eligible elementary or secondary school or educational service agency and was a highly qualified special education teacher whose special education training corresponded to the children's disabilities and who has demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum.

(iii) Teaching service performed at an eligible educational service agency may be counted toward the required five years of teaching only if the consecutive five-year period includes qualifying service at an eligible educational service agency performed after the 2007–2008 academic year.

(4) In the case of a borrower whose five consecutive years of qualifying teaching service began on or after October 30, 2004, the borrower—

(i) May receive up to \$5,000 of loan forgiveness if the borrower taught full

time at an eligible elementary or secondary school or educational service agency and was a highly qualified elementary or secondary school teacher.

(ii) May receive up to \$17,500 of loan forgiveness if the borrower—

(A) Taught mathematics or science on a full-time basis at an eligible secondary school, or taught mathematics or science on a full-time basis to secondary school students at an eligible educational service agency, and was a highly qualified mathematics or science teacher; or

(B) Taught as a special education teacher on a full-time basis to children with disabilities at an eligible elementary or secondary school or educational service agency and was a highly qualified special education teacher whose special education training corresponded to the children's disabilities and who has demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum.

(iii) Teaching service performed at an eligible educational service agency may be counted toward the required five years of teaching only if the consecutive five-year period includes qualifying service at an eligible educational service agency performed after the 2007–2008 academic year.

(5) To qualify for loan forgiveness as a highly qualified teacher, the teacher must have been a highly qualified teacher for all five years of eligible teaching service.

(6) For teacher loan forgiveness applications received by the Secretary on or after July 1, 2006, a teacher in a private, non-profit elementary or secondary school who is exempt from State certification requirements unless otherwise applicable under State law may qualify for loan forgiveness under paragraphs (c)(3)(ii) or (c)(4) of this section if—

(i) The private school teacher is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in applicable grade levels and subject areas;

(ii) The competency tests are recognized by 5 or more States for the purposes of fulfilling the highly qualified teacher requirements under section

§ 685.217

34 CFR Ch. VI (7-1-11 Edition)

9101 of the Elementary and Secondary Education Act of 1965; and

(iii) The private school teacher achieves a score on each test that equals or exceeds the average passing score for those 5 states.

(7) The academic year may be counted as one of the borrower's five consecutive complete academic years if the borrower completes at least one-half of the academic year and the borrower's employer considers the borrower to have fulfilled his or her contract requirements for the academic year for the purposes of salary increases, tenure, and retirement if the borrower is unable to complete an academic year due to—

(i) A return to postsecondary education, on at least a half-time basis, that is directly related to the performance of the service described in this section;

(ii) A condition that is covered under the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2601, *et seq.*); or

(iii) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code.

(8) If a borrower meets the requirements of paragraph (c)(7) of this section, the borrower's period of postsecondary education, active duty, or qualifying FMLA condition including the time necessary for the borrower to resume qualifying teaching no later than the beginning of the next regularly scheduled academic year, does not constitute a break in the required five consecutive years of qualifying teaching service.

(9) A borrower who was employed as a teacher at more than one qualifying school, at more than one qualifying educational service agency, or at a combination of both during an academic year and demonstrates that the combined teaching was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools or educational service agencies involved, is considered to have completed one academic year of qualifying teaching.

(10) A borrower is not eligible for teacher loan forgiveness on a defaulted

loan unless the borrower has made satisfactory repayment arrangements to re-establish title IV eligibility, as defined in § 685.200(b).

(11) A borrower may not receive loan forgiveness for the same qualifying teaching service under this section if the borrower receives a benefit for the same teaching service under—

(i) Subtitle D of title I of the National and Community Service Act of 1990;

(ii) 34 CFR 685.219; or

(iii) Section 428 K of the Act.

(d) *Forgiveness amount.* (1) A qualified borrower is eligible for forgiveness of up to \$5,000, or up to \$17,500 if the borrower meets the requirements of paragraphs (c)(3)(ii) or (c)(4)(ii) of this section. The forgiveness amount is deducted from the aggregate amount of the borrower's Direct Subsidized Loan or Direct Unsubsidized Loan or Direct Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as described in paragraph (c) of this section. Only the outstanding portion of the Direct Consolidation Loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, an eligible Direct Subsidized Loan, or an eligible Direct Unsubsidized Loan qualifies for loan forgiveness under this section.

(2) A borrower may not receive more than a total of \$5,000, or \$17,500 if the borrower meets the requirements of paragraphs (c)(3)(ii) or (c)(4)(ii) of this section, in loan forgiveness for outstanding principal and accrued interest under both this section and under section 34 CFR 682.216.

(3) The Secretary does not refund payments that were received from or on behalf of a borrower who qualifies for loan forgiveness under this section.

(e) *Application.* (1) A borrower, after completing the qualifying teacher service, must request loan forgiveness from the Secretary on a form provided by the Secretary.

(2) 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) Unless otherwise instructed by the borrower, applies the proceeds of the loan forgiveness first to any outstanding Direct Unsubsidized Loan balances, next to any outstanding Direct Subsidized Loan balances, next to any qualifying Direct Unsubsidized Consolidation Loan balances, and last to any qualifying outstanding Direct Subsidized Consolidation Loan balances.

(3) If the Secretary determines that the borrower does not meet the eligibility requirements for loan forgiveness under this section, the Secretary notifies the borrower of this determination.

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

(Authority: 20 U.S.C. 1087a *et seq.*)

[65 FR 65629, Nov. 1, 2000, as amended at 71 FR 45715, Aug. 9, 2006; 71 FR 64400, Nov. 1, 2006; 73 FR 35495, June 23, 2008; 74 FR 56004, Oct. 29, 2009]

§ 685.218 Discharge of student loan indebtedness for survivors of victims of the September 11, 2001, attacks.

(a) *Definition of terms.* As used in this section—

(1) *Eligible public servant* means an individual who—

(i) Served as a police officer, firefighter, other safety or rescue personnel, or as a member of the Armed Forces; and

(ii)(A) Died due to injuries suffered in the terrorist attacks on September 11, 2001; or

(B) Became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.

(2) *Eligible victim* means an individual who died due to injuries suffered in the terrorist attacks on September 11, 2001 or became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.

(3) *Eligible parent* means the parent of an eligible victim if—

(i) The parent owes a Direct PLUS Loan incurred on behalf of an eligible victim; or

(ii) The parent owes a Direct Consolidation Loan that was used to repay a Direct PLUS Loan or a FFEL PLUS Loan incurred on behalf of an eligible victim.

(4) *Died due to injuries suffered in the terrorist attacks on September 11, 2001*

means the individual was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001, and the individual died as a direct result of these crashes.

(5) *Became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001* means the individual was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001 and the individual became permanently and totally disabled as a direct result of these crashes.

(i) An individual is considered permanently and totally disabled if—

(A) The disability is the result of a physical injury to the individual that was treated by a medical professional within 72 hours of the injury having been sustained or within 72 hours of the rescue;

(B) The physical injury that caused the disability is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care; and

(C) The individual is unable to work and earn money due to the disability and the disability is expected to continue indefinitely or result in death.

(ii) If the injuries suffered due to the terrorist-related aircraft crashes did not make the individual permanently and totally disabled at the time of or in the immediate aftermath of the attacks, the individual may be considered to be permanently and totally disabled for purposes of this section if the individual's medical condition has deteriorated to the extent that the individual is permanently and totally disabled.

(6) *Immediate aftermath* means, except in the case of an eligible public servant, the period of time from the aircraft crashes until 12 hours after the crashes. With respect to eligible public