§ 685.210  Choice of repayment plan.

(a) Initial selection of a repayment plan. (1) Before a Direct Loan enters into repayment, the Secretary provides the borrower a description of the available repayment plans and requests the borrower to select one. A borrower may select a repayment plan before the loan enters repayment by notifying the Secretary of the borrower’s selection in writing.

(2) The new annual payment period begins on the day after the end of the most recent annual payment period.

(F)(1) If the Secretary receives the documentation described in paragraph (b)(3)(vi)(A)(1) of this section more than 10 days after the specified annual deadline and the borrower’s monthly payment amount is calculated in accordance with paragraph (b)(3)(vi)(D) of this section, the Secretary grants forbearance with respect to payments that are overdue or would be due at the time the new calculated monthly payment amount is determined, if the new monthly payment amount is $0.00 or is less than the borrower’s previously calculated monthly payment amount. Interest that accrues during the portion of this forbearance period that covers payments that are overdue after the end of the prior annual payment period is not capitalized.

(2) Any payments that the borrower continued to make at the previously calculated payment amount after the end of the prior annual payment period and before the new monthly payment amount is calculated are considered to be qualifying payments for purposes of §685.219, provided that the payments otherwise meet the requirements described in §685.219(c)(1).

(G) If a borrower defaults and the Secretary designates the ICR plan for the borrower but the borrower fails to comply with the requirements in paragraph (b)(3)(vi)(A) of this section, the Secretary mails a notice to the borrower establishing a repayment schedule for the borrower.

(2) If a borrower does not select a repayment plan, the Secretary designates the standard repayment plan described in §685.208(b) for the borrower.

(b) Changing repayment plans. (1) A borrower may change repayment plans at any time after the loan has entered repayment by notifying the Secretary. However, a borrower who is repaying a defaulted loan under the income contingent repayment plan under §685.211(d)(3)(ii) may not change to another repayment plan unless—

(i) The borrower was required to and did make a payment under the income contingent repayment plan in each of the prior three (3) months; or

(ii) The borrower was not required to make payments but made three reasonable and affordable payments in each of the prior three months; and

(iii) The borrower makes and the Secretary approves a request to change plans.

(2)(i) A borrower may not change to a repayment plan that has a maximum repayment period of less than the number of years the loan has already been in repayment, except that a borrower may change to either the income contingent or income-based repayment plan at any time.

(ii) The borrower enters repayment by notifying the Secretary.
under §685.209(a), the income-contingent repayment plan under §685.209(b), or the income-based repayment plan under §685.221, the repayment period is calculated as described in §685.209(a)(6)(iii), §685.209(b)(3)(iii), or §685.221(f)(3), respectively.

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

§685.211 Miscellaneous repayment provisions.

(a) Payment application and prepayment. (1) Except as provided for the income-contingent repayment plan under §685.209(a)(3) or the income-based repayment plan under §685.221(c)(1), the Secretary applies any payment first to any accrued charges and collection costs, then to any outstanding interest, and then to outstanding principal.

(2) A borrower may prepay all or part of a loan at any time without penalty. If a borrower pays any amount in excess of the amount due, the excess amount is a prepayment.

(3) If a prepayment equals or exceeds the monthly repayment amount under the borrower’s repayment plan, the Secretary—

(i) Applies the prepaid amount according to paragraph (a)(1) of this section;

(ii) Advances the due date of the next payment unless the borrower requests otherwise; and

(iii) Notifies the borrower of any revised due date for the next payment.

(4) If a prepayment is less than the monthly repayment amount, the Secretary applies the prepayment according to paragraph (a)(1) of this section.

(b) Repayment incentives. To encourage on-time repayment, the Secretary may reduce the interest rate for a borrower who repays a loan under a system or on a schedule that meets requirements specified by the Secretary.

(c) Refunds and returns of title IV, HEA program funds from schools. The Secretary applies any refund or return of title IV, HEA program funds that the Secretary receives from a school under §685.22 against the borrower’s outstanding principal and notifies the borrower of the refund or return.

(d) Default—(1) Acceleration. If a borrower defaults on a Direct Loan, the entire unpaid balance and accrued interest are immediately due and payable.

(2) Collection charges. If a borrower defaults on a Direct Loan, the Secretary assesses collection charges in accordance with §685.202(e).

(3) Collection of a defaulted loan. (i) The Secretary may take any action authorized by law to collect a defaulted Direct Loan including, but not limited to, filing a lawsuit against the borrower, reporting the default to national credit bureaus, requesting the Internal Revenue Service to offset the borrower’s Federal income tax refund, and garnishing the borrower’s wages.

(ii) If a borrower defaults on a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct Consolidation Loan, or a student Direct PLUS Loan, the Secretary may designate the income contingent repayment plan or the income-based repayment plan for the borrower.

(e) Ineligible borrowers. (1) The Secretary determines that a borrower is ineligible if, at the time the loan was made and without the school’s or the Secretary’s knowledge, the borrower (or the student on whose behalf a parent borrowed) provided false or erroneous information, has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program funds, or took actions that caused the borrower or student—

(i) To receive a loan for which the borrower is wholly or partially ineligible;

(ii) To receive interest benefits for which the borrower was ineligible; or

(iii) To receive loan proceeds for a period of enrollment for which the borrower was not eligible.

(2) If the Secretary makes the determination described in paragraph (e)(1) of this section, the Secretary sends an ineligible borrower a demand letter that requires the borrower to repay some or all of a loan, as appropriate. The demand letter requires that within 30 days from the date the letter is mailed, the borrower repay any principal amount for which the borrower is