

**§ 682.301**

**34 CFR Ch. VI (7-1-07 Edition)**

(i) The disbursement check is returned uncashed to the lender or the lender is notified that the disbursement made by electronic funds transfer or master check will not be released from the restricted account maintained by the school; or

(ii) The check for the disbursement has not been negotiated before the 120th day after the date of disbursement or the disbursement made by electronic funds transfer or master check has not been released from the restricted account maintained by the school before that date.

(d) *Rate.* (1) Except as provided in paragraph (d)(2) of this section, the Secretary pays the lender at the actual interest rate on a loan provided that the actual interest rate does not exceed the applicable interest rate.

(2) For a loan disbursed prior to December 15, 1968, or subject to a binding commitment made prior to that date, the Secretary pays an amount during the repayment period equivalent to 3 percent per year of the unpaid principal amount of the loan.

(Authority: 20 U.S.C. 1078, 1082)

[57 FR 60323, Dec. 18, 1992, as amended at 59 FR 25746, May 17, 1994; 59 FR 33352, June 28, 1994; 59 FR 61428, Nov. 30, 1994; 64 FR 18978, Apr. 16, 1999; 64 FR 58959, Nov. 1, 1999; 66 FR 34763, June 29, 2001; 71 FR 45703, Aug. 9, 2006]

**§ 682.301 Eligibility of borrowers for interest benefits on Stafford and Consolidation loans.**

(a) *General.* (1) To qualify for benefits on a Stafford loan, a borrower must demonstrate financial need in accordance with Part F of the Act.

(2) The Secretary considers a member of a religious order, group, community, society, agency, or other organization who is pursuing a course of study at an institution of higher education to have no financial need if that organization—

(i) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(ii) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(iii) (A) Directs the member to pursue the course of study; or

(B) Provides subsistence support to its members.

(3) A Consolidation loan borrower qualifies for interest benefits during authorized periods of deferment on the portion of the loan that does not represent HEAL loans if the loan application was received by the lender—

(i) On or after January 1, 1993 but prior to August 10, 1993;

(ii) On or after August 10, 1993, but prior to November 13, 1997 if the loan consolidates only subsidized Stafford loans; and

(iii) On or after November 13, 1997, for the portion of the loan that repaid subsidized FFEL loans and Direct Subsidized Loans.

(b) *Application for interest benefits.* To apply for interest benefits on a Stafford loan, the student, or the school at the direction of the student, must submit a statement to the lender pursuant to § 682.603. The student must qualify for interest benefits if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and expected family contribution as determined under part F of the Act.

(c) *Use of loan proceeds to replace expected family contribution.* A borrower may use the amount of a PLUS, unsubsidized Stafford loan, State sponsored loan, or private program loan obtained for a period of enrollment to replace the expected family contribution for that period of enrollment.

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

(Authority: 20 U.S.C. 1078, 1082, 1087-1)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9120, Feb. 19, 1993; 59 FR 33352, June 28, 1994; 64 FR 18978, Apr. 16, 1999; 64 FR 58959, Nov. 1, 1999]

**§ 682.302 Payment of special allowance on FFEL loans.**

(a) *General.* The Secretary pays a special allowance to a lender on an eligible FFEL loan. The special allowance is a percentage of the average unpaid principal balance of a loan, including capitalized interest, computed in accordance with paragraph (c) of this section.

(b) *Eligible loans.* (1) Except for non-subsidized Federal Stafford loans disbursed on or after October 1, 1981, for

periods of enrollment beginning prior to October 1, 1992, or as provided in paragraphs (b)(2), (b)(3), or (e)(1) of this section, FFEL loans that otherwise meet program requirements are eligible for special allowance payments.

(2) For a loan made under the Federal SLS or Federal PLUS Program on or after July 1, 1987 and prior to July 1, 1994, and for any Federal PLUS loan made on or after July 1, 1998 or on or after January 1, 2000 for any period prior to April 1, 2006, or under §682.209(e) or (f), no special allowance is paid for any period for which the interest rate calculated prior to applying the interest rate maximum for that loan does not exceed—

(i) 12 percent in the case of a Federal SLS or PLUS loan made prior to October 1, 1992;

(ii) 11 percent in the case of a Federal SLS loan made on or after October 1, 1992;

(iii) 10 percent in the case of a Federal PLUS loan made on or after October 1, 1992; or

(iv) 9 percent in the case of a Federal PLUS loan made on or after July 1, 1998.

(3) In the case of a subsidized Stafford loan disbursed on or after October 1, 1992, the Secretary does not pay special allowance on a disbursement if—

(i) The disbursement check is returned uncashed to the lender or the lender is notified that the disbursement made by electronic funds transfer or master check will not be released from the restricted account maintained by the school; or

(ii) The check for the disbursement has not been negotiated before the 120th day after the date of disbursement or the disbursement made by electronic funds transfer or master check has not been released from the restricted account maintained by the school before that date.

(c) *Rate.* (1) Except as provided in paragraph (c)(2), (c)(3), or (e) of this section, the special allowance rate for an eligible loan during a 3-month period is calculated by—

(i) Determining the average of the bond equivalent rates of—

(A) The quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as

reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period for a loan for which the first disbursement is made on or after January 1, 2000; or

(B) The 91-day Treasury bills auctioned during the 3-month period for a loan for which the first disbursement is made prior to January 1, 2000;

(ii) Subtracting the applicable interest rate for that loan;

(iii) Adding—

(A)(I) 2.34 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after January 1, 2000;

(2) 2.64 percent to the resulting percentage for a Federal PLUS loan for which the first disbursement is made on or after January 1, 2000;

(3) 2.64 percent to the resulting percentage for a Federal Consolidation Loan that was made based on an application received by the lender on or after January 1, 2000;

(4) 1.74 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after January 1, 2000 during the borrower's in-school, grace, and authorized period of deferment;

(5) 2.8 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after July 1, 1998 and prior to January 1, 2000;

(6) 2.2 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after July 1, 1998 and prior to January 1, 2000, during the borrower's in-school, grace, and authorized period of deferment;

(7) 2.5 percent to the resulting percentage for a Federal Stafford loan for which the first disbursement is made on or after July 1, 1995 and prior to July 1, 1998 for interest that accrues during the borrower's in-school, grace, and authorized period of deferment;

(B) 3.1 percent to the resulting percentage for—

(I) A Federal Stafford Loan made on or after October 1, 1992 and prior to July 1, 1998, except as provided in paragraph (c)(1)(iii)(A)(7) of this section;

(2) A Federal SLS Loan made on or after October 1, 1992;

(3) A Federal PLUS Loan made on or after October 1, 1992 and prior to July 1, 1998;

(4) A Federal PLUS Loan made on or after July 1, 1998 and prior to October 1, 1998, except that no special allowance shall be paid any quarter unless the rate determined under § 682.202(a)(2)(v)(A) exceeds 9 percent;

(5) A Federal PLUS loan made on or after October 1, 1998 and prior to January 1, 2000, except that no special allowance shall be paid during any quarter unless the rate determined under § 682.202(a)(2)(v)(A) exceeds 9 percent;

(6) A Federal Consolidation Loan for which the application was received by the lender prior to January 1, 2000, except that no special allowance shall be paid during any quarter on a loan for which the application was received on or after October 1, 1998 unless the average of the bond equivalent rate of the 91-day Treasury bills auctioned during that quarter, plus 3.1 percent, exceeds the rate determined under Section 682.202(a)(4)(iv);

(C) 3.25 percent to the resulting percentage, for a loan made on or after November 16, 1986, but prior to October 1, 1992;

(D) 3.25 percent to the resulting percentage, for a loan made on or after October 17, 1986 but prior to November 16, 1986, for a period of enrollment beginning on or after November 16, 1986;

(E) 3.5 percent to the resulting percentage, for a loan made prior to October 17, 1986, or a loan described in paragraph (c)(2) of this section; or

(F) 3.5 percent to the resulting percentage, for a loan made on or after October 17, 1986 but prior to November 16, 1986, for a period of enrollment beginning prior to November 16, 1986;

(iv) Rounding the result upward to the nearest one-eighth of 1 percent, for a loan made prior to October 1, 1981; and

(v) Dividing the resulting percentage by 4.

(2) The special allowance rate determined under paragraph (c)(1)(iii)(E) of this section applies to loans made or purchased from funds obtained from the issuance of an obligation of the—

(i) Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant

to an agreement entered into on January 31, 1984; or

(ii) South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(3)(i) Subject to paragraphs (c)(3)(iii), (c)(3)(iv), and (e) of this section, the special allowance rate is that provided in paragraph (c)(3)(ii) of this section for a loan made or guaranteed on or after October 1, 1980 that was made or purchased with funds obtained by the holder from—

(A) The proceeds of tax-exempt obligations originally issued prior to October 1, 1993;

(B) Collections or payments by a guarantor on a loan that was made or purchased with funds obtained by the holder from obligations described in paragraph (c)(3)(i)(A) of this section;

(C) Interest benefits or special allowance payments on a loan that was made or purchased with funds obtained by the holder from obligations described in paragraph (c)(3)(i)(A) of this section;

(D) The sale of a loan that was made or purchased with funds obtained by the holders from obligations described in paragraph (c)(3)(i)(A) of this section; or

(E) The investment of the proceeds of obligations described in paragraph (c)(3)(i)(A) of this section.

(ii) The special allowance rate for a loan described in paragraph (c)(3)(i) is one-half of the rate calculated under paragraph (c)(1) of this section, except that in applying paragraph (c)(1)(iii), 3.5 percent is substituted for the percentages specified therein.

(iii) The special allowance rate applicable to loans described in paragraph (c)(3)(i) of this section that are made prior to October 1, 1992, may not be less than—

(A) 2.5 percent per year on eligible loans for which the applicable interest rate is 7 percent;

(B) 1.5 percent per year on eligible loans for which the applicable interest rate is 8 percent; or

(C) One-half of 1 percent per year on eligible loans for which the applicable rate is 9 percent.

(iv) The special allowance rate applicable to loans described in paragraph

(c)(3)(i) of this section that are made on or after October 1, 1992, may not be less than 9.5 percent minus the applicable interest rate.

(4) Loans made or purchased with funds obtained by the holder from the issuance of tax-exempt obligations originally issued on or after October 1, 1993, and loans made with funds derived from default reimbursement collections, interest, or other income related to eligible loans made or purchased with those tax-exempt funds, do not qualify for the minimum special allowance rate specified in paragraph (c)(3)(iii) or (iv) of this section, and are not subject to the 50 percent limitation on the maximum rate otherwise applicable to loans made with tax-exempt funds.

(5) For purposes of paragraphs (c)(3) and (c)(4), a loan is purchased with funds described in those paragraphs when the loan is refinanced in consideration of those funds.

(d) *Termination of special allowance payments on a loan.* (1) The Secretary's obligation to pay special allowance on a loan terminates on the earliest of—

(i) The date a borrower's loan is repaid;

(ii) The date a borrower's loan check is returned uncashed to the lender;

(iii) The date a lender receives payment on a claim for loss on the loan;

(iv) The date a loan ceases to be guaranteed or ceases to be eligible for reinsurance under this part, with respect to that portion of the loan that ceases to be guaranteed or reinsured, regardless of whether the lender has filed a claim for loss on the loan with the guarantor;

(v) The 60th day after the borrower's default on the loan, unless the lender files a claim for loss on the loan with the guarantor together with all required documentation, on or before the 60th day;

(vi) The 120th day after the date of disbursement, if—

(A) The loan check has not been cashed on or before that date; or

(B) the loan proceeds disbursed by electronic funds transfer or master check in accordance with § 682.207(b)(1)(ii) (B) and (C) have not been released from the restricted ac-

count maintained by the school on or before that date; or

(vii) The 30th day after the date the lender received a returned claim from the guaranty agency on a loan submitted by the deadline specified in (d)(1)(v) of this section for loss on the loan to the lender due solely to inadequate documentation unless the lender files a claim for loss on the loan with the guarantor, together with all required documentation, prior to the 30th day.

(2) In the case of a loan disbursed on or after October 1, 1992, the Secretary does not pay special allowance on a loan if—

(i) The disbursement check is returned uncashed to the lender or the lender is notified that the disbursement made by electronic funds transfer or master check will not be released from the account maintained by the school; or

(ii) The check for the disbursement has not been negotiated before the 120th day after the date of disbursement or the disbursement made by electronic funds transfer or master check has not been released from the account maintained by the school before that date.

(3) Section 682.413 sets forth the circumstances under which a lender may be required to repay the special allowance received on a loan guaranteed by a guaranty agency.

(e) *Limits on special allowance payments on loans made or purchased with funds derived from tax-exempt obligations.*

(1) *General.* (i) The Secretary pays a special allowance on a loan described in paragraph (c)(3) or (c)(4) of this section that is held by or on behalf of an Authority only if the loan meets the requirements of § 682.800.

(ii) The Secretary pays a special allowance at the rate prescribed in paragraph (c)(1) or (c)(3) of this section on a loan described in paragraph (c)(3)(i) of this section that is held by or on behalf of an Authority in accordance with paragraphs (e)(2) through (e)(5) of this section, as applicable. References to "loan" or "loans" in paragraphs (e)(2) through (e)(5) include only loans described in paragraph (c)(3)(i).

(2) *Effect of Refinancing on Special Allowance Payments.* Except as provided in paragraphs (e)(3) through (e)(5) of this section—

(i) The Secretary pays a special allowance at the rate prescribed in paragraph (c)(3) of this section to an Authority that holds a legal or equitable interest in the loan that is pledged or otherwise transferred in consideration of—

(A) Funds listed in paragraph (c)(3)(i) of this section;

(B) Proceeds of a tax-exempt refunding obligation that refinances a debt that—

(1) Was first incurred pursuant to a tax-exempt obligation originally issued prior to October 1, 1993;

(2) Has been financed continuously by tax-exempt obligation.

(ii) The Secretary pays a special allowance to an Authority that holds a legal or equitable interest in the loan that is pledged or otherwise transferred in consideration of funds other than those specified in paragraph (e)(2)(i) of this section either—

(A) At the rate prescribed in paragraph (c)(1) of this section, if—

(1) The prior tax-exempt obligation is retired; or

(2) The prior tax-exempt obligation is defeased by means of obligations that the Authority certifies in writing to the Secretary bears a yield that does not exceed the yield restrictions of section 148 of the Internal Revenue Code and the regulations thereunder, or

(B) At the rate prescribed in paragraph (c)(3) of this section.

(3) *Loans affected by transactions or events after September 30, 2004.* The Secretary pays a special allowance to an Authority at the rate prescribed in paragraph (c)(1) of this section if, after September 30, 2004—

(i) The loan is refinanced with funds other than those listed in paragraph (e)(2)(i) of this section;

(ii) The loan is sold or transferred to any other holder; or

(iii)(A) The loan is financed by a tax-exempt obligation included in the sources in paragraph (e)(2)(i), and

(B) That obligation matures, is refunded, is defeased, or is retired, whichever occurs earliest.

(4) *Loans Affected by Transactions After February 7, 2006.* Except as provided in paragraph (e)(5) of this section, the Secretary pays a special allowance at the rate prescribed in paragraph (c)(1) of this section on any loan—

(i) That was made or purchased on or after February 8, 2006, or

(ii) That was not earning, on February 8, 2006, a quarterly rate of special allowance determined under paragraph (c)(3) of this section.

(5) *Loans affected by transactions after December 30, 2010.* (i) The Secretary pays a special allowance to a holder described in paragraph (e)(5)(ii) of this section at the rate prescribed in paragraph (c)(3) of this section only on a loan—

(A) That was made or purchased prior to December 31, 2010, or

(B) That was earning, before December 31, 2010, a quarterly rate of special allowance determined under paragraph (c)(3) of this section.

(ii) A holder for purposes of this paragraph is an entity that—

(A) On February 8, 2006 and during the quarter for which special allowance is determined under this paragraph—

(1) Is a unit of State or local government or a private nonprofit entity, and

(2) Is not owned or controlled by, or under common ownership or control by, a for-profit entity; and

(B) In the most recent quarterly special allowance payment prior to September 30, 2005, held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal of \$100,000,000 or less for which special allowance was determined and paid under paragraph (c)(3) of this section.

(f) For purposes of this section—

(1) A tax-exempt obligation is an obligation the income of which is exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C.);

(2) The date on which an obligation is considered to be “originally issued” is determined under § 682.302(f)(2)(i) or (ii), as applicable.

(i) An obligation issued to obtain funds to make loans, or to purchase a legal or equitable interest in loans, including by pledge as collateral for that

obligation, is considered to be originally issued on the date issued.

(ii) A tax-exempt obligation that refunds, or is one of a series of tax-exempt refundings with respect to a tax-exempt obligation described in § 682.302(f)(2)(i), is considered to be originally issued on the date on which the obligation described in § 682.302(f)(2)(i) was issued.

(3) A loan is refinanced when an Authority that has pledged the loan as collateral for an obligation of that Authority retains an interest in the loan, but causes the loan to be released from the lien of that obligation and pledged as collateral for a different obligation of that Authority.

(4) References to an Authority include a successor entity that may not qualify as an Authority under § 682.200(b).

[57 FR 60323, Dec. 18, 1992, as amended at 59 FR 25746, May 17, 1994; 59 FR 33353, June 28, 1994; 59 FR 61428, Nov. 30, 1994; 64 FR 18978, Apr. 16, 1999; 64 FR 58626, Oct. 29, 1999; 66 FR 34763, June 29, 2001; 68 FR 75429, Dec. 31, 2003; 71 FR 45703, Aug. 9, 2006; 71 FR 64398, Nov. 1, 2006]

#### § 682.303 [Reserved]

#### § 682.304 Methods for computing interest benefits and special allowance.

(a) *General.* The Secretary pays a lender interest benefits and special allowance on eligible loans on a quarterly basis. These calendar quarters end on March 31, June 30, September 30, and December 31 of each year. A lender may use either the average daily balance method or the actual accrual method to determine the amount of interest benefits payable on a lender's loans. A lender shall use the average daily balance method to determine the balance on which the Secretary computes the amount of special allowance payable on its loans.

(b) *Average daily balance method for interest benefits.* (1) Under this method, the lender adds the unpaid principal balance outstanding on all loans qualifying for interest benefits at each actual interest rate for each day of the quarter, divides the sum by the number of days in the quarter, and rounds the result to the nearest whole dollar. The resulting figure is the average daily

balance for qualified loans outstanding at each actual interest rate.

(2) The Secretary computes the interest benefits due on all qualified loans at each actual interest rate by multiplying the average daily balance thereof by the actual interest rate, multiplying this result by the number of days in the quarter, and then dividing this result by the actual number of days in the year.

(c) *Actual accrual method for interest benefits.* (1) Under this method, the lender computes the total unpaid principal balance outstanding on all qualified loans at each actual interest rate on each day of the quarter, multiplies this result by the actual interest rate, and divides this result by the actual number of days in the year, or, alternatively, 365.25 days. A lender who chooses to divide by 365.25 days must do so for four consecutive years.

(2) The interest benefits due for a quarter equal the sum of the daily interest benefits due, computed under paragraph (c)(1) of this section, for each day of the quarter.

(d) *Average daily balance method for special allowance.* (1) To compute the average daily balance outstanding for purposes of special allowance, the lender adds the unpaid principal balance outstanding on all qualified loans at each applicable interest rate for each day of the quarter, divides this sum by the number of days in the quarter, and rounds the result to the nearest whole dollar. The resulting figure is the average daily balance for the quarter for qualifying loans at each applicable interest rate.

(2) The Secretary computes the special allowance payable to a lender based upon the average daily balance computed by the lender under paragraph (d)(1) of this section.

(Authority: 20 U.S.C. 1082, 1087-1)

#### § 682.305 Procedures for payment of interest benefits and special allowance and collection of origination and loan fees.

(a) *General.* (1) If a lender owes origination fees or loan fees under paragraph (a) of this section, it must submit quarterly reports to the Secretary on a form provided or prescribed by the Secretary, even if the lender is not