

(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.

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

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

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9119, Feb. 19, 1993; 59 FR 25746, May 17, 1994; 59 FR 33352, 33593, June 28, 1994; 60 FR 30788, June 12, 1995; 60 FR 61756, Dec. 1, 1995; 62 FR 63434, Nov. 28, 1997; 64 FR 18977, Apr. 16, 1999; 64 FR 58957, 59043, Nov. 1, 1999; 66 FR 34763, June 29, 2001; 67 FR 67078, Nov. 1, 2002; 68 FR 75428, Dec. 31, 2003; 71 FR 45701, Aug. 9, 2006; 71 FR 64398, Nov. 1, 2006; 72 FR 62001, Nov. 1, 2007]

**§ 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 the repayment period, pursuant to paragraph (b) of this section.

(ii) With the exception of a deferment authorized under paragraph (o) of this section, a borrower may continue to receive a specific type of deferment that is limited to a maximum period of time only if the total amount of time that the borrower has received the deferment does not exceed the maximum time period allowed for the deferment.

(2)(i) For a loan made before October 1, 1981, the borrower is also entitled to have periodic installments of principal deferred during the six-month period (post-deferment grace period) that begins after the completion of each deferment period or combination of those periods, except as provided in paragraph (a)(2)(ii) of this section.

(ii) Once a borrower receives a post-deferment grace period following an unemployment deferment, as described in paragraph (b)(1)(v) of this section, the borrower does not qualify for additional post-deferment grace periods following subsequent unemployment deferments.

(3) Interest accrues and is paid by the borrower during the deferment period and the post-deferment grace period, if applicable, unless interest accrues and is paid by the Secretary for a Stafford loan and for all or a portion of a qualifying Consolidation loan that meets the requirements under §682.301.

(4) As a condition for receiving a deferment, except for purposes of paragraphs (c)(1)(ii) and (iii) of this section, the borrower must request the deferment, and provide the lender with all information and documents required to establish eligibility for a specific type of deferment.

(5) An authorized deferment period begins on the date that the holder determines is the date that the condition entitling the borrower to the deferment first existed, except that an initial unemployment deferment as described in paragraph (h)(2) of this section cannot begin more than 6 months before the date the holder receives a request and documentation required for the deferment.

(6) An authorized deferment period ends on the earlier of—

(i) The date when the condition establishing the borrower's eligibility for the deferment ends;

(ii) Except as provided in paragraph (a)(6)(iv) of this section, the date on which, as certified by an authorized official, the borrower's eligibility for the deferment is expected to end;

(iii) Except as provided in paragraph (a)(6)(iv) of this section, the expiration date of the period covered by any certification required by this section to be obtained for the deferment;

(iv) In the case of an in-school deferment, the student's anticipated graduation date as certified by an authorized official of the school; or

(v) The date when the condition providing the basis for the borrower's eligibility for the deferment has continued to exist for the maximum amount

§ 682.210

34 CFR Ch. VI (7-1-08 Edition)

of time allowed for that type of deferment.

(7) A lender may not deny a borrower a deferment to which the borrower is entitled, even though the borrower may be delinquent, but not in default, in making required installment payments. The 270- or 330-day period required to establish default does not run during the deferment and post-deferment grace periods. Unless the lender has granted the borrower forbearance under § 682.211, when the deferment and, if applicable, the post-deferment grace period expire, a borrower resumes any delinquency status that existed when the deferment period began.

(8) A borrower whose loan is in default is not eligible for a deferment on that loan, unless the borrower has made payment arrangements acceptable to the lender prior to the payment of a default claim by a guaranty agency.

(9) The borrower promptly must inform the lender when the condition entitling the borrower to a deferment no longer exists.

(10) Authorized deferments are described in paragraph (b) of this section. Specific requirements for each deferment are set forth in paragraphs (c) through (s) of this section.

(11) If two individuals are jointly liable for repayment of a PLUS loan or a Consolidation loan, the lender shall grant a request for deferment if both individuals simultaneously meet the requirements of this section for receiving the same, or different deferments.

(b) *Authorized deferments.* (1) Deferment is authorized for a FFEL borrower during any period when the borrower is—

(i) Except as provided in paragraph (c)(5) of this section, engaged in full-time study at a school, or at a school that is operated by the Federal Government (e.g., the service academies), unless the borrower is not a national of the United States and is pursuing a course of study at a school not located in a State;

(ii) Engaged in a course of study under an eligible graduate fellowship program;

(iii) Engaged in a rehabilitation training program for disabled individuals;

(iv) Temporarily totally disabled, or unable to secure employment because the borrower is caring for a spouse or other dependent who is disabled and requires continuous nursing or similar services for up to three years; or

(v) Conscientiously seeking, but unable to find, full-time employment in the United States, for up to two years.

(2) For a borrower of a Stafford or SLS loan, and for a parent borrower of a PLUS loan made before August 15, 1983, deferment is authorized during any period when the borrower is—

(i) On active duty status in the United States Armed Forces, or an officer in the Commissioned Corps of the United States Public Health Service, for up to three years (including any period during which the borrower received a deferment authorized under paragraph (b)(5)(i) of this section);

(ii) A full-time volunteer under the Peace Corps Act, for up to three years;

(iii) A full-time volunteer under title I of the Domestic Volunteer Service Act of 1973 (ACTION programs), for up to three years;

(iv) A full-time volunteer for a tax-exempt organization, for up to three years; or

(v) Engaged in an internship of residency program, for up to two years (including any period during which the borrower received a deferment authorized under paragraph (b)(5)(iii) of this section).

(3) For a borrower of a Stafford or SLS loan who has been enrolled on at least a half-time basis at an institution of higher education during the six months preceding the beginning of this deferment, deferment is authorized during a period of up to six months during which the borrower is—

(i) (A) Pregnant;

(B) Caring for his or her newborn child; or

(C) Caring for a child immediately following the placement of the child with the borrower before or immediately following adoption; and

(ii) Not attending a school or gainfully employed.

(4) For a “new borrower,” as defined in paragraph (b)(7) of this section,

deferment is authorized during periods when the borrower is engaged in at least half-time study at a school, unless the borrower is not a national of the United States and is pursuing a course of study at a school not located in a State.

(5) For a new borrower, as defined in paragraph (b)(7) of this section, of a Stafford or SLS loan, deferment is authorized during any period when the borrower is—

(i) On active duty status in the National Oceanic and Atmospheric Administration Corps, for up to three years (including any period during which the borrower received a deferment authorized under paragraph (b)(2)(i) of this section);

(ii) Up to three years of service as a full-time teacher in a public or non-profit private elementary or secondary school in a teacher shortage area designated by the Secretary under paragraph (q) of this section.

(iii) Engaged in an internship or residency program, for up to two years (including any period during which the borrower received a deferment authorized under paragraph (b)(2)(v) of this section); or

(iv) A mother who has preschool-age children (i.e., children who have not enrolled in first grade) and who is earning not more than \$1 per hour above the Federal minimum wage, for up to 12 months of employment, and who began that full-time employment within one year of entering or re-entering the work force. Full-time employment involves at least 30 hours of work a week and it expected to last at least 3 months.

(6) For a parent borrower of a PLUS loan, deferment is authorized during any period when a student on whose behalf the parent borrower received the loan—

(i) Is not independent as defined in section 480(d) of the Act; and

(ii) Meets the conditions and provides the required documentation, for any of the deferments described in paragraphs (b)(1)(i)–(iii) and (b)(4) of this section.

(7) For purposes of paragraph (b)(5) of this section, a “new borrower” with respect to a loan is a borrower who, on the date he or she signs the promissory note, has no outstanding balance on—

(i) A Stafford, SLS, or PLUS loan made prior to July 1, 1987 for a period of enrollment beginning prior to July 1, 1987; or

(ii) A Consolidation loan that repaid a loan made prior to July 1, 1987 and for a period of enrollment beginning prior to July 1, 1987.

(c) *In-school deferment.* (1) Except as provided in paragraph (c)(5) of this section, the lender processes a deferment for full-time study or half-time study at a school, when—

(i) The borrower submits a request and supporting documentation for a deferment;

(ii) The lender receives information from the borrower’s school about the borrower’s eligibility in connection with a new loan; or

(iii) The lender receives student status information from the borrower’s school, either directly or indirectly, indicating that the borrower’s enrollment status supports eligibility for a deferment.

(2) The lender must notify the borrower that a deferment has been granted based on paragraph (c)(1)(ii) or (iii) of this section and that the borrower has the option to pay interest that accrues on an unsubsidized FFEL Program loan or to cancel the deferment and continue paying on the loan. The lender must include in the notice an explanation of the consequences of these options.

(3) The lender must consider a deferment granted on the basis of a certified loan application or other information certified by the school to cover the period lasting until the anticipated graduation date appearing on the application, and as updated by notice or SSCR update to the lender from the school or guaranty agency, unless and until it receives notice that the borrower has ceased the level of study (i.e., full-time or half-time) required for the deferment.

(4) In the case of a FFEL borrower, the lender shall treat a certified loan application or other form certified by the school or for multiple holders of a borrower’s loans, shared data from the Student Status Confirmation Report, as sufficient documentation for an in-school student deferment for any outstanding FFEL loan previously made

to the borrower that is held by the lender.

(5) A borrower serving in a medical internship or residency program, except for an internship in dentistry, is prohibited from receiving or continuing a deferment on a Stafford, or a PLUS (unless based on the dependent's status) SLS, or Consolidation loan under paragraph (c) of this section.

(d) *Graduate fellowship deferment.* (1) To qualify for a deferment for study in a graduate fellowship program, a borrower shall provide the lender with a statement from an authorized official of the borrower's fellowship program certifying—

(i) That the borrower holds at least a baccalaureate degree conferred by an institution of higher education;

(ii) That the borrower has been accepted or recommended by an institution of higher education for acceptance on a full-time basis into an eligible graduate fellowship program; and

(iii) The borrower's anticipated completion date in the program.

(2) For purposes of paragraph (d)(1) of this section, an eligible graduate fellowship program is a fellowship program that—

(i) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;

(ii) Requires a written statement from each applicant explaining the applicant's objectives before the award of that financial support;

(iii) Requires a graduate fellow to submit periodic reports, projects, or evidence of the fellow's progress; and

(iv) In the case of a course of study at a foreign university, accepts the course of study for completion of the fellowship program.

(e) *Rehabilitation training program deferment.* (1) To qualify for a rehabilitation training program deferment, a borrower shall provide the lender with a statement from an authorized official of the borrower's rehabilitation training program certifying that the borrower is either receiving, or is scheduled to receive, services under an eligible rehabilitation training program for disabled individuals.

(2) For purposes of paragraph (e)(1) of this section, an eligible rehabilitation

training program for disabled individuals is a program that—

(i) Is licensed, approved, certified, or otherwise recognized as providing rehabilitation training to disabled individuals by—

(A) A State agency with responsibility for vocational rehabilitation programs;

(B) A State agency with responsibility for drug abuse treatment programs;

(C) A State agency with responsibility for mental health services program;

(D) A State agency with responsibility for alcohol abuse treatment programs; or

(E) The Department of Veterans Affairs; and

(ii) Provides or will provide the borrower with rehabilitation services under a written plan that—

(A) Is individualized to meet the borrower's needs;

(B) Specifies the date on which the services to the borrower are expected to end; and

(C) Is structured in a way that requires a substantial commitment by the borrower to his or her rehabilitation. The Secretary considers a substantial commitment by the borrower to be a commitment of time and effort that normally would prevent an individual from engaging in full-time employment, either because of the number of hours that must be devoted to rehabilitation or because of the nature of the rehabilitation. For the purpose of this paragraph, full-time employment involves at least 30 hours of work per week and is expected to last at least three months.

(f) *Temporary total disability deferment.*

(1) To qualify for a temporary total disability deferment, a borrower shall provide the lender with a statement from a physician, who is a doctor of medicine or osteopathy and is legally authorized to practice, certifying that the borrower is temporarily totally disabled as defined in § 682.200(b).

(2) A borrower is not considered temporarily totally disabled on the basis of a condition that existed before he or she applied for the loan, unless the condition has substantially deteriorated so as to render the borrower temporarily

totally disabled, as substantiated by the statement required under paragraph (f)(1) of this section, after the borrower submitted the loan application.

(3) A lender may not grant a deferment based on a single certification under paragraph (f)(1) of this section beyond the date that is six months after the date of certification.

(g) *Dependent's disability deferment.* (1) To qualify for a deferment given to a borrower whose spouse or other dependent requires continuous nursing or similar services for a period of at least 90 days, the borrower shall provide the lender with a statement—

(i) From a physician, who is a doctor of medicine or osteopathy and is legally authorized to practice, certifying that the borrower's spouse or dependent requires continuous nursing or similar services for a period of at least 90 days; and

(ii) From the borrower, certifying that the borrower is unable to secure full-time employment because he or she is providing continuous nursing or similar services to the borrower's spouse or other dependent. For the purpose of this paragraph, full-time employment involves at least 30 hours of work per week and is expected to last at least three months.

(2) A lender may not grant a deferment based on a single certification under paragraph (g)(1) of this section beyond the date that is six months after the date of the certification.

(h) *Unemployment deferment.* (1) A borrower qualifies for an unemployment deferment by providing evidence of eligibility for unemployment benefits to the lender.

(2) A borrower also qualifies for an unemployment deferment by providing to the lender a written certification, or an equivalent as approved by the Secretary, that—

(i) The borrower has registered with a public or private employment agency, if one is available to the borrower within a 50-mile radius of the borrower's current address; and

(ii) For all requests beyond the initial request, the borrower has made at least six diligent attempts during the

preceding 6-month period to secure full-time employment.

(3) For purposes of obtaining an unemployment deferment under paragraph (h)(2) of this section, the following rules apply:

(i) A borrower may qualify for an unemployment deferment whether or not the borrower has been previously employed.

(ii) An unemployment deferment is not justified if the borrower refuses to seek or accept employment in kinds of positions or at salary and responsibility levels for which the borrower feels overqualified by virtue of education or previous experience.

(iii) Full-time employment involves at least 30 hours of work a week and is expected to last at least three months.

(iv) The initial period of unemployment deferment may be granted for a period of unemployment beginning up to 6 months before the date the lender receives the borrower's request, and may be granted for up to 6 months after that date.

(4) A lender may not grant an unemployment deferment beyond the date that is 6 months after the date the borrower provides evidence of the borrower's eligibility for unemployment insurance benefits under paragraph (h)(1) of this section or the date the borrower provides the written certification, or an approved equivalent, under paragraph (h)(2) of this section.

(i) *Military deferment.* (1) To qualify for a military deferment, a borrower or a borrower's representative shall provide the lender with—

(i) A written statement from the borrower's commanding or personnel officer certifying—

(A) That the borrower is on active duty in the Armed Forces of the United States;

(B) The date on which the borrower's service began; and

(C) The date on which the borrower's service is expected to end; or

(ii)(A) A copy of the borrower's official military orders; and

(B) A copy of the borrower's military identification.

(2) For the purpose of this section, the Armed Forces means the Army, Navy, Air Force, Marine Corps, and the Coast Guard.

§682.210

34 CFR Ch. VI (7-1-08 Edition)

(3) A borrower enlisted in a reserve component of the Armed Forces may qualify for a military deferment only for service on a full-time basis that is expected to last for a period of at least one year in length, as evidenced by official military orders, unless an order for national mobilization of reservists is issued.

(4) A borrower enlisted in the National Guard qualifies for a military deferment only while the borrower is on active duty status as a member of the U.S. Army or Air Force Reserves, and meets the requirements of paragraph (i)(3) of this section.

(5) A lender that grants a military service deferment based on a request from a borrower's representative must notify the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan. The lender may also notify the borrower's representative of the outcome of the deferment request.

(j) *Public Health Service deferment.* To qualify for a Public Health Service deferment, the borrower shall provide the lender with a statement from an authorized official of the United States Public Health Service (USPHS) certifying—

(1) That the borrower is engaged in full-time service as an officer in the Commissioned Corps of the USPHS;

(2) The date on which the borrower's service began; and

(3) The date on which the borrower's service is expected to end.

(k) *Peace Corps deferment.* (1) To qualify for a deferment for service under the Peace Corps Act, the borrower shall provide the lender with a statement from an authorized official of the Peace Corps certifying—

(i) That the borrower has agreed to serve for a term of at least one year;

(ii) The date on which the borrower's service began; and

(iii) The date on which the borrower's service is expected to end.

(2) The lender must grant a deferment for the borrower's full term of service in the Peace Corps, not to exceed three years.

(1) *Full-time volunteer service in the ACTION programs.* To qualify for a deferment as a full-time paid volunteer

in an ACTION program, the borrower shall provide the lender with a statement from an authorized official of the program certifying—

(1) That the borrower has agreed to serve for a term of at least one year;

(2) The date on which the borrower's service began; and

(3) The date on which the borrower's service is expected to end.

(m) *Deferment for full-time volunteer service for a tax-exempt organization.* To qualify for a deferment as a full-time paid volunteer for a tax-exempt organization, a borrower shall provide the lender with a statement from an authorized official of the volunteer program certifying—

(1) That the borrower—

(i) Serves in an organization that has obtained an exemption from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(ii) Provides service to low-income persons and their communities to assist them in eliminating poverty and poverty-related human, social, and environmental conditions;

(iii) Does not receive compensation that exceeds the rate prescribed under section 6 of the Fair Labor Standards Act of 1938 (the Federal minimum wage), except that the tax-exempt organization may provide health, retirement, and other fringe benefits to the volunteer that are substantially equivalent to the benefits offered to other employees of the organization;

(iv) Does not, as part of his or her duties, give religious instruction, conduct worship services, engage in religious proselytizing, or engage in fund-raising to support religious activities; and

(v) Has agreed to serve on a full-time basis for a term of at least one year;

(2) The date on which the borrower's service began; and

(3) The date on which the borrower's service is expected to end.

(n) *Internship or residency deferment.*

(1) To qualify for an internship or residency deferment under paragraphs (b)(2)(v) or (b)(5)(iii) of this section, the borrower shall provide the lender with a statement from an authorized official of the organization with which the borrower is undertaking the internship or residency program certifying—

(i) That the internship or residency program is a supervised training program that requires the borrower to hold at least a baccalaureate degree prior to acceptance into the program;

(ii) That, except for a borrower that provides the statement from a State official described in paragraph (n)(2) of this section, the internship or residency program leads to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training;

(iii) That the borrower has been accepted into the internship or residency program; and

(iv) The anticipated dates on which the borrower will begin and complete the internship or residency program, or, in the case of a borrower providing the statement described in paragraph (n)(2) of this section, the anticipated date on which the borrower will begin and complete the minimum period of participation in the internship program that the State requires be completed before an individual may be certified for professional practice or service.

(2) For a borrower who does not provide a statement certifying to the matters set forth in paragraph (n)(1)(ii) of this section to qualify for an internship deferment under paragraph (b)(2)(v) of this section, the borrower shall provide the lender with a statement from an official of the appropriate State licensing agency certifying that the internship or residency program, or a portion thereof, is required to be completed before the borrower may be certified for professional practice or service.

(o) *Parental-leave deferment.* (1) To qualify for the parental-leave deferment described in paragraph (b)(3) of this section, the borrower shall provide the lender with—

(i) A statement from an authorized official of a participating school certifying that the borrower was enrolled on at least a half-time basis during the six months preceding the beginning of the deferment period;

(ii) A statement from the borrower certifying that the borrower—

(A) Is pregnant, caring for his or her newborn child, or caring for a child immediately following the placement of

the child with the borrower in connection with an adoption;

(B) Is not, and will not be, attending school during the deferment period; and

(C) Is not, and will not be, engaged in full-time employment during the deferment period; and

(iii) A physician's statement demonstrating the existence of the pregnancy, a birth certificate, or a statement from the adoption agency official evidencing a pre-adoption placement.

(2) For purposes of paragraph (o)(1)(ii)(C) of this section, full-time employment involves at least 30 hours of work per week and is expected to last at least three months.

(p) *NOAA deferment.* To qualify for a National Oceanic and Atmospheric Administration (NOAA) deferment, the borrower shall provide the lender with a statement from an authorized official of the NOAA corps, certifying—

(1) That the borrower is on active duty service in the NOAA corps;

(2) The date on which the borrower's service began; and

(3) The date on which the borrower's service is expected to end.

(q) *Targeted teacher deferment.* (1) To qualify for a targeted teacher deferment under paragraph (b)(5)(ii) of this section, the borrower, for each school year of service for which a deferment is requested, must provide to the lender—

(i) A statement by the chief administrative officer of the public or non-profit private elementary or secondary school in which the borrower is teaching, certifying that the borrower is employed as a full-time teacher; and

(ii) A certification that he or she is teaching in a teacher shortage area designated by the Secretary as provided in paragraphs (q) (5) through (7) of this section, as described in paragraph (q)(2) of this section.

(2) In order to satisfy the requirement for certification that a borrower is teaching in a teacher shortage area designated by the Secretary, a borrower must do one of the following:

(i) If the borrower is teaching in a State in which the Chief State School Officer has complied with paragraph (q)(3) of this section and provides an annual listing of designated teacher

shortage areas to the State's chief administrative officers whose schools are affected by the Secretary's designations, the borrower may obtain a certification that he or she is teaching in a teacher shortage area from his or her school's chief administrative officer.

(ii) If a borrower is teaching in a State in which the Chief State School Officer has not complied with paragraph (q)(3) of this section or does not provide an annual listing of designated teacher shortage areas to the State's chief administrative officers whose schools are affected by the Secretary's designations, the borrower must obtain certification that he or she is teaching in a teacher shortage area from the Chief State School Officer for the State in which the borrower is teaching.

(3) In the case of a State in which borrowers wish to obtain certifications as provided for in paragraph (q)(2)(i) of this section, the State's Chief State School Officer must first have notified the Secretary, by means of a one-time written assurance, that he or she provides annually to the State's chief administrative officers whose schools are affected by the Secretary's designations and the guaranty agency for that State, a listing of the teacher shortage areas designated by the Secretary as provided for in paragraphs (q) (5) through (7) of this section.

(4) If a borrower who receives a deferment continues to teach in the same teacher shortage area as that in which he or she was teaching when the deferment was originally granted, the borrower shall, at the borrower's request, continue to receive the deferment for those subsequent years, up to the three-year maximum deferment period, even if his or her position does not continue to be within an area designated by the Secretary as a teacher shortage area in those subsequent years. To continue to receive the deferment in a subsequent year under this paragraph, the borrower shall provide the lender with a statement by the chief administrative officer of the public or nonprofit private elementary or secondary school that employs the borrower, certifying that the borrower continues to be employed as a full-time teacher in the same teacher shortage

area for which the deferment was received for the previous year.

(5) For purposes of this section a teacher shortage area is—

(i)(A) A geographic region of the State in which there is a shortage of elementary or secondary school teachers; or

(B) A specific grade level or academic, instructional, subject-matter, or discipline classification in which there is a statewide shortage of elementary or secondary school teachers; and

(ii) Designated by the Secretary under paragraphs (q)(6) or (q)(7) of this section.

(6)(i) In order for the Secretary to designate one or more teacher shortage areas in a State for a school year, the Chief State School Officer shall by January 1 of the calendar year in which the school year begins, and in accordance with objective written standards, propose teacher shortage areas to the Secretary for designation. With respect to private nonprofit schools included in the recommendation, the Chief State School Officer shall consult with appropriate officials of the private nonprofit schools in the State prior to submitting the recommendation.

(ii) In identifying teacher shortage areas to propose for designation under paragraph (q)(6)(i) of this section, the Chief State School Officer shall consider data from the school year in which the recommendation is to be made, unless that data is not yet available, in which case he or she may use data from the immediately preceding school year, with respect to—

(A) Teaching positions that are unfilled;

(B) Teaching positions that are filled by teachers who are certified by irregular, provisional, temporary, or emergency certification; and

(C) Teaching positions that are filled by teachers who are certified, but who are teaching in academic subject areas other than their area of preparation.

(iii) If the total number of unduplicated full-time equivalent (FTE) elementary or secondary teaching positions identified under paragraph (q)(6)(ii) of this section in the shortage areas proposed by the State

for designation does not exceed 5 percent of the total number of FTE elementary and secondary teaching positions in the State, the Secretary designates those areas as teacher shortage areas.

(iv) If the total number of unduplicated FTE elementary and secondary teaching positions identified under paragraph (q)(6)(ii) of this section in the shortage areas proposed by the State for designation exceeds 5 percent of the total number of elementary and secondary FTE teaching positions in the State, the Chief State School Officer shall submit, with the list of proposed areas, supporting documentation showing the methods used for identifying shortage areas, and an explanation of the reasons why the Secretary should nevertheless designate all of the proposed areas as teacher shortage areas. The explanation must include a ranking of the proposed shortage areas according to priority, to assist the Secretary in determining which areas should be designated. The Secretary, after considering the explanation, determines which shortage areas to designate as teacher shortage areas.

(7) A Chief State School Officer may submit to the Secretary for approval an alternative written procedure to the one described in paragraph (q)(6) of this section, for the Chief State School Officer to use to select the teacher shortage areas recommended to the Secretary for designation, and for the Secretary to use to choose the areas to be designated. If the Secretary approves the proposed alternative procedure, in writing, that procedure, once approved, may be used instead of the procedure described in paragraph (q)(6) of this section for designation of teacher shortage areas in that State.

(8) For purposes of paragraphs (q)(1) through (7) of this section—

(i) The definition of the term *school* in § 682.200(b) does not apply;

(ii) *Elementary school* means a day or residential school that provides elementary education, as determined under State law;

(iii) *Secondary school* means a day or residential school that provides secondary education, as determined under State law. In the absence of applicable

State law, the Secretary may determine, with respect to that State, whether the term “secondary school” includes education beyond the twelfth grade;

(iv) *Teacher* means a professional who provides direct and personal services to students for their educational development through classroom teaching;

(v) *Chief State School Officer* means the highest ranking educational official for elementary and secondary education for the State;

(vi) *School year* means the period from July 1 of a calendar year through June 30 of the following calendar year;

(vii) *Teacher shortage area* means an area of specific grade, subject matter, or discipline classification, or a geographic area in which the Secretary determines that there is an inadequate supply of elementary or secondary school teachers; and

(viii) *Full-time equivalent* means the standard used by a State in defining full-time employment, but not less than 30 hours per week. For purposes of counting full-time equivalent teacher positions, a teacher working part of his or her total hours in a position that is designated as a teacher shortage area is counted on a *pro rata* basis corresponding to the percentage of his or her working hours spent in such a position.

(r) *Working-mother deferment.* (1) To qualify for the working-mother deferment described in paragraph (b)(5)(iv) of this section, the borrower shall provide the lender with a statement certifying that she—

(i) Is the mother of a preschool-age child;

(ii) Entered or reentered the workforce not more than one year before the beginning date of the period for which the deferment is being sought;

(iii) Is currently engaged in full-time employment; and

(iv) Does not receive compensation that exceeds \$1 per hour above the rate prescribed under section 6 of the Fair Labor Standards Act of 1938 (the Federal minimum wage).

(2) In addition to the certification required under paragraph (r)(1) of this section, the borrower shall provide to the lender documents demonstrating

the age of her child (e.g., a birth certificate) and the rate of her compensation (e.g., a pay stub showing her hourly rate of pay).

(3) For purposes of this paragraph—

(i) A preschool-age child is one who has not yet enrolled in first grade or a higher grade in elementary school; and

(ii) Full-time employment involves at least 30 hours of work a week and is expected to last at least 3 months.

(s) *Deferments for new borrowers on or after July 1, 1993*—(1) *General.* (i) A new borrower who receives an FFEL Program loan first disbursed on or after July 1, 1993 is entitled to receive deferments under paragraphs (s)(2) through (s)(6) of this section. For purposes of paragraphs (s)(2) through (s)(6) of this section, a “new borrower” is an individual who has no outstanding principal or interest balance on an FFEL Program loan as of July 1, 1993 or on the date he or she obtains a loan on or after July 1, 1993. This term also includes a borrower who obtains a Federal Consolidation Loan on or after July 1, 1993 if the borrower has no other outstanding FFEL Program loan when the Consolidation Loan was made.

(ii) As a condition for receiving a deferment, except for purposes of paragraph (s)(2) of this section, the borrower must request the deferment and provide the lender with all information and documents required to establish eligibility for the deferment.

(iii) After receiving a borrower’s written or verbal request, a lender may grant a deferment under paragraphs (s)(3) through (s)(6) of this section if the lender is able to confirm that the borrower has received a deferment on another FFEL loan or on a Direct Loan for the same reason and the same time period. The lender may grant the deferment based on information from the other FFEL loan holder or the Secretary or from an authoritative electronic database maintained or authorized by the Secretary that supports eligibility for the deferment for the same reason and the same time period.

(iv) A lender may rely in good faith on the information it receives under paragraph (s)(1)(iii) of this section when determining a borrower’s eligibility for a deferment unless the lend-

er, as of the date of the determination, has information indicating that the borrower does not qualify for the deferment. A lender must resolve any discrepant information before granting a deferment under paragraph (s)(1)(iii) of this section.

(v) A lender that grants a deferment under paragraph (s)(1)(iii) of this section must notify the borrower that the deferment has been granted and that the borrower has the option to pay interest that accrues on an unsubsidized FFEL loan or to cancel the deferment and continue to make payments on the loan.

(2) *In-school deferment.* An eligible borrower is entitled to a deferment based on the borrower’s at least half-time study in accordance with the rules prescribed in §682.210(c), except that the borrower is not required to obtain a Stafford or SLS loan for the period of enrollment covered by the deferment.

(3) *Graduate fellowship deferment.* An eligible borrower is entitled to a graduate fellowship deferment in accordance with the rules prescribed in §682.210(d).

(4) *Rehabilitation training program deferment.* An eligible borrower is entitled to a rehabilitation training program deferment in accordance with the rules prescribed in §682.210(e).

(5) *Unemployment deferment.* An eligible borrower is entitled to an unemployment deferment in accordance with the rules prescribed in §682.210(h) for periods that, collectively, do not exceed 3 years.

(6) *Economic hardship deferment.* An eligible borrower is entitled to an economic hardship deferment for periods of up to one year at a time that, collectively, do not exceed 3 years (except that a borrower who receives a deferment under paragraph (s)(6)(vi) of this section is entitled to an economic hardship deferment for the lesser of the borrower’s full term of service in the Peace Corps or the borrower’s remaining period of economic hardship deferment eligibility under the 3-year maximum), if the borrower provides documentation satisfactory to the lender showing that the borrower is within any of the categories described

**Off. of Postsecondary Educ., Education**

**§ 682.210**

in paragraphs (s)(6)(i) through (s)(6)(vi) of this section.

(i) Has been granted an economic hardship deferment under either the Direct Loan or Federal Perkins Loan Programs for the period of time for which the borrower has requested an economic hardship deferment for his or her FFEL loan.

(ii) Is receiving payment under a Federal or State public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or State general public assistance.

(iii) Is working full-time and has a monthly income that does not exceed the greater of (as calculated on a monthly basis)—

(A) The minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

(B) An amount equal to 150 percent of the poverty line applicable to the borrower's family size, as determined in accordance with section 673(2) of the Community Service Block Grant Act.

(iv) Is working full-time and has a Federal education debt burden that equals or exceeds 20 percent of the borrower's monthly income, and that income, minus the borrower's Federal education debt burden, is less than 220 percent of the amount described in paragraph (s)(6)(iii) of this section.

(v) Is not working full-time and has a monthly income that—

(A) Does not exceed twice the amount described in paragraph (s)(6)(iii) of this section; and

(B) After deducting an amount equal to the borrower's Federal education debt burden, the remaining amount of the borrower's income does not exceed the amount described in paragraph (s)(6)(iii) of this section.

(vi) Is serving as a volunteer in the Peace Corps.

(vii) In determining a borrower's Federal education debt burden for purposes of an economic hardship deferment under paragraphs (s)(6)(iv) and (v) of this section, the lender shall—

(A) If the Federal postsecondary education loan is scheduled to be repaid in 10 years or less, use the actual monthly payment amount (or a proportional share if the payments are due less frequently than monthly);

(B) If the Federal postsecondary education loan is scheduled to be repaid in more than 10 years, use a monthly payment amount (or a proportional share if the payments are due less frequently than monthly) that would have been due on the loan if the loan had been scheduled to be repaid in 10 years; and

(C) Require the borrower to provide evidence that would enable the lender to determine the amount of the monthly payments that would have been owed by the borrower during the deferment period.

(viii) For an initial period of deferment granted under paragraphs (s)(6)(iii) through (v) of this section, the lender must require the borrower to submit evidence showing the amount of the borrower's monthly income.

(ix) To qualify for a subsequent period of deferment that begins less than one year after the end of a period of deferment under paragraphs (s)(6)(iii) through (v) of this section, the lender must require the borrower to submit evidence showing the amount of the borrower's monthly income or a copy of the borrower's most recently filed Federal income tax return.

(x) For purposes of paragraph (s)(6) of this section, a borrower's monthly income is the gross amount of income received by the borrower from employment and from other sources, or one-twelfth of the borrower's adjusted gross income, as recorded on the borrower's most recently filed Federal income tax return.

(xi) For purposes of paragraph (s)(6) of this section, a borrower is considered to be working full-time if the borrower is expected to be employed for at least three consecutive months at 30 hours per week.

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

(t) *Military service deferments.* (1) A borrower who receives an FFEL Program loan may receive a military service deferment for such loans for any period during which the borrower is—

(i) Serving on active duty during a war or other military operation or national emergency; or

(ii) Performing qualifying National Guard duty during a war or other military operation or national emergency.

(2) The deferment period ends 180 days after the demobilization date for the service described in paragraph (t)(1)(i) and (t)(1)(ii) of this section.

(3) *Serving on active duty during a war or other military operation or national emergency* means service by an individual who is—

(i) A Reserve of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304 or 12306;

(ii) A retired member of an Armed Force ordered to active duty under 10 U.S.C. 688 for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; or

(iii) Any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which member is normally assigned.

(4) *Qualifying National Guard duty during a war or other operation or national emergency* means service as a member of the National Guard on full-time National Guard duty, as defined in 10 U.S.C. 101(d)(5), under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f) in connection with a war, other military operation, or national emergency declared by the President and supported by Federal funds.

(5) Payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment are not refunded.

(6) As used in this section—

(i) *Active duty* means active duty as defined in 10 U.S.C. 101(d)(1) except that it does not include active duty for training or attendance at a service school;

(ii) *Military operation* means a contingency operation as defined in 10 U.S.C. 101(a)(13); and

(iii) *National emergency* means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(7) To receive a military service deferment, the borrower, or the borrower's representative, must request the deferment and provide the lender with all information and documents required to establish eligibility for the deferment, except that a lender may grant a borrower a military service deferment under the procedures specified in paragraphs (s)(1)(iii) through (s)(1)(v) of this section.

(8) A lender that grants a military service deferment based on a request from a borrower's representative must notify the borrower that the deferment has been granted and that the borrower has the option to cancel the deferment and continue to make payments on the loan. The lender may also notify the borrower's representative of the outcome of the deferment request.

(u) *Military active duty student deferment.* (1) A borrower who receives an FFEL Program loan is entitled to receive a military active duty student deferment for 13 months following the conclusion of the borrower's active duty military service if—

(i) The borrower is a member of the National Guard or other reserve component of the Armed Forces of the United States or a member of such forces in retired status; and

(ii) The borrower was enrolled in a program of instruction at an eligible institution at the time, or within six months prior to the time, the borrower was called to active duty.

(2) As used in paragraph (u)(1) of this section, "Active duty" means active duty as defined in section 101(d)(1) of title 10, United States Code, except—

(i) Active duty includes active State duty for members of the National Guard; and

(ii) Active duty does not include active duty for training or attendance at a service school.

(3) If the borrower returns to enrolled student status during the 13-month deferment period, the deferment expires at the time the borrower returns to enrolled student status.

(4) To receive a military active duty student deferment, the borrower must request the deferment and provide the lender with all information and documents required to establish eligibility for the deferment, except that a lender

**Off. of Postsecondary Educ., Education**

**§ 682.211**

may grant a borrower a military active duty student deferment under the procedures specified in paragraphs (s)(1)(iii) through (s)(1)(v) of this section.

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

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

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9120, Feb. 19, 1993; 59 FR 25746, May 17, 1994; 59 FR 33594, June 29, 1994; 59 FR 61215, Nov. 29, 1994; 60 FR 30788, June 12, 1995; 60 FR 61756, Dec. 1, 1995; 64 FR 18977, Apr. 16, 1999; 64 FR 57531, Oct. 25, 1999; 64 FR 58626, Oct. 29, 1999; 64 FR 58958, Nov. 1, 1999; 65 FR 65619, Nov. 1, 2000; 66 FR 34763, June 29, 2001; 67 FR 67078, Nov. 1, 2002; 68 FR 75429, Dec. 31, 2003; 71 FR 45701, Aug. 9, 2006; 72 FR 62001, Nov. 1, 2007]

**§ 682.211 Forbearance.**

(a)(1) The Secretary encourages a lender to grant forbearance for the benefit of a borrower or endorser in order to prevent the borrower or endorser from defaulting on the borrower's or endorser's repayment obligation, or to permit the borrower or endorser to resume honoring that obligation after default. *Forbearance* means permitting the temporary cessation of payments, allowing an extension of time for making payments, or temporarily accepting smaller payments than previously were scheduled.

(2) Subject to paragraph (g) of this section, a lender may grant forbearance of payments of principal and interest under paragraphs (b), (c), and (d) of this section only if—

(i) The lender reasonably believes, and documents in the borrower's file, that the borrower or endorser intends to repay the loan but, due to poor health or other acceptable reasons, is currently unable to make scheduled payments; or

(ii) The borrower's payments of principal are deferred under § 682.210 and the Secretary does not pay interest benefits on behalf of the borrower under § 682.301.

(3) If two individuals are jointly liable for repayment of a PLUS loan or a Consolidation loan, the lender may grant forbearance on repayment of the loan only if the ability of both individuals to make scheduled payments has

been impaired based on the same or differing conditions.

(4) Except as provided in paragraph (f)(10) of this section, if payments of interest are forborne, they may be capitalized as provided in § 682.202(b).

(b) A lender may grant forbearance if—

(1) The lender and the borrower or endorser agree to the terms of the forbearance and, unless the agreement was in writing, the lender sends, within 30 days, a notice to the borrower or endorser confirming the terms of the forbearance and records the terms of the forbearance in the borrower's file; or

(2) In the case of forbearance of interest during a period of deferment, if the lender informs the borrower at the time the deferment is granted that interest payments are to be forborne.

(c) A lender may grant forbearance for a period of up to one year at a time if both the borrower or endorser and an authorized official of the lender agree to the terms of the forbearance. If the lender and the borrower or endorser agree to the terms orally, the lender must notify the borrower or endorser of the terms within 30 days of that agreement.

(d) A guaranty agency may authorize a lender to grant forbearance to permit a borrower or endorser to resume honoring the agreement to repay the debt after default but prior to claim payment. The terms of the forbearance agreement in this situation must include a new signed agreement to repay the debt.

(e) Except in the case of forbearance of interest payments during a deferment period, if a forbearance involves the postponement of all payments, the lender must contact the borrower or endorser at least once every six months during the period of forbearance to inform the borrower or endorser of—

(1) The outstanding obligation to repay;

(2) The amount of the unpaid principal balance and any unpaid interest that has accrued on the loan;

(3) The fact that interest will accrue on the loan for the full term of the forbearance; and