

additional information may include but is not limited to—

- (i) Records of employment;
- (ii) Contemporaneous records of a federal, state, city, or local government agency;
- (iii) An affidavit or declaration of the eligible public servant's or eligible victim's employer; and
- (iv) A sworn statement (or an unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the eligible public servant or eligible victim at the site.

(3) To establish that the disability of the eligible public servant or eligible victim is due to injuries suffered in the terrorist attacks on September 11, 2001, such additional information may include but is not limited to—

- (i) Contemporaneous medical records of hospitals, clinics, physicians, or other licensed medical personnel;
- (ii) Registries maintained by federal, state, or local governments; or
- (iii) Records of all continuing medical treatment.

(4) To establish the borrower's relationship to the eligible public servant or eligible victim, such additional information may include but is not limited to—

- (i) Copies of relevant legal records including court orders, letters of testamentary or similar documentation;
- (ii) Copies of wills, trusts, or other testamentary documents; or
- (iii) Copies of approved joint Consolidation Loan applications or approved FFEL or Direct Loan PLUS loan applications.

(g) *Limitations on discharge.* (1) Only outstanding Federal SLS Loans, Federal Stafford Loans, Federal PLUS Loans, and Federal Consolidation Loans for which amounts were owed on September 11, 2001, or outstanding Federal Consolidation Loans incurred to pay off loan amounts that were owed on September 11, 2001, are eligible for discharge under this section.

(2)(i) Eligibility for a discharge under this section does not qualify a borrower for a refund of any payments made on the borrower's loan prior to the date the loan was discharged.

(ii) A borrower may apply for a partial discharge of a joint Consolidation loan due to death or total and permanent

disability under the procedures in §682.402(b) or (c). If the borrower is granted a partial discharge under the procedures in §682.402(b) or (c) the borrower may qualify for a refund of payments in accordance with §682.402(b)(5) or §682.402(c)(1)(i).

(iii) A borrower may apply for a discharge of a PLUS loan due to the death of the student for whom the borrower received the PLUS loan under the procedures in §682.402(b). If a borrower is granted a discharge under the procedures in §682.402(b), the borrower may qualify for a refund of payments in accordance with §682.402(b)(5).

(3) A determination by a lender or a guaranty agency that an eligible public servant or an eligible victim became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001 for purposes of this section does not qualify the eligible public servant or the eligible victim for a discharge based on a total and permanent disability under §682.402.

(4) The spouse of an eligible public servant or eligible victim may not receive a discharge under this section if the eligible public servant or eligible victim has been identified as a participant or conspirator in the terrorist-related aircraft crashes on September 11, 2001. An eligible parent may not receive a discharge on a FFEL PLUS Loan or on a Consolidation Loan that was used to repay a FFEL or Direct Loan PLUS Loan incurred on behalf of an individual who has been identified as a participant or conspirator in the terrorist-related aircraft crashes on September 11, 2001.

[71 FR 78080, Dec. 28, 2006, as amended at 72 FR 55053, Sept. 28, 2007]

**§682.408 Loan disbursement through an escrow agent.**

(a) *General.* (1) A guaranty agency or an eligible lender may act as an escrow agent for the purpose of receiving Stafford and PLUS loan proceeds disbursed by an eligible lender other than a school, State lender, or a State agency or instrumentality, and transmitting those proceeds to the borrower's school if the lender and the escrow agent have entered into a written agreement for this purpose.

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(2) The agreement must provide that—

(i) The lender may make payments into an escrow account that is administered by the escrow agent in accordance with the requirements of paragraph (c) of this section and § 682.207(b)(1)(iv);

(ii) The lender shall promptly notify the borrower's school when funds are escrowed for the borrower; and

(iii) The escrow agent is authorized to—

(A) Transmit the proceeds according to the note evidencing the loan;

(B) Commingle the proceeds of the loans paid to it pursuant to an escrow agreement;

(C) Invest the loan proceeds only in obligations of the Federal Government or obligations that are insured or guaranteed by the Federal Government; and

(D) Retain for its own use interest or other earnings on those investments.

(b) *Disbursement by the lender.* Subject to § 682.207(b)(1)(iii), the lender may disburse the loan proceeds to the escrow agent using any method agreed to by the escrow agent and the lender.

(c) *Transmittal of FFEL loan proceeds by an escrow agent.* The escrow agent shall transmit Stafford and PLUS loan proceeds received from a lender under this section to a school in accordance with the requirements of § 682.207(b)(1)(ii) and (iv), or Stafford Loan proceeds to a borrower in accordance with the requirements of § 682.207(b)(1)(i) and (ii), not later than 10 days after the agent receives the funds from the lender.

(d) *Return of untransmitted proceeds.* The escrow agent shall return any untransmitted proceeds of a loan to the lender within 15 working days after receiving information indicating that the student has not enrolled, or has ceased to be enrolled on at least a half-time basis, for the period of enrollment for which the loan was intended.

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

[57 FR 60323, Dec. 18, 1992, as amended at 64 FR 18980, Apr. 16, 1999; 71 FR 45708, Aug. 9, 2006; 71 FR 64399, Nov. 1, 2006]

**§ 682.409 Mandatory assignment by guaranty agencies of defaulted loans to the Secretary.**

(a)(1) If the Secretary determines that action is necessary to protect the Federal fiscal interest, the Secretary directs a guaranty agency to promptly assign to the Secretary any loans held by the agency on which the agency has received payment under § 682.402(f), 682.402(k), or 682.404. The collection of unpaid loans owed by Federal employees by Federal salary offset is, among other things, deemed to be in the Federal fiscal interest. Unless the Secretary notifies an agency, in writing, that other loans must be assigned to the Secretary, an agency must assign any loan that meets all of the following criteria as of April 15 of each year:

(i) The unpaid principal balance is at least \$100.

(ii) For each of the two fiscal years following the fiscal year in which these regulations are effective, the loan, and any other loans held by the agency for that borrower, have been held by the agency for at least four years; for any subsequent fiscal year such loan must have been held by the agency for at least five years.

(iii) A payment has not been received on the loan in the last year.

(iv) A judgment has not been entered on the loan against the borrower.

(2) If the agency fails to meet a fiscal year recovery rate standard under paragraph (a)(2)(ii) of this section for a loan type, and the Secretary determines that additional assignments are necessary to protect the Federal fiscal interest, the Secretary may require the agency to assign in addition to those loans described in paragraph (a)(1) of this section, loans in amounts needed to satisfy the requirements of paragraph (a)(2)(iii) or (a)(3)(i) of this section.

(i) *Calculation of fiscal year loan type recovery rate.* A fiscal year loan type recovery rate for an agency is determined by dividing the amount collected on defaulted loans, including collections by Federal Income Tax Refund Offset, for each loan program (i.e., the Stafford, PLUS, SLS, and Consolidation loan programs) by the agency for loans of that program (including