## **DEPARTMENT OF EDUCATION**

## 34 CFR Part 685

RIN 1840-AC22

## William D. Ford Federal Direct Loan Program

**AGENCY:** Department of Education. **ACTION:** Final regulations.

**SUMMARY:** The Secretary of Education amends the William D. Ford Federal Direct Loan (Direct Loan) Program regulations. The regulations apply to loans under the Federal Direct Stafford/ Ford Loan (Direct Subsidized Loan) Program, the Federal Direct Unsubsidized Stafford/Ford Loan (Direct Unsubsidized Loan) Program, the Federal Direct PLUS Loan (Direct PLUS Loan) Program, and the Federal Direct Consolidation Loan (Direct Consolidation Loan) Program, collectively referred to as the Direct Loan Program. These regulations provide schools with more flexibility in performing origination functions, and clarify the date of loan origination. Further, these regulations set timelines for the submission of promissory notes, disbursement records, and origination records.

**EFFECTIVE DATE:** These regulations take effect July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Katrina Ingalls, Program Specialist, Direct Loan Policy Group, Policy Development Division, U.S. Department of Education, Room 3053, ROB–3, 600 Independence Avenue, SW., Washington, DC 20202–5400. Telephone: (202) 708–9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

## SUPPLEMENTARY INFORMATION:

Background

The Secretary is amending the Direct Loan Program regulations to improve the program based on experience gained during the first year of operation. These amended regulations reflect programmatic changes that the Secretary believes will improve services to student and parent borrowers, increase institutional flexibility, and enhance the Department's administrative and fiscal oversight capabilities.

On September 20, 1995, the Secretary published the proposed amended regulations in a notice of proposed rulemaking (NPRM) for part 685 in the Federal Register (60 FR 48858). The major issues surrounding the proposed changes were discussed in the NPRM and thus will not be repeated here.

The following section summarizes the two revisions to the proposed rule.

Substantive Revisions to the Proposed Rule

Section 685.215(h)(2) Repayment Plans

The NPRM proposed to revise the repayment plan regulations to reflect the Secretary's current operational practice regarding repayment plan selection for certain Direct Consolidation Loan borrowers. Under the NPRM, borrowers who consolidate only one FFEL Program loan into the Direct Loan Program would be required to select initially a repayment plan other than the standard repayment plan. The Secretary has determined that this restriction will not be included in the final regulations.

Section 685.301 Origination of a Loan by a Direct Loan Program School

The NPRM proposed that the date of loan origination be the earlier of the date the promissory note is printed or the date the origination record is accepted by the Secretary. The Secretary has revised § 685.301(a)(5) to provide that the date of loan origination is the date the school creates the electronic loan origination record for a borrower. Beginning with the 1996–1997 academic year, enhanced loan origination software will record the date of origination permanently on the borrower's loan file when the borrower's origination record is created by the school. Modifying the Direct Loan school software to record automatically the date the school creates the origination record will ensure that a school is able to document clearly the date that it certified the borrower's eligibility for the loan, the loan amount, and anticipated disbursement dates. The date the electronic origination record is created occurs earlier in loan processing than either printing the promissory note or the origination record being accepted by the Secretary. This change will result in improved service to schools by automatically generating the information necessary to document the origination process and will improve services to borrowers by promoting flexibility in processing loans.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, ten parties submitted comments on the proposed regulations. An analysis of the comments appears below, beginning with a general discussion of the

comments received concerning the length of the comment period. This is followed by a general discussion of the comments received regarding the Secretary's consideration of establishing foreign school participation requirements for the Direct Loan Program.

A discussion of the major issues that generated comments follows. The major issues are grouped according to subject, with references to the appropriate sections of the regulations. Technical and other minor changes, and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority, generally are not addressed.

General Discussion of Length of Comment Period

Several commenters argued that the comment period was too short, especially considering that the Department published six NPRMs, all with comment periods ending at approximately the same time.

In the six NPRMs referred to above, the Secretary proposed numerous improvements and necessary changes to the Student Financial Assistance Programs. The "Master Calendar" provisions contained in section 482 of the Higher Education Act of 1965 (HEA) require that regulations be published in final form by December 1 prior to the start of the award year for which they will become effective. Because of the importance of implementing these changes and improvements for the award year beginning July 1, 1996, the Secretary established a comment period that would allow publication of these final regulations by December 1, 1995, consistent with the "Master Calendar" timeframe. The Secretary always endeavors to provide as long a comment period as possible.

General Discussion of Foreign School Participation Comments

In the preamble of the NPRM, the Secretary asked for comments and supporting arguments on:

 What, if any, additional standards should be established for foreign schools that participate in the Direct Loan Program;

 Potential financial risks as well as benefits of admitting foreign schools into the Direct Loan Program; and

 Potential losses or benefits to students related to foreign school participation in the Direct Loan Program.

One foreign school responded to the Secretary's invitation for comments. This school expressed enthusiasm about the Direct Loan Program because it