

DEPARTMENT OF EDUCATION**34 CFR Part 685**

RIN 1840-AC19

William D. Ford Federal Direct Loan Program**AGENCY:** Department of Education.**ACTION:** Final Regulations.

SUMMARY: This document contains corrections and other technical changes to the William D. Ford Federal Direct Loan (Direct Loan) Program final regulations published in the Federal Register on December 1, 1994 (59 FR 61664) and on December 1, 1995 (60 FR 61820 and 60 FR 61790). Most of these changes apply to regulations governing the new income contingent repayment plan, which becomes effective July 1, 1996. However, several amendments correct provisions currently in effect.

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

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The following regulations are amended to clarify the provisions and to correct errors and omissions in the text of the Direct Loan Program final regulations published on December 1, 1994 (59 FR 61664) and on December 1, 1995 (60 FR 61820 and 60 FR 61790).

Repayment Plans—Section 685.208(f)

The Secretary has amended section 685.208(f)(1) to clarify that, for married borrowers, the borrower's repayment amount is based on the Federal adjusted gross income (AGI) of the borrower and the borrower's spouse, regardless of whether the borrower files a joint Federal income tax return with his or her spouse or files a Federal income tax return separately from his or her spouse. In addition, to simplify the regulations, language alluding to joint repayment for married borrowers has been removed because the subject is addressed in greater detail in section 685.209(b).

The Secretary has also amended section 685.208(f)(2) to clarify that the income contingent repayment plan in

effect at the time the borrower either enters repayment and selects the income contingent repayment plan or changes from another repayment plan into the income contingent repayment plan governs the method for determining the borrower's monthly repayment amount under the income contingent repayment plan. The proposed rule published on September 20, 1995, clearly states the Secretary's intent to change the policy so that the new income contingent repayment plan would apply to borrowers who select the income contingent repayment plan when they enter repayment and to borrowers who are in other repayment plans and switch into the income contingent repayment plan on or after July 1, 1996 (see 60 FR 48849). While the preamble to the proposed rule clearly states the Secretary's intended change in policy, this change was inadvertently omitted from the regulations. Please note that, as the existing regulations indicate, if the Secretary amends the regulations and a borrower who is repaying under the existing income contingent repayment plan submits a written request that the amended regulations apply to the method of calculation of the borrower's loans, the Secretary would grant the borrower's request.

Income Contingent Repayment Plan—Section 685.209

The preamble to the final regulations states, "The Secretary has decided to require a \$5.00 minimum monthly payment of borrowers whose calculated monthly payment amount is greater than \$0 but less than or equal to \$5.00." Although the preamble to the final regulations clearly states the Secretary's intended policy, this policy was inadvertently omitted from the regulations. In order to clarify the Secretary's intent, section 685.209(a)(6) has been added to the regulations.

An incorrect cross reference has been corrected in paragraph (c)(6)(ii) by removing "§ 685.209(a)(3)", and adding, in its place, "§ 685.209(c)(3)."

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

The terminology of this section has been changed to clarify that schools certify loan information in the Direct Loan Program by means of the origination process. Throughout this section, the word "certification" has been changed to "origination." This change in terminology does not reflect a change in policy or procedures. In the Federal Family Education Loan (FFEL) Program, a financial aid administrator signs the application, thereby certifying that the borrower is eligible. In the

Direct Loan Program, the process of originating a loan is comparable to the FFEL certification process. When the school originates the loan, the school is certifying the borrower's eligibility. Paragraph (a)(6) has been amended to reflect this concept. This technical change does not impose any new policies or procedural requirements.

In addition, paragraph (a)(7) has been amended to specify that a school may not assess a fee for the origination of a Direct Loan. According to section 454(a)(6) of the Higher Education Act of 1965, as amended, schools may not "charge any fees of any kind, however described, to student or parent borrowers for origination activities" This statutory requirement was inadvertently omitted from the regulations.

Appendix A to Part 685—Income Contingent Repayment

The Secretary has updated the income percentage factors in the appendix to reflect the Department of Health and Human Services (HHS) Annual Update of the HHS Poverty guidelines, published in the Federal Register on March 4, 1996. In addition, the examples of the calculation of monthly repayment amounts and the charts showing sample repayment amounts have been amended to reflect the updated income percentage factors. Under the updated income percentage factors, at any given income, borrowers' payments will be slightly lower than under the income percentage factors published in the December 1, 1995 regulations. The Secretary believes the updated income percentage factors more accurately reflect a borrower's ability to repay than those previously published.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the regulatory changes in this document are necessary to correct minor technical errors and omissions in the Direct Loan Program final regulations published on December 1, 1994, and December 1, 1995. The changes in this document do not establish any new rules. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary also waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order, the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with these final regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering the program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have significant economic impact on a substantial number of small entities. The regulations will affect borrowers who are in repayment. These regulations contain technical amendments designed to clarify and correct current regulations. The changes will not have a significant economic impact on any small entities under the Regulatory Flexibility Act.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping

requirements, Student aid, Vocational education.

(Catalog of Domestic Assistance Number: 84.268, William D. Ford, Federal Direct Loan Program)

Dated: June 12, 1996.

Richard W. Riley,
Secretary of Education.

The Secretary amends Part 685 of Title 34 of the Code of Federal Regulations as follows:

PART 685—[AMENDED]

1. The authority citation for Part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

2. Section 685.208 is amended by revising paragraphs (f) (1) and (2) to read as follows:

§ 685.208 Repayment plans.

* * * * *

(f) * * *

(1) Under the income contingent repayment plan, a borrower's monthly repayment amount is generally based on the total amount of the borrower's Direct Loans, family size, and Adjusted Gross Income (AGI) reported by the borrower for the most recent year for which the Secretary has obtained income information. The borrower's AGI includes the income of the borrower's spouse. A borrower shall make payments on a loan until the loan is repaid in full or until the loan has been in repayment through the end of the income contingent repayment period.

(2) The regulations in effect at the time a borrower enters repayment and selects the income contingent repayment plan or changes into the income contingent repayment plan from another plan govern the method for determining the borrowers's monthly repayment amount for all of the borrower's Direct Loans, unless—

* * * * *

3. Section 685.209 is amended by redesignating paragraphs (a) (6) through (8) as (a) (7) through (9), respectively, and adding a new paragraph (a)(6); and by removing “§ 685.209(a)(3)” in paragraph (c)(6)(ii), and adding, in its place, “§ 685.209(c)(3)” to read as follows:

§ 685.209 Income contingent repayment plan.

(a) * * *

(6) If a borrower's monthly payment is calculated to be greater than \$0 but less

than or equal to \$5.00, the amount payable by the borrower shall be \$5.00.

* * * * *

§ 685.301 [Amended]

4. Section 685.301 is amended by removing the word “certify” from the introductory text in paragraph (a)(6) and adding, in its place, “originate”; and paragraph (a)(7) is amended by adding, before the period at the end of the sentence, “or for the origination of a Direct Loan”.

5. Appendix A is amended by revising the computations following Example 1, Steps 2, 3, and 4; revising the computations following Example 2, Steps 3, 4, and 5; revising the computations following the Interpolation; and by revising the charts of Income Percentage Factors (Based on Annual Income), Income Contingent Repayment Plan (Sample First-Year Monthly Repayment Amounts for a Single Borrower at Various Income and Debt Levels), and Income Contingent Repayment Plan (Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels) to read as follows:

Appendix A to Part 685—Income Contingent Repayment

* * * * *

Example 1. * * *

Step 2: * * *

• $84.46\% (0.8446) \times 1,644.315 = 1,388.7884$

Step 3: * * *

• $\$25,000 - \$7,740 = \$17,260$

• $\$17,260 \times 0.20 = \$3,452$

Step 4: * * *

• $1,388.7884 \div 12 = \$115.73$

Example 2. * * *

Step 3: * * *

• $91.27\% (0.9127) \times 2,630.904 = 2,401.2261$

Step 4: * * *

• $\$30,000 - \$10,360 = \$19,640$

• $\$19,640 \times 0.020 = \$3,928$

Step 5: * * *

• $2,401.2261 \div 12 = \$200.10$

Interpolation: * * *

• $\$27,904 - \$25,000 = \$2,904$

* * * * *

• $88.77 - 84.46 = 4.31$

* * * * *

• $\$26,000 - \$25,000 = \$1,000$

* * * * *

• $1,000 \div 2,904 = 0.3444$

* * * * *

• $0.3444 \times 4.31 = 1.48$

* * * * *

• $1.48 + 84.46 = 85.94\%$

BILLING CODE 4000-01-P

Income Percentage Factors (Based on Annual Income)

<u>Single</u>		<u>Married and Head of Household</u>	
Income	% Factor	Income	% Factor
7,740	55.45%	10,360	55.00%
10,000	57.75%	11,510	56.68%
10,037	57.79%	13,718	59.56%
12,915	60.57%	15,000	62.06%
15,000	64.58%	17,933	67.79%
15,859	66.23%	20,000	71.37%
18,670	71.89%	22,216	75.22%
20,000	75.05%	25,000	81.28%
22,216	80.33%	27,904	87.61%
25,000	84.46%	30,000	91.27%
27,904	88.77%	34,997	100.00%
30,000	92.09%	40,000	100.00%
34,997	100.00%	42,090	100.00%
40,000	100.00%	50,000	106.99%
42,090	100.00%	52,730	109.40%
50,000	110.98%	60,000	115.80%
50,588	111.80%	70,000	124.59%
60,000	119.56%	70,462	125.00%
64,775	123.50%	80,000	130.99%
70,000	126.93%	90,000	137.28%
80,000	133.49%	95,288	140.60%
90,000	140.06%	100,000	141.77%
91,742	141.20%	133,264	150.00%
100,000	146.60%	150,000	159.90%
105,192	150.00%	200,000	189.49%
150,000	177.26%	217,763	200.00%
187,364	200.00%		

Income Contingent Repayment Plan
Sample First-Year Monthly Repayment Amounts for a Single Borrower at Various Income and Debt Levels

	Initial Debt																							
Income	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$55,000	\$60,000	\$65,000	\$70,000	\$75,000	\$80,000	\$85,000	\$90,000	\$100,000
\$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
9,000	16	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21
10,000	16	32	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38
12,500	16	33	49	66	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79
15,000	18	35	53	71	88	106	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121
17,500	19	38	57	76	95	114	133	152	163	163	163	163	163	163	163	163	163	163	163	163	163	163	163	163
20,000	21	41	62	82	103	123	144	165	185	204	204	204	204	204	204	204	204	204	204	204	204	204	204	204
22,500	22	44	66	89	111	133	155	177	199	221	246	246	246	246	246	246	246	246	246	246	246	246	246	246
25,000	23	46	69	93	116	139	162	185	208	231	278	288	288	288	288	288	288	288	288	288	288	288	288	288
30,000	25	50	76	101	126	151	177	202	227	252	303	353	371	371	371	371	371	371	371	371	371	371	371	371
35,000	27	55	82	110	137	164	192	219	247	274	329	384	438	454	454	454	454	454	454	454	454	454	454	454
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	454	454	454	454	454	454	454	454	454	454	454
45,000	29	57	86	114	143	171	200	228	257	285	342	399	456	513	570	621	621	621	621	621	621	621	621	621
50,000	30	61	91	122	152	182	213	243	274	304	365	426	487	547	608	669	704	704	704	704	704	704	704	704
55,000	32	63	95	127	158	190	221	253	285	316	380	443	506	569	633	696	759	788	788	788	788	788	788	788
60,000	33	66	98	131	164	197	229	262	295	328	393	459	524	590	655	721	786	852	871	871	871	871	871	871
65,000	34	68	102	136	169	203	237	271	305	339	407	474	542	610	678	745	813	881	949	954	954	954	954	954
70,000	35	70	104	139	174	209	243	278	313	348	417	487	557	626	696	765	835	904	974	1,038	1,038	1,038	1,038	1,038
75,000	36	71	107	143	178	214	250	285	321	357	428	500	571	642	714	785	856	928	999	1,071	1,121	1,121	1,121	1,121
80,000	37	73	110	146	183	220	256	293	329	366	439	512	585	659	732	805	878	951	1,024	1,098	1,171	1,204	1,204	1,204
85,000	37	75	112	150	187	225	262	300	337	375	450	525	600	675	750	825	900	975	1,050	1,125	1,199	1,274	1,288	1,288
90,000	38	77	115	154	192	230	269	307	345	384	461	537	614	691	768	844	921	998	1,075	1,151	1,228	1,305	1,371	1,371
95,000	39	79	118	157	196	236	275	314	354	393	471	550	628	707	786	864	943	1,021	1,100	1,178	1,257	1,336	1,414	1,454
100,000	40	80	121	161	201	241	281	321	362	402	482	562	643	723	804	884	964	1,045	1,125	1,205	1,286	1,366	1,446	1,538

Sample repayment amounts are based on an interest rate of 8.25%.

Income Contingent Repayment Plan
Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels
 (Family Size = 3)

Income	Initial Debt																							
	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$55,000	\$60,000	\$65,000	\$70,000	\$75,000	\$80,000	\$85,000	\$90,000	\$100,000
\$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15,000	17	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34
17,500	18	37	55	73	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75
20,000	20	39	59	78	98	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117
22,500	21	42	62	83	104	125	145	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159
25,000	22	45	67	89	111	134	156	178	200	200	200	200	200	200	200	200	200	200	200	200	200	200	200	200
30,000	25	50	75	100	125	150	175	200	225	250	284	284	284	284	284	284	284	284	284	284	284	284	284	284
35,000	27	55	82	110	137	164	192	219	247	274	329	367	367	367	367	367	367	367	367	367	367	367	367	367
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	450	450	450	450	450	450	450	450	450	450	450
45,000	28	56	84	112	141	169	197	225	253	281	337	394	450	506	534	534	534	534	534	534	534	534	534	534
50,000	29	59	88	117	147	176	205	235	264	293	352	410	469	528	586	617	617	617	617	617	617	617	617	617
55,000	31	61	92	122	153	183	214	244	275	305	366	427	488	550	611	672	700	700	700	700	700	700	700	700
60,000	32	63	95	127	159	190	222	254	286	317	381	444	508	571	635	698	762	784	784	784	784	784	784	784
65,000	33	66	99	132	165	198	231	264	296	329	395	461	527	593	659	725	791	856	867	867	867	867	867	867
70,000	34	68	102	137	171	205	239	273	307	341	410	478	546	615	683	751	819	888	950	950	950	950	950	950
75,000	35	70	105	140	175	210	245	280	315	350	420	491	561	631	701	771	841	911	981	1,034	1,034	1,034	1,034	1,034
80,000	36	72	108	144	179	215	251	287	323	359	431	503	574	646	718	790	862	933	1,005	1,077	1,117	1,117	1,117	1,117
85,000	37	74	110	147	184	221	257	294	331	368	441	515	588	662	735	809	882	956	1,029	1,103	1,176	1,200	1,200	1,200
90,000	38	75	113	150	188	226	263	301	339	376	451	527	602	677	752	828	903	978	1,053	1,129	1,204	1,279	1,284	1,284
95,000	38	77	115	154	192	231	269	308	346	385	462	539	616	693	770	847	924	1,001	1,077	1,154	1,231	1,308	1,367	1,367
100,000	39	78	117	155	194	233	272	311	350	389	466	544	622	699	777	855	932	1,010	1,088	1,166	1,243	1,321	1,399	1,450

Sample repayment amounts are based on an interest rate of 8.25%.