

Discharge Application: Total and Permanent Disability (OMB No. 1845-0065)

**U.S. Department of Education's Responses to November 7, 2011 Comments from the National
Consumer Law Center**

December 9, 2011

Comment:

1. "Ability to Engage in Substantially Gainful Activity"

Advocates across the county report that the numerous discharge applications are denied because of confusion caused by the first question in Section 4 of the discharge form, the physician's certification section. The question heading reads: "Ability to Engage in Substantial Gainful Employment." This heading suggests that the purpose of this section is to determine whether the applicant can engage in substantial gainful employment. However, the question following the heading actually asks whether the borrower has a medical condition which prevents the ability to engage in substantial gainful employment. The difference between the focus of the heading and focus of the question is conceptually confusing. Based upon this section heading, many doctors completing this form answer "no" because the applicant cannot engage in substantially gainful activity. Busy physicians often do not read the question carefully enough to realize that the answer should be "yes" – that the applicant has a disabling condition – and those applicants are denied.

We urge the Department to revise the form in order to make the heading and the question consistent. We believe that this will prevent unnecessary reevaluation of qualified borrowers and allow for a quicker and more efficient process for both borrower and the Department.

To that end, we recommend that question 1 of Section 4 of the Discharge Application be amended to read:

1. Medically Determinable Physical or Mental Impairment. Does the applicant have a medically determinable physical or mental impairment (as explained in Item 2 below) that **(a)** prevents the applicant from engaging in any substantial gainful activity, in any field of work, and **(b)** can be expected to result in death, or has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months? Yes No

Substantial gainful activity means a level of work performed for pay or profit that involves doing significant physical or mental activities, or a combination of both. *If the applicant is able to engage in any substantial gainful activity, in any field of work, you must answer "No."*

If the answer to Question 1 is No, do not complete this application.

Response:

This Discharge Application is intended to be used by people with a wide range of disabilities. The form currently utilizes seven (7) point font. This font size is inaccessible to a number of older individuals and other individuals with low-vision. We recommend that the Department consult with the Department of Justice and other disability advocates to increase the font size of the form and ensure compliance with the Americans with Disabilities Act.

Response:

A relatively small font size is used on the disability discharge application and other forms in order to minimize the number of pages required to convey all required information, since forms with multiple pages can be more difficult to process and may also be more difficult for borrowers to use. While we understand that the small font size may make the form difficult to read for some individuals, we do not believe that increasing the font size would satisfactorily address this issue. It is unlikely that one particular font size would be adequate to meet the needs of all borrowers who have visual impairments, and who are unable to access the available electronic versions of the document (in Microsoft Word or PDF format) that can be enlarged when viewed on a computer screen. However, any borrower with special needs who needs help navigating the total and permanent disability discharge process (including visually impaired borrowers who require an alternative version of the discharge application) may request assistance by contacting the Department's Nelnet Total and Permanent Disability Servicer by phone (1-888-303-7818), online (www.disabilitydischarge.com), or by e-mail (disabilityinformation@nelnet.net).