

Establishing Borrower Eligibility for Direct Loans

The purpose of this chapter is to describe the eligibility requirements for Direct Loan borrowers. These requirements are in the Higher Education Act of 1965, as amended (HEA), and in Title IV regulations. The requirements for student borrowers and parent borrowers differ.

Student Borrower Eligibility

Direct Subsidized Loans and Direct Unsubsidized Loans are for undergraduate students and graduate and professional students who meet:

- ❖ general Title IV student eligibility requirements and
- ❖ specific Direct Loan student eligibility requirements.

Schools are responsible for assuring that students who receive Direct Loans meet these requirements. This section briefly highlights several of the general requirements and then focuses on requirements that are specific to the Direct Loan Program.

Title IV Student Eligibility Requirements

To receive any Title IV aid, including Direct Loans, students must meet general regulatory requirements. These requirements address issues such as citizenship status, valid Social Security number (SSN), satisfactory academic progress, selective service registration, and certifications. The student eligibility section of ED's *Student Financial Aid (SFA) Handbook* offers extensive information about general Title IV eligibility requirements.



Take a Look

School eligibility is discussed in Chapter 4.



Laws & Regulations

- HEA, Title IV, Parts D, F, and G
- 34 CFR 668, Subpart C
- 34 CFR 685, Subpart B



Reference

- *SFA Handbook: Student Eligibility*



Take a Look

See Chapter 6 for details about loan origination records.



Laws & Regulations

- 34 CFR §668.2(b)

Schools must be knowledgeable about these requirements so that ineligible students do not receive Direct Loans. Although this guide does not repeat the detailed information in the *SFA Handbook*, three features—the Free Application for Federal Student Aid (FAFSA), dependency status, and financial need—are presented here because they are basic elements that schools use to determine student eligibility for Direct Loans.

Free Application for Federal Student Aid (FAFSA)

To be considered for a Direct Subsidized Loan or a Direct Unsubsidized Loan, a student must submit a Free Application for Federal Student Aid (FAFSA). The information on the FAFSA allows a school to determine a student’s dependency status and financial need. It also provides the school with data to create a loan origination record.

Dependency Status

A first step in determining how much a student may borrow—and what kinds and amounts of Direct Loans a student qualifies for—is to determine whether the student is an “independent student” or a “dependent student.”

By law, a student is dependent if he or she can answer “No” to all of the following questions:

1. Will you be at least 24 years old by December 31 of the award year?
2. Are you married?
3. Are you a graduate student or a professional student?
4. Are you a veteran of the U.S. Armed Forces?
5. Are you an orphan or a ward of the court or were you a ward of the court until age 18?
6. Do you have legal dependents other than a spouse?

If a student can answer “No” to all of these questions, he or she is a dependent student and is eligible to apply for a Direct Subsidized Loan and a Direct Unsubsidized Loan.

- ◆ The parent of a dependent student also is eligible to apply for a Direct PLUS Loan for the student.

If a student answers “Yes” to just one of these questions, he or she is not a dependent student and is classified as an independent student. An independent student is eligible to apply for a Direct Subsidized Loan and a Direct Unsubsidized Loan and has higher unsubsidized loan limits than a dependent student.

- ❖ The parent of an independent student cannot borrow a Direct PLUS Loan for the student.

Financial Need

Eligibility for a Direct Subsidized Loan requires that a student demonstrate financial need according to the need analysis formula in the HEA. Financial need is not, however, an eligibility criterion for Direct Unsubsidized Loans, Direct PLUS Loans, and Direct Consolidation Loans.

Direct Loan Student Eligibility Requirements

In addition to general Title IV student eligibility requirements, the Direct Loan Program has other eligibility criteria, concerning:

- ❖ enrollment status,
- ❖ Federal Pell Grant eligibility,
- ❖ previously canceled loans, and
- ❖ bankruptcy.

Enrollment Status

To obtain a Direct Subsidized Loan or Direct Unsubsidized Loan, a student must be:

- ❖ enrolled at least half-time as a regular student,
- ❖ in an eligible program, and
- ❖ at a school that participates in the Direct Loan Program.



Laws & Regulations

- HEA, Title IV, Part F



Laws & Regulations

- 34 CFR 685.200(a)

One exception to this requirement is for students enrolled in a course of study required to enroll in an eligible program. However, receiving federal financial aid while enrolled in a preparatory program is limited to 12 months—specifically, one consecutive 12-month period.

Students are *not* eligible for Direct Loans if they are also enrolled in an elementary school, middle school, or secondary school. Nor are students eligible if they are incarcerated. Although a postsecondary school may participate simultaneously in both the Direct Loan Program and the FFEL Program, a student may not borrow from both programs to attend the same school for the same loan period.

Federal Pell Grant Eligibility

When a student applies for a Direct Subsidized Loan or a Direct Unsubsidized Loan, a school must determine if the student is eligible or ineligible for a Federal Pell Grant (gift aid). The school must then include the amount of an eligible student’s Federal Pell Grant as part of his or her estimated financial assistance when calculating how much the student can borrow from the Direct Loan Program. (This Pell-eligibility check is not conducted when parents apply for Direct PLUS Loans.)

Direct Subsidized Loan Eligibility

A school awarding Direct Loan funds to a student must also determine the student’s eligibility for a Direct Subsidized Loan. Unless the borrower’s eligibility is \$200 or less, he or she must be awarded a Direct Subsidized Loan—which does not accrue interest while the student is in school and during the grace period—before being awarded a Direct Unsubsidized Loan—which accrues over the entire life of the loan. (This Direct-Subsidized-Loan-eligibility check is not conducted when parents apply for Direct PLUS Loans.)

Previously Discharged Loans

A student whose previous federal education loan was discharged due to total and permanent disability may reestablish eligibility by:

- ◆ obtaining a certification from a physician that the borrower can engage in substantial gainful activity; and



Laws & Regulations

- 34 CFR 685.200(a)



Laws & Regulations

- 34 CFR 685.301(a)(6)



Laws & Regulations

- 34 CFR 685.200(a)

- ❖ signing a statement acknowledging that the Direct Loan the borrower receives cannot be discharged in the future on the basis of any impairment present when the new loan is made, unless the impairment substantially deteriorates.

Default, Excess Borrowing, and Overpayment

Borrowers are not eligible for federal student financial aid funds if they:

- ❖ are in default on a federal student loan,
- ❖ have inadvertently obtained federal student loan funds in excess of annual or aggregate loan limits, or
- ❖ have an unresolved overpayment from Title IV funds.

The *SFA Handbook* discusses in detail default, borrowing in excess of loan limits, and overpayment. It also explains what students can do to regain eligibility for Title IV aid, including Direct Loan Program funds.

Bankruptcy

Borrowers who have declared bankruptcy do not have to reaffirm their discharged federal student loan or overpayment obligations to be eligible for federal Title IV student aid funds, including Direct Loans. The Bankruptcy Reform Act of 1994 prohibits denial of aid solely on the basis of a bankruptcy discharge.

The September 1995 “Dear Colleague” Letter, GEN-95-40, provides guidance for schools on this issue. It notes that a federal student loan or federal grant overpayment isn’t dischargeable in bankruptcy unless:

- ❖ such a debt has been outstanding for at least seven years, excluding any periods of deferment or forbearance (“suspended repayment”); or
- ❖ the bankruptcy court has determined that repaying this debt would cause an undue hardship to the debtor and his or her dependents.

A borrower applying for Title IV aid who has a defaulted federal student loan or grant overpayment that is not dischargeable in his or her bankruptcy schedules will be considered ineligible for further federal student aid until the default or overpayment status is resolved. For example, a borrower can regain eligibility by establishing a satisfactory



Laws & Regulations

- 34 CFR 668.32(g)
- 34 CFR 668.35



Reference

- *SFA Handbook: Student Eligibility*



Laws & Regulations

- The Bankruptcy Reform Act of 1994
- 34 CFR 668.35(f)



Reference

- “Dear Colleague” Letter, GEN-95-40



Laws & Regulations

- 34 CFR 668.35



Take a Look

See Chapter 2 for annual and aggregate Direct Loan limits.



Laws & Regulations

- 34 CFR 685.203(c)



Take a Look

See page 5-2 for dependent student and independent student definitions.

repayment arrangement with the holder of the debt and by making at least six consecutive monthly payments under these arrangements.

If a default or overpayment occurred before the borrower filed for bankruptcy and debts were discharged in bankruptcy, the applicant is eligible for further federal student aid and does not have to establish satisfactory repayment arrangements. The reason: Legally, the debt no longer exists.

Borrowing Additional Direct Unsubsidized Loan Amounts

In certain circumstances, a dependent student can borrow additional Direct Unsubsidized Loan funds up to the loan limits for independent students. This is the case if:

- ◆ the parent is turned down for a Direct PLUS Loan because of adverse credit or
- ◆ the school determines that the parent will be unlikely to obtain a Direct PLUS Loan or FFEL Program Federal PLUS Loan due to exceptional circumstances, *and* the student's family is otherwise unable to provide the student's Expected Family Contribution (EFC).

Exceptional circumstances include, but are not limited to:

- ◆ the parent has an adverse credit history,
- ◆ the parent receives only public assistance or disability benefits (this must be documented in the student's file),
- ◆ the parent is incarcerated (this must be documented in the student's file), or
- ◆ the parent's whereabouts are unknown (this must be documented in the student's file).

Parent Borrower Eligibility

A parent may borrow Direct PLUS Loans to help pay for the postsecondary education of his or her children who are dependent students.

- ❖ However, a parent may not borrow Direct PLUS Loans for children who are independent students.
- ❖ A parent also may not borrow both a Direct PLUS Loan and a Federal Family Education Loan (FFEL) PLUS Loan for the same child for the same loan period.

To be an eligible parent borrower for a Direct PLUS Loan, a parent must:

- ❖ be the natural mother or father or adoptive parent of the student for whom the Direct PLUS Loan is being borrowed,
 - ❖ A stepparent also is eligible if his/her income and assets were used or would have been taken into account when calculating a dependent student's EFC.
- ❖ be a U.S. citizen, U.S. national, or permanent resident of the United States;
- ❖ provide the parent's and student's Social Security numbers (SSNs);
- ❖ not be in default on a federal education loan or owe an overpayment on federal education funds;
- ❖ be requesting the loan for the educational costs of a child who is an eligible dependent student enrolled in a postsecondary school; and
- ❖ not have an adverse credit history.

To apply for a Direct PLUS Loan, a parent fills out an application/promissory note.

- ❖ Only one parent needs to sign the Direct PLUS Loan application/promissory note.
- ❖ A parent does not have to fill out the Free Application for Federal Student Aid (FAFSA) to receive a Direct PLUS Loan.

Checking Credit History

Because Direct PLUS Loans are not available to parents with an adverse credit history, an applicant's credit history is checked.



Laws & Regulations

- 34 CFR 685.200(b)

The U.S. Department of Education's (ED's) Loan Origination Center (LOC) checks credit history with a national credit bureau each time a parent applies for a Direct PLUS Loan.

- ◆ A parent who doesn't have a credit history is not considered to have an adverse credit history.
- ◆ A parent has an adverse credit history if the credit report shows that the parent:
 - ◇ currently is 90 days or more late in paying any debt (for example credit cards or loans) or
 - ◇ within five years of the date of the credit report,
 - ◆ has been determined to be in default on a debt;
 - ◆ has had debts discharged in bankruptcy; or
 - ◆ has been the subject of :
 - foreclosure,
 - repossession,
 - tax lien,
 - wage garnishment, or
 - write-off of a federal education debt.

Within five business days of receiving a Direct PLUS Loan application, the Loan Origination Center (LOC) notifies the school of the applicant's credit evaluation. This is done through decision codes on the Direct PLUS Loan origination record. The LOC also notifies the parent of the results of the credit check.

The school then continues processing loans for applicants who meet the credit criteria and stops processing loans for applicants who do not meet the criteria.



Take a Look

See page 5-10 for details about school policies for canceling or bypassing Direct PLUS Loan applications for parents with adverse credit.

Effect of Adverse Credit History on the Parent

When a parent doesn't pass the credit check, the LOC sends a letter notifying the parent that he or she is not eligible for a Direct PLUS Loan because of adverse credit history. The letter tells the parent which national

credit bureau reported the adverse information, explains why the parent was rejected, and offers the applicant several options:

- ❖ The parent can opt to take no further application actions (in other words, stop the Direct PLUS Loan application process).
- ❖ If the parent believes the credit bureau provided inaccurate credit information, he or she can contact the reporting credit bureau to resolve the issue.
- ❖ If the parent believes the adverse credit history is correct but that there are extenuating circumstances, he or she may appeal to the LOC and document the extenuating circumstance(s).
- ❖ Or the parent can obtain an endorser who does not have an adverse credit history and submit a revised Direct PLUS Loan application/promissory note. The endorser (who cannot be the dependent student for whom the parent is trying to borrow) must agree to repay the loan if the parent doesn't. (An endorser form is included in the rejection letter.)

The letter the LOC sends encourages the parent to tell the financial aid administrator at the student's school which of the outlined options the parent plans to take. The reason: If the parent decides not to pursue a Direct PLUS Loan further, the student becomes eligible for an additional Direct Unsubsidized Loan amount. The sooner the school knows the parent is stopping the loan-application process, the sooner it can begin helping the student get additional loan funds.

Only one parent needs to apply for a Direct PLUS Loan. If one parent is turned down because of adverse credit, the other parent does not need to apply before the student is eligible for an additional loan amount.

Effect of Parent's Adverse Credit History on the Student

If a parent is not eligible for a Direct PLUS Loan because of adverse credit history, the dependent student for whom the parent wished to borrow is allowed to borrow additional money from the Direct Loan Program. The student becomes eligible for an additional Direct Unsubsidized Loan amount, up to the loan limits for an independent student.



Where to Call

Parents call the LOC at 1-800-557-7394 to appeal an adverse credit decision.



Take a Look

See page 5-6 for details about students who can borrow additional Direct Unsubsidized Loan amounts.

School Policy Options for Handling Parents with Adverse Credit Histories

When a parent applicant doesn't meet Direct PLUS Loan credit criteria, a school must stop all loan processing on the application.

Because of the various appeal options a rejected parent applicant has, the school might want to establish a policy defining how long it will wait for the results of a parent's appeal(s) before it begins processing an additional Direct Unsubsidized Loan for the dependent student.

An effective school policy would have procedures for:

- ❖ determining whether a rejected parent applicant is challenging credit bureau records, appealing on the basis of extenuating circumstances, seeking an endorser, or no longer wishes to pursue a Direct PLUS Loan;
- ❖ communicating to a rejected parent applicant that if he or she is not eligible to borrow a Direct PLUS Loan because of an adverse credit history, then the student is eligible to borrow additional funds in a Direct Unsubsidized Loan;
- ❖ creating a process for officially adjusting a Direct PLUS Loan application (if the parent decides not to pursue the loan) so that the school can begin processing a Direct Unsubsidized Loan for the student; and
- ❖ determining early on when a parent probably will be unable to borrow a Direct PLUS Loan due to exceptional circumstances, *and* the student's family is otherwise unable to provide the student's Expected Family Contribution (EFC).
 - ❖ If a parent can show at the outset that he or she will be unable to meet the credit criteria (for example, show documentation of a tax lien), the parent does not need to go through the process of applying—and being rejected—for a Direct PLUS Loan.
 - ❖ Instead, a school can develop an internal process to bypass the application process and award additional Direct Unsubsidized Loan funding to the dependent student.

- ❖ The school must document in the student's file why the student's parent would have been precluded from borrowing a Direct PLUS Loan.

Student and Parent Eligibility Checklists

The checklists on the following pages provide at-a-glance lists of the Direct Loan eligibility requirements for students and parents. Schools should find these lists helpful for discussing requirements with students and parents. The checklists can also serve as a training tool for school staff members who are unfamiliar with the Direct Loan Program.

Direct Loan Student Eligibility Checklist

Eligibility Requirements.....	Reference
<input type="checkbox"/> The school determines the student's: <ul style="list-style-type: none"> <input type="checkbox"/> dependency status 34 CFR 668.2(b) <input type="checkbox"/> financial need HEA, Part F; 34 CFR 685.200(a)(2) <input type="checkbox"/> Federal Pell Grant eligibility 34 CFR 685.200(a) 	
<input type="checkbox"/> The student meets general Title IV eligibility requirements, such as: <ul style="list-style-type: none"> <input type="checkbox"/> citizenship status 34 CFR 668.33 <input type="checkbox"/> valid Social Security number (SSN) 34 CFR 668.36 <input type="checkbox"/> satisfactory academic progress 34 CFR 668.34 <input type="checkbox"/> Selective Service registration 34 CFR 668.37 <input type="checkbox"/> certifications 34 CFR 668.32(h) 	
<input type="checkbox"/> The student is enrolled: <ul style="list-style-type: none"> <input type="checkbox"/> at least half time as a regular student 34 CFR 685.200(a) <input type="checkbox"/> in an eligible program 34 CFR 685.200(a) <input type="checkbox"/> at a school that participates in the Direct Loan Program 34 CFR 685.200(a) 	
<input type="checkbox"/> The student may: <ul style="list-style-type: none"> <input type="checkbox"/> not be in default on a federal education loan 34 CFR 668.32(g) <input type="checkbox"/> not have an overpayment on Title IV student aid funds 34 CFR 668.32(g) <input type="checkbox"/> not have borrowed in excess of annual or aggregate federal education loan limits 34 CFR 668.32(g) 	
<input type="checkbox"/> Students can regain eligibility for Title IV, including Direct Loans, by repaying what they owe in full or making satisfactory repayment arrangements 34 CFR 668.35	
<input type="checkbox"/> If the student has a bankruptcy discharge, the student does not need to reaffirm student loans or overpayments discharged in bankruptcy	<ul style="list-style-type: none"> • The Bankruptcy Reform Act of 1994 • “Dear Colleague” Letter, GEN-95-40 • 34 CFR 668.35(f)
<input type="checkbox"/> If the student previously canceled federal education loans due to total and permanent disability, the student has reestablished eligibility for Direct Loans 34 CFR 685.200(a)	
<input type="checkbox"/> Under certain circumstances, the student (if a dependent student) may borrow additional Direct Unsubsidized Loan amounts above dependent-student annual limits 34 CFR 685.203(c)	

Direct Loan Parent Eligibility Checklist

Eligibility Requirements.....	Reference
<input type="checkbox"/> The parent is borrowing to help pay for the postsecondary expenses of his or her child	34 CFR 685.200(b)
<input type="checkbox"/> The parent's child is a dependent student who meets Title IV student eligibility requirements	34 CFR 685.200(b)
<input type="checkbox"/> The parent must: <ul style="list-style-type: none"> <input type="checkbox"/> provide the parent's and student's Social Security numbers (SSNs) <input type="checkbox"/> be a U.S. citizen, U.S. national, or U.S. permanent resident <input type="checkbox"/> not be in default on a federal education loan or owe an overpayment on federal education funds. <input type="checkbox"/> not have an adverse credit history. 	34 CFR 685.200(b) 34 CFR 685.200(b) 34 CFR 685.200(b) 34 CFR 685.200(b)
<input type="checkbox"/> The parent is not borrowing from the Direct Loan Program and the Federal Family Education Loan (FFEL) Program for the same child for the same loan period	34 CFR 685.200(b)

