

Session #36

Consumer Information

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U.S. Department of Education



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Higher Education Opportunity Act

- HEOA reauthorized the Higher Education Act of 1965 and established new institution-based disclosure requirements
- Enacted August 14, 2008
- Public Law 110-315
- Dear Colleague Letter GEN-08-12
- <http://www.ifap.ed.gov/dpcletters/GEN0812FP0810.html>

Negotiated Rulemaking

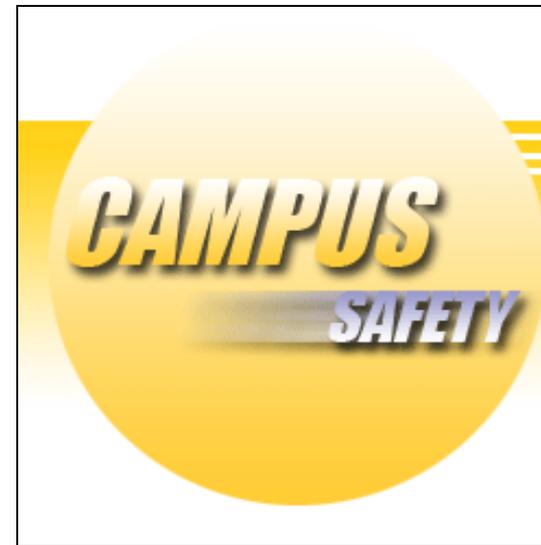
- Non-loan disclosure issues negotiated Spring 2009
 - Campus safety
 - Peer-to-peer file sharing
 - Educational outcomes information
- NPRM published August 21, 2009

Negotiated Rulemaking

- Final rule published October 29, 2009
 - <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a4d8d9>
- Final rules went into effect July 1, 2010

Campus Safety Disclosures

- Fire Safety (668.49)
- Missing Students (668.46(h))
- Emergency Notification (668.46(g))
- Hate Crimes (668.46(c))



Fire Safety

- Components:
 1. Fire statistics
 2. Annual fire safety report (AFSR)
 3. Fire log
- Required of institutions that maintain an on-campus student housing facility (SHF)

Fire Safety: Fire Statistics

- Statistics collected for **each** on-campus SHF:
 - Number and cause of each fire
 - Number of persons with injuries related to a fire that resulted in treatment at a medical facility
 - Number of deaths related to a fire
 - Value of property damage

Fire Safety: Fire Statistics

- Statistics cover the **three** most recent calendar years
- Included in the annual fire safety report **and** reported to the Secretary

Fire Safety: Annual Fire Safety Report

- **Disseminated** to enrolled students and current employees by October 1 of each year
- Includes:
 - Fire statistics
 - Description of each on-campus SHF fire safety system
 - Number of fire drills held during the previous calendar year
 - Policies or rules on portable electrical appliances, smoking, and open flames in a student housing facility



Fire Safety: Annual Fire Safety Report

- Also includes:
 - Procedures for student housing evacuation
 - Policies for fire safety education and training programs for students, faculty, and staff
 - A list of the titles of each person or organization to which individuals should report that a fire has occurred
 - Plans for future improvements in fire safety, if determined necessary by the institution



Fire Safety: Fire Log

- Must be written and easily understood
- Includes all fires in on-campus student housing facilities, by date reported
- Flexible format, but must include the **nature, date, time, and general location**
- Specifications for maintenance of log
- Annual report to the campus community on fires recorded in the log

Missing Student Notification

- Statement of **policy and procedures** in the Annual Security Report (ASR)
- Required of institutions that maintain an on-campus SHF

Missing Student Notification

- Required elements:
 - List of titles of the persons/organizations individuals should report that a student has been missing for 24 hours
 - Requires any missing student report must be referred immediately to the institution's police or campus security department
 - Or, in absence of institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area



Missing Student Notification

- Required elements
 - Option to register a **confidential** contact person to be notified within 24 hours of the determination that student is missing
 - Advise students that contact information will be registered confidentially
 - Information accessible only to authorized campus officials
 - May not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation



Missing Student Notification

- Required elements
 - Advises students under 18 who are not emancipated that their parent or guardian must be notified within 24 hours of the determination that the student is missing
 - Advises all students that the local law enforcement will be notified within 24 hours of the determination that the student is missing

Emergency Notification

- Statement of policy on emergency response and evacuation procedures in the ASR
- Required of all Title IV participating institutions



Emergency Notification

- Required elements
 - Procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus

Emergency Notification

- Required elements
 - Statement that institution will, **without delay**, and taking into account the **safety** of the community, determine content of the notification
 - Must initiate notification system, unless issuing notification will compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency

Emergency Notification

- Required elements
 - A description institution's process to:
 - **Confirm** there is a significant emergency
 - Determine **who** to notify
 - Determine **content** of the notification
 - **Initiate** the notification system
 - List of **titles of persons/organizations** responsible for carrying out these actions

Emergency Notification

- Required elements
 - Procedures for **disseminating** emergency information to the larger community



Emergency Notification

- The institution's **procedures to test** the emergency response and evacuation procedures **on at least an annual basis**
- Tests
 - **Announced or unannounced**
 - **Publicized** in conjunction with at least one test per calendar year
 - **Documented** (description of the exercise, the date, time, and whether it was announced or unannounced)

Hate Crime Reporting

- Additional crimes that an IHE must report as Hate Crimes:
 - Simple assault
 - Larceny-theft (except motor vehicle theft)
 - Intimidation
 - Destruction/Damage/Vandalism of Property
- Effective on enactment

Hate Crime:

A crime that manifests evidence that the victim was **intentionally selected** because of the **perpetrator's bias**.

Other Campus Safety Information

- Handbook for Campus Safety and Security Reporting
 - Revised version published Feb. 2011
 - <http://www2.ed.gov/admins/lead/safety/handbook-2.pdf>
 - Contact information for questions
 - Help Desk: 1-800-435-5985
 - Help Desk e-mail:
Campussecurityhelp@westat.com



Other Campus Safety Information

- Handbook for Campus Safety and Reporting (cont.)
 - Reminder: IHEs must comply with 34 CFR part 86 (Drug and Alcohol Abuse Prevention)

Peer-to-Peer: File Sharing

- Two pieces
 - Consumer disclosures
 - 668.43(a)(10)
 - 668.41(c) - Notice requirement
 - Program Participation Agreement (PPA)
 - 668.14(b)(30)
- DCL GEN-10-08
published June 4, 2010



Peer-to-Peer: Disclosures

- Institutions must disclose to prospective and enrolled students:
 - Explicit statement that unauthorized distribution of copyrighted material may subject student to civil and criminal liabilities
 - Description of the institution's policies on unauthorized P2P file sharing, including disciplinary actions
 - Summary of penalties for violation of Federal copyright laws

Peer-to-Peer: Disclosures

- Institutions must distribute annual notice to all enrolled students (NOT new requirement!)
 - Must contain notice of availability of information required to be disclosed
 - Must list and briefly describe the information and tell student how to obtain the information
 - Notice is 1:1

Peer-to-Peer: Disclosures

- Institution must include in this list information regarding institutional policies and sanctions related to the unauthorized distribution of copyrighted material

Peer-to-Peer: PPA

- Institution must agree that it has **developed and implemented** written plans to effectively combat the unauthorized distribution of copyrighted materials by users of the network
 - Without unduly interfering with the educational and research use of the network

Peer-to-Peer: PPA

- The written plan must include:
 - 1+ technology-based deterrents
 - Mechanisms for education of community
 - Institutional policies and sanctions for violations
 - Procedures for handling violations
 - Including disciplinary actions
 - Procedures to periodically review effectiveness of the plan
- No particular technology measures required



Peer-to-Peer: PPA

- Institution must also certify that it will, in consultation with the designated officer:
 - Periodically review legal alternatives for downloading or otherwise acquiring copyrighted material
 - Share results of review with students
 - Offer legal alternatives for downloading (to the extent practicable)

Educational Outcomes

- Placement Information
 - 668.41(d)(5)
 - 668.41(d)(6)
- Retention Rates
 - 668.41(d)(3)
- Graduation/Completion Rates
 - 668.45(a)(6)



Educational Outcomes: Placement Information

- Required disclosures:
 - **Placement and types of employment** obtained by graduates of the institution's degree or certificate programs
 - **Types of graduate and professional education** in which graduates of the institution's 4-year degree programs enrolled

Educational Outcomes: Placement Information

- IHEs may use various sources of information to gather this information
 - If calculated, rates **must** be disclosed
- For both information and rates, IHE must disclose the source of the information, the time frame, and the methodology
- Effective on enactment



Educational Outcomes: Retention Rates

- IHEs must report its **retention rates** of certificate or degree-seeking, first-time full-time undergraduates entering the institution
- Effective on enactment

Retention rate:

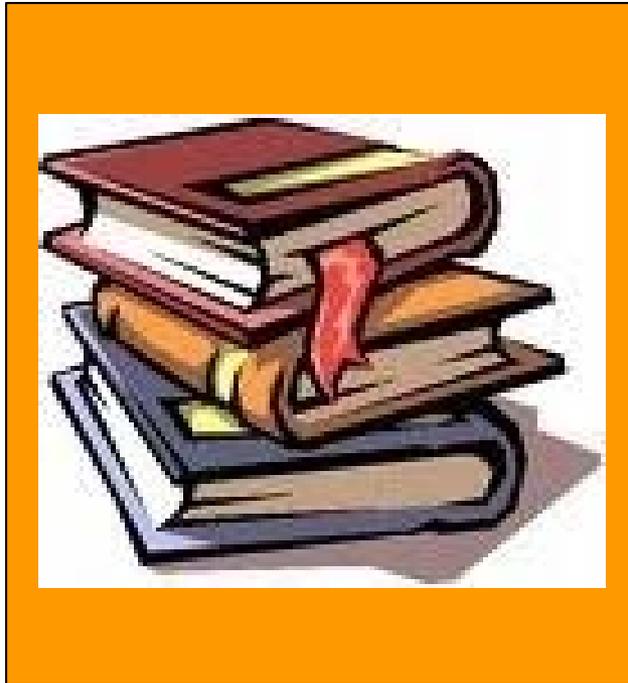
A measure of the rate at which students persist in their educational program at an institution, expressed as a percentage.

Educational Outcomes: Completion & Graduation Rates

- Completion and graduation rates must be disaggregated by:
 - Gender
 - Major racial/ethnic subgroups
 - Recipients of Pell Grant, FFEL/DL
 - Other than unsubsidized Stafford loan
 - Recipients of neither Pell Grant nor FFEL/DL
 - Other than unsubsidized Stafford loan
- Not required if number would not yield statistically reliable information or would reveal personally identifiable information
- Effective on enactment



Textbook Information Disclosures



- Statutory/Secretary has no regulatory authority
- HEA section 133
- Effective July 1, 2010
- Apply to institutions receiving federal financial assistance
- DCL GEN-10-09 published 6/8/2010



Textbook Information: ISBN Information in Course Schedules

- Institutions must disclose, on institution's Internet course schedule in a manner of the institution's choosing, **ISBN** and **retail price** information of required/recommended college textbooks & supplemental materials for each course listed in the institution's course schedule



Textbook Information: ISBN Information in Course Schedules

- **Exception #1:**
 - If ISBN number is not available for a college textbook or supplemental material, then the institution must include the Internet course schedule:
 - Author
 - Title
 - Publisher
 - Copyright date

Textbook Information: ISBN Information in Course Schedules

- **Exception #2:**
 - If the institution determines that disclosure of information is not practicable for a college textbook or supplemental material, the institution must indicate TBD instead of the information
- **Additionally**, IHEs must include a **notice** on institution's written course schedule that textbook information is available on Internet course schedule and provide the Internet address

Textbook Information: Information for College Bookstores

- Institution must give its bookstore:
 - Course schedule for subsequent academic period
 - For each course/class for the following academic period:
 - The ISBN and retail price (or alternatives) for each textbook/supplemental material required or recommended for the class
 - The number of students enrolled
 - The maximum student enrollment



Textbook Information: Information for Students

- IHEs are encouraged to disseminate information to students about:
 - Programs for renting or purchasing used textbooks
 - Guaranteed buy-back programs
 - Alternative content delivery programs
 - Other cost-saving strategies



Net Price Calculator

- Statutory requirement in HEA section 132(h)
- IHEs must post a net price calculator on their websites by **10/29/2011**
 - Department template published 10/29/2009
 - Anticipate making new template available each December (current one uses 2009-10 data)

Net Price Calculator

- An institution may use the Department's calculator, develop its own, **or** contract with a third party
- Must include "at a minimum the same data elements" found in the Department's template

Net Price Calculator

- http://nces.ed.gov/ipeds/resource/net_price_calculator.asp
- Any FTFT students → school must have a calculator
- May use federal or institutional methodology to approximate student's EFC
- Accessible from institution's website
 - May link to a third party calculator
 - Must provide campus-specific information
- Updated annually when new data are available
 - COA data and grant aid data should align and be from the same year

Net Price Calculator

- Net Price:
 - The average yearly price actually charged to full-time, full-year undergraduate students receiving student aid at the institution
 - Cost of attendance minus the average need-based and merit-based grant aid
- Disclaimer:
 - Individual net price estimates must have prominent disclaimer that estimate is not final or binding
 - Student must complete FAFSA to be eligible for and receive federal student aid funds
 - Must include a link to the FAFSA website



Additional Disclosures

- Any plans by the institution for **improving the academic program** of the institution (668.43(a)(5)(iv))
- Services and facilities for **students with intellectual disabilities** (668.43(a)(7))
- **Transfer of credit** policies (668.43(a)(11))

Additional Disclosures

- Institutional policies regarding vaccines (HEA section 485(a)(1)(V))
- Student body diversity at the institution
 - HEA section 485(a)(1)(Q)
 - Disclose % of enrolled, full-time students:
 - Are male
 - Are female
 - Receive a Pell Grant
 - Self-identify as member of major racial/ethnic group



Student Loan Consumerism

- Today's Topics
 - Private education loan disclosures and requirements subject to regulation by the Department of Education
 - Private education loan disclosures and requirements subject to regulation by the Federal Reserve Board (FRB)

Statutory Framework

- Higher Education Opportunity Act (HEOA) amended the Higher Education Act and the Truth-in-Lending Act (TILA) to establish institution-based and private education lender disclosures and prohibit certain activities
- Health Care & Education Reconciliation Act of 2010 eliminated origination of loans under Federal Family Education Loan Program as of 6/30/2010

Statutory Framework(cont.)

- New HEAO and TILA private loan disclosures and requirements ensure:
 - An informed student loan borrower
 - Borrower choice of lender
 - Transparency and high ethical standards in the student lending process
 - Selection of preferred lender based on best interest of borrowers

Regulatory Framework

- Department of Education regulated required disclosures on Title IV, HEA loans and private education loans – 34 CFR 601
- FRB regulated required disclosures on private education loans & defines key terms – 12 CFR 226
- ED and FRB jointly developed private loan self-certification form

Regulatory Resources

- ED final rules on institution-based disclosures:
 - <http://www.ifap.ed.gov/fregisters/FR102809InstitutionandLenderrequirements.html>
- FRB final rules on private education loan disclosures:
 - <http://edocket.access.gpo.gov/2009/pdf/E9-18548.pdf>



Department of Education Final Rules – Key Terms

- Covered institution—an IHE, defined in HEA §102, that receives any federal funding
- Institution-affiliated organization—entity directly or indirectly related to a covered institution that recommends, promotes, or endorses education loans

Department of Education Final Rules – Key Terms

- Lender—An eligible FFEL lender, ED, a private educational lender (§140 of the TILA), or any other person engaged in the business of securing, making or extending education loans on behalf of lender
- Private education lender is a financial institution, federal credit union or any other person engaged in the business of soliciting, making, or extending private education loans

Department of Education Final Rules – Key Terms

- Private education loan—(§140 of the TILA) is a non-Title IV loan provided by a private educational lender expressly for postsecondary educational expenses
- A private education loan does not include an extension of credit under an open-end consumer credit plan or secured by real property

Department of Education Final Rules -- Key Terms

- A private education loan does not include an extension of credit in which the educational institution is the lender if:
 - The extension of credit is 90 days or less
 - Interest will not be applied to credit balance and term is one year or less, even if payable in more than 4 payments
- Education loan – a FFEL Loan, a Direct Loan or a private education loan

Department of Education Final Rules – Key Terms

- Preferred lender arrangement – An arrangement or agreement, between a lender and covered institution, in which a lender provides education loans to students/families and the covered institution recommends, promotes, or endorses the education loan products of the lender

Department of Education Final Rules – Key Terms

- Preferred lender arrangement (cont.) –
 - Includes arrangements between a lender and an institution-affiliated organization
 - Does not include arrangements involving:
 - Direct Loan Program loans
 - Loans originated through PLUS auction pilot program

Department of Education Final Rules – Key Terms

- Preferred lender arrangement (cont.)
 - Does not include private education loans *made by a covered institution* to students attending a covered institution if the private education loan is:
 - Funded by covered institution's own funds
 - Funded by donor-directed contributions



Department of Education

Final Rules – Key Terms

- Preferred lender arrangement (cont.)
 - Does not include private education loans *made by a covered institution* to students attending a covered institution if the private education loan is:
 - Made under Title VII or VIII of Public Service Act
 - Made under state-funded financial aid programs, if terms/conditions of loan include public service loan forgiveness



Applicability of GEN-08-06 to Private Education Loans

- GEN-08-06 guidance applies to private education loans
 - Covered institution not in a preferred lender arrangement if it provides borrowers with neutral, comprehensive list of private education lenders that made loans within a 3-5 year time period and a statement that borrower can choose any lender

Applicability of GEN-08-06 to Private Education Loans

- GEN-08-06 guidance applies to private education loans (cont.)
 - Covered institution cannot recommend any lender and may include a comparison of the private loan terms and conditions

Applicability of GEN-08-06 to Private Education Loans

- GEN-08-06 guidance (cont.)
 - Covered institutions may refer borrowers to third party entity that maintains neutral, comprehensive list and not be in a preferred lender arrangement if institution ensures that the list is broad in scope, does not endorse any lender, and lender does not pay to be placed on the list or pay the third party entity a fee based on loan volume generated



Preferred Lender Arrangement (PLA) Disclosures

- Covered institution/institution-affiliated organization participating in a PLA must disclose on its website and all “informational materials” that describe private education loans:
 - Maximum amount of aid available under Title IV

Preferred Lender Arrangement (PLA) Disclosures

- PLA must disclose on its website and all “informational materials” that describe private education loans (cont.):
 - Disclosures required by TILA §128(e)(11) for private loans offered by covered institutions
 - Disclosures required by TILA §128(e)(1) for private loans offered by institution-affiliated organizations

PLA Disclosures (cont.)

- “Informational materials” = publications, mailings, electronic messages or materials:
 - Distributed to prospective/current students
 - Describe/discuss available financial aid opportunities
- Disclosures must be provided annually for each type of private education loan offered pursuant to a PLA for consideration before a student borrows

Preferred Lender List Requirements

- Institution's preferred lender list must contain not less than two unaffiliated private education lenders and **clearly** and **fully disclose** for each lender:
 - Reasons institution includes lenders on list, particularly with respect to loan terms/conditions favorable to borrower

Preferred Lender List Requirements

- That students do not have to borrow from lender on list
- Method and criteria used to choose lenders to ensure lenders selected on basis of best interest of borrowers
- Institution's must compile preferred lender list without prejudice and for sole benefit of students attending the institution

Private Education Loan Disclosures

- Covered institution or affiliate that provides information on private education loans, **regardless of participation in a PLA**, must:
 - Provide prospective borrower with TILA disclosures under §128(e)(1)
 - Inform borrowers of possible eligibility for Title IV loans & that Title IV loan terms/conditions may be more favorable than private education loans

Private Education Loan Disclosures

- Private loan disclosures must be presented in manner distinct from Title IV loan information

Private Education Loan PLAs

- Covered institutions/affiliates in a PLA with a lender of private education loans:
 - Cannot agree to the lender's use of the name, emblem, mascot, or logo of the institution/affiliate or pictures, words or symbols identified with institution or affiliate in marketing of private education loans in a way that implies the loan is offered/made by the institution or affiliate
 - Must ensure the lender's name is displayed in all information and documentation related to the loan

PLA Annual Report

- Covered institution/affiliate participating in a PLA:
 - Must submit to ED an annual report that includes for each private education lender in the arrangement:
 - Disclosures provided on institution's preferred lender list

PLA Annual Report

- PLA Annual Report must contain:
 - Detailed reasons why entity participates in a PLA with each private education lender including why terms and conditions of each loan provided pursuant to a PLA are beneficial to borrowers
 - Must ensure the report is made available to the public, and current and prospective students

Code of Conduct Requirements

- Covered institution that participates in a PLA must develop a code of conduct with respect to private education loans with which the institution's agents must comply
- Code of conduct must prohibit conflicts of interest between institution's agents and lenders

Code of Conduct Requirements

- The institution must publish code of conduct prominently on its website
- Administer and enforce the code by requiring all the covered institution's agents to be annually informed of the code's provisions

Code of Conduct-Institution Affiliated Organizations

- Institution-affiliated organizations that participate in a PLA must:
 - Comply with the code of conduct developed by the covered institution with which it is affiliated
 - If the affiliate has a website, publish the code of conduct prominently on its website

Code of Conduct-Institution Affiliated Organizations

- Institution-affiliated organizations that participate in a PLA must:
 - Administer and enforce the code of conduct by requiring all the affiliate's agents to be annually informed of the code's provisions

Code of Conduct –Covered Institution

- Covered institution's code of conduct must prohibit revenue-sharing arrangements with any lender
- Revenue sharing is an arrangement under which:
 - A lender provides or issues a private education loan to students at the school and



Code of Conduct – Covered Institution

- The school recommends the lender or loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution



Code of Conduct – Covered Institutions

- Covered institution's code of conduct must prohibit employees of the financial aid office receiving gifts from a lender, GA, or loan servicer
- The term "gift" means:
 - Any gratuity, favor, discount, entertainment, hospitality, loan, or other item valued at more than a de minimus amount

Code of Conduct – Covered Institutions

- The term “gift” includes:
 - Services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or by reimbursement

Code of Conduct – Covered Institutions

- The term “gift” does **not** include:
 - Standard material, activities, or programs on issues related to a loan
 - Food, refreshments, or training that are part of a training session to improve service if training contributes to professional development of agent

Code of Conduct – Covered Institutions

- The term “gift” does not include:
 - Favorable terms, conditions, and borrower benefits on a private education loan provided to a student employed in the financial aid office if terms are comparable to those provided to all student employees
 - Entrance/exit counseling if school staff are in control and counseling does not promote the products of any lender

Code of Conduct – Covered Institutions

- The term “gift” does not include:
 - Philanthropic contributions from a lender, servicer, or GA not related to or made in exchange for any advantage related to private education loans
 - State education grants, scholarships, or financial aid funds administered on behalf of a state

Code of Conduct Exceptions

- Covered institution's code of conduct must prohibit consulting or other contracting arrangements between the institution's agent and lenders **except**:
 - An agent not employed in the institution's financial aid office and not responsible for private education loans may perform paid or unpaid service on a board of directors of a lender or servicer



Code of Conduct Exceptions

- An agent not employed in an institution's financial aid office but who is responsible for private loans may perform paid or unpaid service on a board of directors of a lender or servicer if the institution has a written policy by which the agent must recuse themselves from decisions regarding private loans

Code of Conduct Exceptions

- An officer, employee, or contractor of a lender or servicer of private loans may serve on a board of directors, or serve as a trustee, of an institution if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from decisions regarding private loans

Code of Conduct – Covered Institutions

- Covered institution's code of conduct must prohibit directing borrowers to particular lenders or delaying loan certifications. The institution must not:
 - For first-time borrowers, assign, through award packaging or other methods, the borrower's loan to a particular lender or

Code of Conduct – Covered Institutions

- Code of conduct must prohibit directing borrowers to particular lenders or delaying loan certifications (cont.)
 - The institution must not refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender



Code of Conduct – Covered Institutions

- Covered institution's code of conduct must prohibit offers of funds for private loans, including funds for opportunity pool loans, in exchange for a promise of a specified number of private education loans, a specified loan volume, or a preferred lender arrangement for such loans

Code of Conduct – Covered Institutions

- An “opportunity pool loan” means a private education loan that involves a payment, directly or indirectly, by the institution of points, premiums, additional interest or financial support to the lender for the purpose of the lender extending credit to the student

Code of Conduct – Covered Institutions

- Covered institution's code of conduct must prohibit assistance with call center or financial aid office staffing from a lender except an institution is not prohibited from requesting/accepting:
 - Professional development training for aid officers

Code of Conduct – Covered Institutions

- An institution is not prohibited from requesting/accepting:
 - Counseling, financial literacy, or debt management materials for borrowers if materials disclose that lender prepared or provided the materials
 - Staffing on a short-term, nonrecurring basis to assist with aid-related functions during emergencies



Code of Conduct – Covered Institutions

- Covered institution's code of conduct must prohibit any employee of financial aid office, or who has responsibilities with respect to private education loans, and who serves on an advisory board, commission, or group established by a lender or group of lenders from receiving anything of value from such entities, except the employee may be reimbursed for reasonable expenses

Program Participation Agreement Requirements

- Institutions must develop, publish, administer, and enforce a code of conduct with respect to loans made under the Title IV, HEA loan programs in accordance with §601.21
- For any year an institution has a PLA, annually compile, maintain, and make available to students a list of private education loans the institution recommends

Program Participation Agreement Requirements

- Institutions must, upon request of an enrolled or admitted student applicant of a private education loan, provide the applicant with the self-certification form and the information needed to complete it

Self-Certification Form for Private Education Loans

- ED, in consultation with FRB, developed a self-certification form for private education loans to satisfy TILA §128(e)(3) which requires that before a private education lender can disburse a private education loan, the lender must obtain self-certification from the applicant
- The covered institution, at which the applicant is enrolled or admitted, must provide the form to the applicant

Contents of Private Loan Self-Certification Form

- Form must contain only disclosures that:
 - Applicant may qualify for federal, state or institutional aid and is encouraged to discuss aid availability with financial aid officials at applicant's institution
 - Private education loan may affect applicant's eligibility for federal, state or institutional aid
 - Information required on form is available at financial aid office



Contents of Private Loan Self-Certification Form

- Information provided with self-certification form:
 - Applicant's cost of attendance (COA)
 - Applicant's estimated financial assistance (EFA)
 - Difference between the COA and EFA
- Form must include place for applicant's signature

Standards of Administrative Capability

- To begin and continue to participate in Title IV, HEA programs an institution must:
 - Report annually to ED any “reasonable” reimbursements paid by a private education lender(s) to any employee in the financial aid office or who otherwise is responsible for education loans or other financial aid at the institution
 - “Reasonable” means in accordance with state or federal government reimbursement policies

Truth-in-Lending Act (TILA)

- Purpose is to provide consumers with “meaningful” disclosures about the cost of “consumer credit”
- Implemented for all lenders by the Federal Reserve Board’s (FRB) Regulation Z, 12 CFR 226
- An official staff commentary gives examples and additional guidance
- Creditors that follow the regulation and commentary in good faith are insulated from liability



TILA Background

- TILA requires “closed-end” (non-revolving) credit disclosures be made before consummation
- Before HEOA amendments, model disclosure forms were standardized for all types of closed-end credit including, with some exceptions, student loans
- Student loan disclosures looked similar to those for auto loans and other installment loans

Overview of Final Rule

- New disclosures and timing rules:
 - Disclosures on or with an application
 - Disclosures after loan approval
 - Consumer's 30-day acceptance period
 - No changes to rate or terms with some exceptions
 - Disclosures at consummation
 - Consumer's 3-day right to cancel
 - Creditor must not disburse funds



Overview of Final Rule (cont.)

- Self-certification form before consummation
- Model disclosure forms developed through consumer testing and in consultation with the Department of Education
- Prohibition on co-branding in marketing
- Provision of information by creditors to educational institutions with Preferred Lender Arrangements

Coverage – Lenders

- Applies to “creditors” as defined in Reg. Z
- Includes educational institutions that meet the definition of “creditor”
 - However, some types of credit provided by educational institutions are not covered by the private education loan rules

Definition of Creditor

- A “creditor” means a person who “regularly extends” consumer credit that:
 - Is subject to a finance charge; or
 - Is payable by written agreement in more than four installment
 - Is the person to whom the obligation is initially payable

Definition of Creditor

- “Regularly extends credit” means extending any type of consumer credit more than 25 times in the preceding calendar year



Coverage – Loans

- Covers loans made in whole or in part for “postsecondary educational expenses” ... at “covered educational institutions”
 - Includes all “institutions of higher education”
 - Includes unaccredited institutions

Coverage – Loans (cont.)

- Excludes:
 - Federal student loans (Title IV loans)
 - Open-end (revolving) credit
 - Real-estate secured loans
 - Two types of credit extensions made by educational institutions (next slide...)

Coverage – Loans (cont.)

- Excludes credit extended by educational institutions if:
 - The term of the credit extension is 90 days or less or
 - An interest rate will not be applied to the credit balance and the term is one year or less, even if the credit is payable in more than four installments
 - But...

Coverage – Loans (cont.)

- Exclusions applicable to credit extended by educational institutions are only exempt from the new private education loan rules, not from all of Reg. Z
- As a result, disclosures under the TILA may still be required under 12 CFR 226.17 and 226.18

Application Disclosure

- On or with an application or a solicitation where no application is required
- Contains general information about the range of rates, fees, and other terms that apply
- Also provides information about federal student loan alternatives

Approval Disclosure

- Provided after approval on or with any notice of approval to the consumer
- Transaction-specific rate and term information
 - including the information currently required by TILA

Acceptance Period

- Consumer has 30 days to accept from the time the approval disclosure is received
 - Can accept earlier
- Disclosure must state exact date on which acceptance period expires

Limitation on Changes

- Creditor cannot change rate or terms with few exceptions
- Permissible changes (no re-disclosure required):
 - Rate may change based on index
 - Unequivocally beneficial changes

Limitations on Changes

- Permissible changes (no re-disclosure required):
 - Offer may be withdrawn if:
 - Creditor has reason to believe the consumer committed fraud or
 - If the extension of credit would be prohibited by law

Limitations on Changes

- Permissible changes (no re-disclosure required):
 - Reducing loan amount based on school certification or information from the consumer indicating decrease in financial need
- Other changes to terms permitted only to the extent that consumer would have received them if the consumer had applied for the reduced loan amount

Limitations on Changes

- Permissible changes (re-disclosure required):
 - Changes may be made to accommodate a request by the consumer
 - New disclosure and 30 day acceptance period required for new terms
 - Creditor must leave original offer open unless/until new offer accepted

Final Disclosure

- Very similar to approval disclosure
- After acceptance and at least three days before disbursement
- Also includes TILA disclosures

Right to Cancel

- Consumer may cancel within three business days of receipt of final disclosure form
- Funds may not be disbursed until cancellation period expires

Self-Certification

- Lender must obtain signed, completed form before consummation
- Lender may receive form from consumer or from school
- Lender may provide the form to the consumer and lender may fill in the data

Co-Branding Prohibited

- Prohibits use of school's name, logo, mascot, etc. in a way that implies endorsement
- Safe harbor: Marketing does not imply endorsement if there is a clear and conspicuous disclosure that school does not endorse
- Exception for actual endorsements if clear and conspicuous disclosure that creditor, and not school, is making loan

Provision of Information

- Creditors who have preferred lender arrangements with a covered educational institution must provide institution with certain information from the creditor's application disclosures
- Deadline is the later of April 1 for next award year or within 30 days of entering (or learning about) a preferred lender arrangement

Contact Information

We appreciate your feedback & comments.

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