

The MPN and the Stafford/ PLUS Loan Process

CHAPTER 1

In this chapter, we'll cover the process of making a loan, describing the actions and information required of the borrower, parent, and school. The order of the elements that we list below may vary from school to school or between the FFEL and Direct Loan programs, but each of the elements is required to make a loan.

STUDENT APPLIES FOR AID & COMPLETES MPN

A student who wishes to receive a Stafford Loan must complete a Free Application for Federal Student Aid (FAFSA) and a Master Promissory Note (MPN). Depending on the lending program, a student may obtain an MPN from a school, a lender, guaranty agency or the Department. An MPN can be used to make multiple loans for multiple years of borrowing.

In the traditional paper process, a Stafford MPN might be completed at the school by the student and submitted to the lender or school. In other cases, the school certifies or originates the loan based on the student's acceptance of the aid package, and the lender, the school or ED sends the MPN to the student for his or her signature. Regardless of the method used, the *Borrowers' Rights and Responsibilities Statement* must be provided to the student with the MPN.

Schools may also offer borrowers the option of completing and signing an electronic MPN. (Note, however, that schools may not require borrowers to use an electronic MPN. A borrower who wishes to complete a paper MPN must be given that option.) In most cases, the promissory note will be completed through a Web site, and the organization operating the site will be responsible for authenticating the borrower and obtaining the borrower's electronic signature. In the Direct Loan program, you can notify ED if you want it to accept electronic promissory notes for your school, and whether you want ED to only accept electronic promissory notes for borrowers who have an origination record from your school. Student and parent borrowers can log onto the Web and complete the MPN for Direct Stafford and PLUS loans at

<http://dlenote.ed.gov>.

Early Implementation

On November 1, 2007, the Department published regulations that modified the treatment of federal cash.

Section 482(c) of the HEA requires that regulations affecting programs under Title IV of the HEA be published in final form by November 1 prior to the start of the award year (July 1) to which they apply. That section also permits the Secretary to designate any regulation as one that an entity subject to the regulation may choose to implement earlier and the conditions under which the entity may do so.

The Secretary has used the authority to designate all of the regulations published as part of the aforementioned Federal Register for early implementation at the discretion of each school, lender, guaranty agency, or servicer, as appropriate.

This volume of the Handbook is intended to provide guidance for the 2008-2009 award year (beginning July 1, 2008), however, you may implement any changes made in the new regulations now.

New Promissory Note Addenda

New promissory note addenda and Plain Language Disclosures for Stafford Loans and a new promissory note addendum for Consolidation loans are available in DCL FP-08-02.

Paper copies of MPN

Copies of the Master Promissory Note are provided to borrowers and schools by lenders and guarantors (for FFEL) or the Department (for Direct Loans). Ordering instructions for Direct Loan schools are posted under “Publications and How to Order” on the Schools Portal (fsa4schools.ed.gov).

Cites
 FFEL: 34 CFR 682.401(d)
 DL: 34 CFR 685.402(f) and definition of *Master Promissory Note* 34 CFR 685.102.

For your reference, sample copies of the MPN and related materials are available online :

FFEL Stafford Loan
<http://ifap.ed.gov/dpccletters/GEN0207.html>
 Direct Stafford and PLUS loans
<http://www.ed.gov/DirectLoan/mpn.html>
 DL MPN on the Web
<http://dlenote.ed.gov>

Power of Attorney completing the MPN

A third party with *power of attorney* for the borrower may sign the promissory note if the borrower is unable to sign. Use of a power of attorney when signing an MPN limits the use of the MPN to one loan. If the borrower submits his or her MPN through the school, the school must retain a copy of the original power of attorney and submit a copy of the power of attorney with the MPN to the loan holder. A photocopy or a fax of the power of attorney is acceptable.

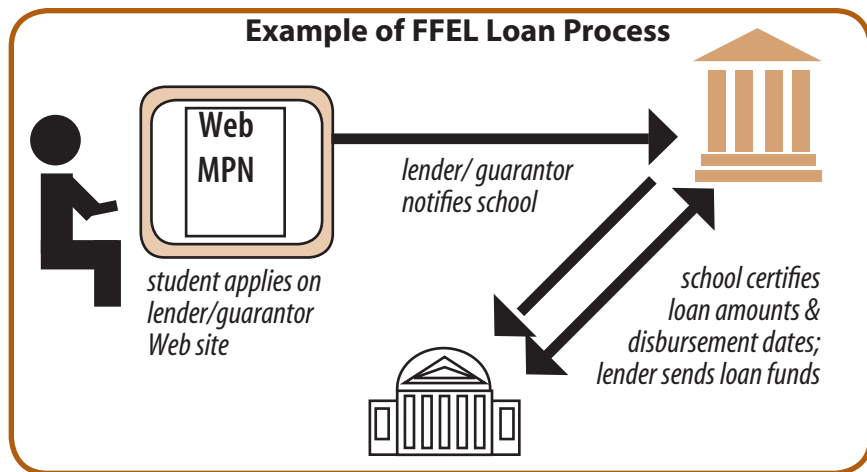
If the note is signed with a power of attorney, the student must authorize the school in writing to credit the loan funds to his or her account at the school. In addition, the school must pay any remaining balance to the student for living expenses.

See Chapter 3 for further discussion of ED approval needed to use a power of attorney for disbursements.

If your school participates in the FFEL program, you should make arrangements with participating lenders or another intermediary (such as a guarantor Web site or ELM) for the receipt of electronic documents.

In the FFEL program, electronic completion of the MPN does not always include electronic signatures. A school or borrower could require/insist upon a “wet” signature even if the MPN is otherwise completed electronically. In the Direct Loan Program, a borrower who wishes to complete an electronic MPN must sign the MPN electronically. If a school or borrower does not want an MPN signed electronically, a paper MPN must be completed.

If a borrower is completing and signing the promissory note at a Web site, using the Department’s PIN or an alternate signature process provided by the intermediary’s Web site, the *Borrowers’ Rights and Responsibilities* statement must be incorporated into the electronic process. In most cases, the intermediary operating the Web site will notify you when a student completes the promissory note online and designates your school.



Required borrower information on MPN

The MPN collects identifying information for the borrower, including name, permanent address, date of birth, Social Security Number, driver’s license number and two references with U.S. addresses. Some of this information may be preprinted on the MPN. The borrower must read, sign, and date the MPN.

In completing the FFEL MPN, the borrower must also provide the name of a lender. As a convenience, many schools give their borrowers a list of lenders who have made loans to students at the school. However, a borrower has the right to choose his or her lender, even if that lender is not one that the school has previously used and a school may not refuse to certify a loan based on a borrower’s choice of lender or guarantor. (For more information, see the discussion under *Preferred FFEL Lender Lists* later in this chapter.)

MULTI-YEAR USE OF THE MPN & WHEN A NEW MPN IS REQUIRED

The MPN, when used as a multi-year document, enables student and parent borrowers to get additional loans without having to sign a new MPN.

There are several circumstances that require a borrower to complete a new MPN. A new MPN is required if the borrower's lender (for an FFEL) changes, unless the lender changes as a result of a merger or acquisition. A new MPN is also required in certain transfer situations where:

- the borrower transfers to a school that is not eligible to use, or chooses not to use, the multi-year feature of the MPN.

Using the MPN for multiple loans within an academic year

Note that the MPN may be used to make multiple loans within the same academic year. Even schools that are not authorized or choose not to use the multi-year feature of the MPN can make more than one loan under an MPN within the same academic year.

Important

Special notes about Direct PLUS MPNs for graduate/professional borrowers:

Graduate and professional borrowers completing a Direct PLUS master promissory note (MPN) electronically should select ***Complete New MPN for Student Loans*** on the left-hand side of the page on the Direct Loan eMPN Web site (www.dlenote.ed.gov) then choose the Graduate PLUS option.

Graduate and professional borrowers completing a paper Direct PLUS MPN do not have to complete the U.S. Citizenship Status box, Question 7, in Section A of the form.

- the borrower transfers from an FFEL school to a Direct Loan school, and there's no valid Direct Loan MPN on file with ED. Similarly, a borrower would need a new MPN if transferring from a Direct Loan to an FFEL school, unless there is a valid MPN on file with the lender that the borrower uses. (New MPNs would also be required if the school itself changes from using DL to FFEL or vice versa.)
- a school's lender requests that a school no longer use the multi-year feature of the MPN.

Also, borrowers may request their MPN be an annual MPN, or may request that no additional loans be made using their current multi-year MPN. Requests that no additional loans be made using current multi-year MPNs must be in writing.

Lender of Last Resort

A student who is otherwise eligible for a subsidized Stafford loan and, after not more than two rejections, who has been unable to find an FFEL lender willing to make such a loan, should contact the guaranty agency in his state of residence or the guaranty agency in the state in which his school is located. The guaranty agency either must designate an eligible lender to serve as a lender of last resort (LLR) or must itself serve in that capacity and must respond to the student within 60 days. An LLR cannot make a loan that exceeds the borrower's need, and it is not required to make a loan for an amount less than \$200. The LLR, as with any other lender, may refuse to make the loan if the borrower fails to meet the lender's credit standards.

Each guaranty agency is required to develop rules and procedures for its LLR program.

In some cases, a new MPN will have to be executed because the maximum period for use of the MPN has expired. At Direct Loan schools, additional loans may no longer be made under an MPN after the earlier of:

1. the date ED or the school receives the borrower's written notification that no further loans may be made;
2. if no disbursement is made during the 12-month period, one year after the date ED received the MPN; or
3. ten years after the date ED received the MPN. If a portion of a loan is made on or before the 10-year limit, remaining disbursements of that loan can be made.

Note: Although the Direct Loan Program regulations allow the second and third expiration conditions to be based either on the date the borrower signed the MPN or the date ED receives the MPN, the COD system currently uses the date the MPN is received.

Lender of last resort

34 CFR 682.401(c)

Declining the Use of the Multi-year MPN

Schools are not required to use the multi-year feature of the MPN. You may decide that you want some or all of the borrowers at your school to sign a new MPN each year. If this is the case, you should notify your lenders. (Also note that lenders have the option to require a new MPN for each loan.) If you're at a Direct Loan school and don't want to use the multi-year feature for **any** of your students, contact the COD School Relations Center. See Direct Loan Bulletin DLB-03-02.

Student loan borrowers may decline to use the multi-year feature of the MPN. Borrowers may also cancel authorization for subsequent loans to be made under an MPN after the first loan is made by notifying the school or lender (for FFEL) in writing. Direct Loan borrowers may send their written notification to the Direct Loan Servicing Center (DLSC) or to their school to forward to COD. The effective date is the date the school, lender, COD, or DLSC receives the written cancellation request. If the borrower cancels the multi-year authorization on a loan that has not been completely disbursed, the school may make remaining disbursements on existing loans, unless the borrower tells the school to cancel or adjust the disbursements. To obtain additional loans, the borrower will need to complete a new MPN.

At FFEL Program schools, additional loans may no longer be made under an MPN after the earlier of:

1. the date the lender receives the borrower's written notification that no further loans may be made;
2. if no disbursement is made during the 12-month period, one year after the date the borrower signed the MPN; or
3. ten years from the date the student signs the MPN. If a portion of a loan is made on or before the 10-year limit, remaining disbursements of that loan can be made.

The Confirmation Process

A crucial step in multi-year use of the MPN is the confirmation process. Confirmation helps the student or parent maintain control over the borrowing process. The confirmation process may be designed to be part of the required notices and disclosures (discussed in chapter 2), or it may be a separate process that supplements those notices and disclosures.

To help ensure student borrower control over the borrowing process, a student borrower must accept, either actively or passively, the loan amount offered.

- **Active confirmation** — a school does not disburse the loan until the borrower either affirmatively requests or accepts the proposed loan type and amount or requests changes to the proposed loan package.
- **Passive confirmation** — a school does not disburse the loan until the borrower is notified of his or her proposed loan package, and the time given to the borrower to respond has elapsed. (The notification can come from the school, lender and/or guarantor.) The borrower only needs to take action if he or she wants to decline the loan or make adjustments to the type or amount of the loan.

For example, your school's award letter may be used as part of either an active or passive confirmation process. For active confirmation, the borrower would be asked to confirm the loan amount offered by responding to your school's offer. For passive confirmation, the borrower would be asked to respond only if he or she wanted to cancel or reduce the loan amount offered.

Consumer information for the borrower

Borrowers need to be fully advised on the costs and responsibilities of borrowing.

Accordingly, the law requires that the borrower receive the following information:

1. At the same time as the MPN, a **Borrower's Rights and Responsibilities Statement**.
2. At or prior to the first disbursement, a disclosure statement with specific information about that borrower's loans (usually provided by the lender or by ED).
3. For any subsequent loans provided under an existing MPN, a **Plain Language Disclosure** (PLD) provided by the lender or ED. (The PLD is an abbreviated version of the **Borrower's Rights and Responsibilities Statement** that was provided along with the MPN.)

Some of this information should be reviewed with the borrower as a part of entrance and exit counseling (see *Volume 2, School Eligibility and Operations*).

Establishing a Confirmation Process for Your Students

As long as regulatory requirements and the Department's guidelines are met, schools, lenders, and guarantors are free to establish their own confirmation process — for example, a process that combines elements of active and passive confirmation and/or a shared responsibility among the school, lender and/or guarantor. Schools and the lending community have considerable discretion in setting up these processes, including the timing of confirmation, provided the goals of the confirmation process are accomplished.

For example, confirmation could take place when students apply for aid, when aid is packaged, when loan funds are disbursed or at some other appropriate time. The confirmation process could cover the entire loan for the academic year or loan period or, instead, could require that the student confirm each loan disbursement. DCL GEN 98-25 provides examples of each of these confirmation approaches.

The most effective processes will likely vary among schools. Participants are encouraged to use and test various technologies in this process. Some technologies suggested include the Internet, email, card technologies and voice response.

Generally, schools (in both the Direct Loan and FFEL programs) should use the same confirmation process for all borrowers. However, in some cases, a school may want to establish more than one confirmation process to accommodate existing administrative procedures, or because the school believes that it can best inform borrowers of their loan obligations if it uses different confirmation processes for different groups of students. For example, a school could have a policy that requires active confirmation for undergraduate students and passive confirmation for graduate students.

Regardless of the process(es) used, schools and FFEL lenders must document their confirmation procedures. A school (and lenders in the FFEL Program) must retain a description of the process(es) in effect for each academic year in which it makes second or subsequent loans under MPNs. The documentation of the process may be kept in paper or electronic format and need not be kept in individual borrower files. The documentation must be kept indefinitely, because it must be submitted to the Department, upon request, if a borrower challenges the enforceability of a loan.

We recommend that schools include a description of the confirmation process in their student consumer information just as they do for other school policies, such as refunds and academic progress.

PLUS MPN

Note: Unless otherwise noted, the terms PLUS and PLUS borrower refers to both parent and graduate/professional PLUS borrowers.

Parents and graduate/professional students applying for a PLUS loan must complete a PLUS Application and Master Promissory Note. All student PLUS borrowers must complete a FAFSA. A parent borrower must complete a FAFSA if required by their child's school. All PLUS borrowers must receive the *Borrowers' Rights and Responsibilities Statement* with the loan application.

At U.S. domestic schools a parent may obtain additional loans for the same dependent student based on the original MPN for up to 10 years after the date the parent first signed it under the same conditions discussed for the Stafford Loan MPN under *Multi-year use of the MPN* and *When a new MPN is required*. A separate PLUS MPN is required for each dependent student, or if both parents want to borrow individually on behalf of the same student. A new PLUS MPN would also be required under the same conditions discussed for the Stafford Loan MPN under *Multi-year use of the MPN* and *When a new MPN is required*. A graduate or professional student PLUS borrower may also obtain additional loans under the original MPN for up to 10 years after the date the MPN was signed.

If a graduate or professional student PLUS borrower is also a parent who is borrowing a PLUS Loan for one or more dependent students, the borrower must sign one PLUS MPN to borrow for himself/herself and a separate PLUS MPN to borrow for each dependent student. As with parent PLUS borrowers, a student PLUS borrower may choose to sign a new PLUS MPN for each new PLUS loan even if that would not otherwise be required. A school or lender may also require a new PLUS MPN for each new PLUS loan.

PLUS MPN approval for foreign schools

Foreign schools must get approval from ED to be able to use the multi-year feature of the PLUS MPN. If the foreign school does not have this approval, the parent will have to sign a new PLUS MPN for each new loan period.

Grad PLUS MPN at foreign schools

A graduate or professional student attending an eligible foreign institution will only be able to use the multi-year feature of the PLUS MPN if the school has been expressly approved by the Department to have its student and parent borrowers do so. No eligible foreign institution is approved for this purpose at the current time. As a result, until the Department approves foreign institutions for this purpose, a graduate or professional student PLUS borrower attending an eligible foreign institution will need to sign a new PLUS MPN for each new loan period.

**Determination of Stafford
eligibility required**

34 CFR 682.603(d), 34 CFR 685.301(a)



Establishing Grad/Professional Eligibility

The terms and conditions applicable to Parent PLUS Loans also apply to Graduate/Professional PLUS loans. These requirements include a determination that the applicant does not have an adverse credit history. In order to establish eligibility to apply for graduate/professional PLUS Loans students must also complete a Free Application for Federal Student Aid (FAFSA).

In November 2007, the Department published regulations that modified the responsibilities of a school before certifying a PLUS loan application for a graduate or professional student and added a requirement a school must satisfy before releasing the first disbursement of a Graduate/Professional PLUS loan.

The Department believed that with the newly authorized availability of PLUS Loans to graduate and professional students, there was a need to revise the loan counseling requirements to account for graduate and professional student PLUS borrowers. In addition, in order to ensure that the cost of borrowing for graduate and professional students is as low as possible, the Department determined that borrowers who are eligible for both Stafford Loans and PLUS Loans must be given information on the relative merits of each loan type, and be given an opportunity to obtain a Stafford Loan prior to the borrower's receipt of a PLUS Loan.

Before certifying a PLUS loan application for a graduate or professional student borrower, a school must determine the borrower's eligibility for a Stafford loan. If the borrower is eligible for a Stafford loan but has not requested the maximum Stafford loan amount for which the borrower is eligible, the school must:



1. Notify the graduate or professional student borrower of the maximum Stafford loan amount that he or she is eligible to receive and provide the borrower with a comparison of –
 - a. The maximum interest rate for a Stafford loan and the maximum interest rate for a PLUS loan;
 - b. Periods when interest accrues on a Stafford loan and periods when interest accrues on a PLUS loan; and
 - c. The point at which a Stafford loan enters repayment and the point at which a PLUS loan enters repayment.

2. Give the graduate or professional student borrower the opportunity to request the maximum Stafford loan amount for which the borrower is eligible.

Note that a graduate or professional student is not required to receive Federal Stafford Loan funds as a condition for receiving a Federal PLUS Loan, and a school may not require a graduate or professional student to receive Federal Stafford Loan funds before the student may apply for a Federal PLUS Loan.

Prior to its release of the first disbursement a Graduate/Professional PLUS loan, unless the borrower has received a prior Federal PLUS loan or Direct PLUS loan, a school must conduct initial loan counseling. Schools must provide certain information to PLUS borrowers who have received prior Stafford loans, and must provide other information to PLUS borrowers who have not received prior Stafford Loans.

Note: Loan counseling requirements do not apply to Parent PLUS borrowers.

PLUS borrower certification

Because a parent or graduate/professional student may borrow up to the student's cost of attendance minus other estimated financial assistance for the loan period, it is especially important that the parent or student borrower specify the amount that he or she wants to borrow. Each school and lender must establish and document the process by which one of the parties will collect the requested loan amount from PLUS Loan borrowers. A PLUS loan may not be made for more than the amount the borrower requests.

Your school must collect this information before certifying the PLUS Loan and may use various means such as the PLUS Certification form (for FFEL – see sidebar), a borrower response section on your financial aid award letter, a separate PLUS form, documented telephone or electronic requests or other means. If your school participates in the FFEL program, you may also make arrangements with FFEL lenders for them to collect this information from PLUS borrowers before approving the loan.

Whether your school or the lender collects the information, you must establish and document how the PLUS borrower's loan amount request will be collected. You (or the lender) also must maintain a record of any requests by the borrower (in writing, by phone or electronically) for any adjustment to the loan amount.



Initial PLUS loan counseling required

34 CFR 682.604(f)(2) & 34 CFR 685.304(a)(2)

PLUS Certification Form (FFEL only)

The Department has developed a paper *Federal PLUS Loan Information and School Certification* (PLUS Certification form) to be used by FFEL schools that do not complete loan certification electronically. This form was approved as part of the PLUS MPN documents package and is printed and distributed by lenders and guaranty agencies.

The PLUS Certification form includes a *Borrower and Student Information* section. If you elect to secure the loan information and initiate the process, you may send the Certification form to the borrower for completion of the borrower/student information. Alternatively, if the lender or guarantor secures this information, the borrower/student section would be pre-filled and you would only secure the borrower's signature and provide the school certification data.

For parent PLUS applicants, before certifying the loan, you must determine the Title IV eligibility of the dependent student on whose behalf the parent is borrowing. Moreover, because a parent may not borrow on behalf of a student who is ineligible for Title IV aid, for a parent PLUS Loan, you must not certify the application until you have obtained the dependent student's complete financial aid history. Also, when certifying a parent PLUS loan, you must certify the dependent student's enrollment status and anticipated completion/graduation date.

Your school must confirm the student's dependency status when determining whether a parent is eligible to borrow under the PLUS Program or the dependent student is eligible for additional unsubsidized Stafford loan limits.

If your school participates in the FFEL program and is eligible to use the multi-year PLUS MPN, the borrower's PLUS Loan request for subsequent years is sufficient documentation to make additional loans—there is no separate confirmation process for PLUS loans—but the PLUS borrower's PLUS Loan amount request must be secured for each loan made using an MPN. Direct Loan schools using the PLUS Loan MPN as a multi-year note are required to have an active confirmation process.

Adverse credit history & use of endorser

To borrow a PLUS Loan, the applicant must not have an adverse credit history. Adverse credit is defined in the regulations as the applicant being 90 days or more delinquent on a debt or having been subject in the last five years to a default determination, bankruptcy discharge, foreclosure, repossession, tax lien, wage garnishment or write-off of an FSA debt. The absence of any credit history is not considered adverse credit. FFEL lenders may establish more restrictive credit standards for determining adverse credit.

When determining whether a PLUS borrower is ineligible for a PLUS Loan based on an adverse credit history, the lender, or the Department for Direct Loans, must obtain a credit report on the borrower from at least one national credit bureau. To provide a more accurate determination of adverse credit, the report must be obtained within a timeframe reasonably related to the loan period. If the PLUS borrower requests additional funds for an existing loan period (resulting in a loan amount adjustment, not a new loan), the lender is not required to obtain a new credit report, but may elect to do so.

Additional eligibility for dependent students whose parents cannot borrow PLUS

If a dependent student's parents have not been able to borrow a PLUS loan, the student may be eligible for higher unsubsidized Stafford borrowing limits. See *Volume 3, Chapter 4*.

If a PLUS borrower has an adverse credit history, the applicant has the option of receiving a PLUS Loan using an endorser who does not have an adverse credit history. If an endorser will be used, a separate Endorser Addendum is required for each PLUS Loan. Any loan that requires an endorser must be made under a new PLUS MPN, with a new Endorser Addendum, because the endorser is liable only for the specific loan or loans he or she has agreed to endorse. The Endorser Addendum includes the requested loan amount. Any increase in the requested loan amount by the parent borrower must be approved by the Endorser and requires a new MPN and Endorser Addendum.

SCHOOL CERTIFIES/ORIGINATES A STAFFORD LOAN

The school's primary responsibility in the loan application process is to certify that the borrower is eligible for the loan amounts requested based on annual and aggregate loan limits. In addition, if your school initiates or receives an MPN, it must ensure the completeness and accuracy of the MPN based on information it has available to it.

In Direct Loans, the certification information is part of the loan origination record sent electronically to COD. An FFEL school may submit the certification to the lender electronically or on the paper Federal Stafford Loan School Certification form. You must provide this certification each time you make a loan under an MPN.

Certifying eligibility

You must confirm (as part of certification or origination) that a student is an eligible borrower (see *Volume 1—Student Eligibility*). The school's certification/origination also includes the borrower's grade level, loan period and the amounts of the disbursements (using the rules described in *Volume 3, Chapter 4*), as well as the borrower's enrollment status and anticipated completion/graduation date.

For Stafford loans, if a student previously attended another college, check the student's financial aid history on NSLDS before disbursing funds to ensure that the student has remaining eligibility under the maximum loan limits. (See the discussion of annual and aggregate loan limits in *Volume 3, Chapter 4*.)

Schools are no longer required to provide need analysis information to the lender. However, you must document the student's cost of attendance, Expected Family Contribution and estimated financial assistance in the student's file. This information must be made available to the lender, the guarantor or the Department upon request.

School Responsibilities

Certifying an FFEL:
34 CFR 682.603
Originating a Direct Loan:
34 CFR 685.301

Certification Options During Verification

If you have reason to believe that the information included on the FAFSA is inaccurate, you may not certify, originate or disburse a Stafford Loan for the student until he or she verifies or corrects the information.

If you have no reason to believe that the information included on an application is inaccurate prior to verification, regardless of whether ED-selected or school-selected, you have the option of certifying or originating a Stafford Loan, but the loan funds may not be disbursed until verification has been completed.

Cite
34 CFR 668.58

You may not certify a loan for more than the:

- amount the borrower requests,
- borrower's unmet financial need (see *Packaging* in *Volume 3, Chapter 6*),
- borrower's cost of attendance, or
- borrower's maximum borrowing limit (as discussed in *Volume 3, Chapter 4*).

If a subsidized Stafford Loan applicant has been selected for verification, whether by ED or the school, you may wait until verification has been completed to certify/originate the Stafford Loan, or you may certify/originate if there is no information that conflicts with that provided by the applicant. If you choose to certify/originate the loan without waiting for verification, you may not credit the loan funds to the borrower's account or pay the borrower directly until verification has been completed.

Refusing to originate or certify a loan

On a case-by-case basis, you may refuse to certify/originate the loan for a borrower. Similarly, you may certify/originate a loan for an amount less than the borrower's maximum eligibility. However, you must ensure that these decisions are made on a case-by-case basis, and do not constitute a pattern or practice that denies access to borrowers because of race, sex, color, income, religion, national origin, age, handicapped status or selection of a particular lender or guarantor. Also note that your school cannot engage in a practice of certifying Stafford loans only in the amount needed to cover the school charges, or to limit unsubsidized Stafford borrowing by independent students.

When you make a decision not to certify/originate a loan or to reduce the amount of the loan, you must document the reasons and provide the explanation to the student in writing.

A financial aid administrator should be aware of the responsibility incurred in certifying/originating a loan. **The school, not the lender, determines the student's or parent's eligibility for a Stafford or PLUS Loan.** (An eligible foreign school is also responsible for determining eligibility, although such schools may contract with a guaranty agency or a consultant for assistance.) Schools that certify/originate loans for ineligible borrowers, or for loan amounts that exceed loan limits or the borrowers' need, are subject to administrative actions such as a fine, limitation, suspension and termination, as well as liabilities such as repayment to the government of interest and special allowance costs it has paid on the ineligible loans.

Checklist for Loan Certification

For all Stafford and PLUS Loan applications, the school must:

- confirm that the student (and parent) meet the definition of eligible borrower, including –
 - ✓ determining the student’s enrollment status and satisfactory academic progress status;
 - ✓ reviewing the NSLDS information on the ISIR to ensure that the student (or both the student and parent in the case of a PLUS Loan) is not in default on any FSA loan and does not owe a refund on any FSA grant or scholarship and will not exceed the annual or aggregate loan limits applicable to the borrower;
- ensure that the amount of the loan, in combination with other aid, will not exceed the student’s financial need or the annual or aggregate loan limit.

For a Stafford Loan, the school must also:

- determine the student’s Pell Grant eligibility (for a subsidized Stafford Loan, the need analysis must use an official EFC calculated by the Department to determine the student’s financial need), and if eligible, include the grant in the student’s aid package;
- for an unsubsidized Stafford Loan, first determine the student’s eligibility for a subsidized Stafford Loan;
- prorate the Stafford annual loan limit for an undergraduate enrolled in a program of study that is shorter than an academic year, or a remaining period of study that is less than an academic year in length; and
- ensure that the loan disbursement dates meet the cash management and disbursement requirements for Stafford Loans.

PREFERRED FFEL LENDER LISTS

With student loan defaults a national concern in the early 1990s, some schools began recommending to borrowers that they use lenders that the school believed provided high-quality customer service in loan origination and servicing, with the goal of preventing loan delinquency and default and its negative consequences for borrowers and schools. These recommendations came to be known as *Preferred Lender Lists*.

Over the intervening years special relationships between schools and lenders developed. Some of those relationships jeopardized a borrower’s right to choose an FFEL lender, and undermined a student financial aid administrator’s role as an impartial and informed resource for students and parents working to fund postsecondary education.

In November, 2007, the Department published regulations that will help ensure that Preferred Lender Lists are a source of useful, unbiased consumer information that can assist students and their parents in choosing a FFEL lender from the over 3,000 lenders that participate in the FFEL Program.

Preferred Lender List

(34 CFR 682.212(h)(2))





If a school that chooses to provide prospective borrowers with a list of *Preferred Lenders*, the school must ensure that the list, as well as the school's procedures for awarding, packaging, or assigning a lender to first-time borrowers meet the following conditions:

1. The preferred list must include at least three lenders that are not affiliated with each other.

Affiliation, for purposes of a preferred lender list, is limited to affiliates that are under common ownership and control.

2. The preferred list may not include lenders that have offered, or have offered in response to a solicitation by the school, financial and other benefits **to the school** in exchange for inclusion on the school's preferred lender list.

A school may include lenders on its preferred list who offer lower costs and benefits to students at the school provided the lenders do not discriminate on any legally prohibited basis.

interest rates) to the school's borrowers, the school must ensure that the lender provides the same benefits to all borrowers at the school.



3. As part of its preferred list, the school must disclose to prospective borrowers, the method and criteria the school used to select any lender that it recommends or suggests.
4. The list must include comparative information about interest rates and other benefits offered by the lenders.
5. A school must update its preferred lender list and any accompanying information at least annually.
6. In any information related to its list of lenders, the school must include a prominent statement advising prospective borrowers that they are not required to use one of the school's recommended or suggested lenders.
7. A school may not through award packaging or other methods, only assign lenders to first-time borrowers who are on the school's list, and may not delay certification of a borrower's loan eligibility to a lender because that particular lender is not on the school's preferred lender list.

A school may not refuse to certify, or delay certification, of a Stafford or PLUS loan based on the borrower's selection of a particular lender or guarantee agency, or for first-time borrowers, assign through award packaging or other methods, a borrower's loan to a particular lender.

34 CFR 682.603(f)

SCHEDULING LOAN DISBURSEMENTS

Timeframe for disbursing or returning loan funds

Though based on different regulatory requirements, when a school receives Direct Loan cash from the Department or FFEL cash through electronic funds transfer (EFT) the school must disburse the funds within three days or return the funds to the Department or the lender as appropriate.

Submission of Direct Loans award & disbursement data

Schools to which ED pushes cash do not request funds directly through GAPS. The COD system pushes funds (automatically sends electronic payments) through GAPS to these schools based on disbursement records submitted and accepted by COD. Similarly, schools on Reimbursement or Heightened Cash Management do not request funds directly through GAPS. These schools receive funds based on disbursement records accepted by COD and approved by a reimbursement analyst (see Chapter 3).

Schools that receive funds through the Advanced Payment method must request funds directly through GAPS. Advance Pay schools are not required to submit disbursements prior to requesting funds. These schools receive an initial Current Funding Level (CFL) against which they can draw funds. As these schools submit disbursement records that substantiate the school's drawdowns in a timely manner (within 30 days of the disbursement date) the school's CFL will increase to a level that should allow the school to request the funds it needs to make its scheduled Direct Loan disbursements.

In order to comply with the excess cash regulations, when requesting funds with which to make Direct Loan disbursements, schools must ensure they do not draw down more cash than they can disburse over the next three days.

Scheduling FFEL disbursements with a lender

The rules for when loan payments can be disbursed to borrowers are discussed in Chapter 2 of this volume. Once the anticipated dates of the disbursement to the borrower have been established, you can specify to the lender the dates on which you need to receive the loan funds. (In the certification process, the term "disbursement" usually refers to the transfer of funds from the lender to the school, but for purposes of the Handbook, we use the term when referring to the school's payment of funds to borrowers.)

Pushed cash schools must return funds

In general, a school using the Advanced Payment method may use the federal cash it draws down for any eligible student. However, all cash that ED sends to a school through the pushed cash method are student specific. They are intended solely for disbursement to the students specified on the *Funded Disbursement Listing* report.

If you do not disburse the funds to the intended recipients (on the *Funded Disbursement Listing Report*), you must return those funds as excess cash to ED.

FFEL three-day rule

34 CFR 668.167(b)(2)

Requesting check from a Stafford lender that requires endorsement of the borrower

A school may not request a lender to provide it with Stafford loan funds earlier than:

- The first day of classes of the first payment period for a 1st-year, 1st-time Stafford borrower, or
- 30 days before the first day of classes for any subsequent payment period for a 1st-year, 1st-time Stafford borrower or for any payment period for all other Stafford borrowers.

PLUS: A school may not request a lender to provide it with PLUS loan funds earlier than 30 days before the first day of classes for any payment period.

Cite

(34 CFR 668.167)

Requesting EFT or master check from lender

Stafford: A school may not request that a lender provide it with Stafford loan funds earlier than:

- 27 days after the first day of classes of the first payment period for a 1st-year, 1st-time Stafford borrower, or
- 13 days before the 1st day of classes for any subsequent payment period for a 1st-year, 1st-time Stafford Loan Program borrower or for any payment period for all other Stafford borrowers.

PLUS: A school may not request a lender to provide it with PLUS loan funds earlier than 13 days before the first day of classes for any payment period.

Cite
(34 CFR 668.167)

Blanket Agreements for Guaranty Approval

A lender must receive guaranty agency approval for an FFEL in order for the lender to disburse the loan and, if applicable, be eligible for payment of federal interest benefits. Under the 1998 Amendments, a guaranty agency may offer eligible lenders participating in the agency's guaranty program a blanket guaranty that permits the lender to make loans without receiving prior approval from the guaranty agency for individual loans.

Cite
Section 428(n) of the HEA

In keeping with the standard 3-day turnaround time for payment of FSA funds to students, the Cash Management regulations stipulate that a school cannot ask the lender to provide the Stafford or PLUS loan funds via EFT or master check any sooner than 3 days before the earliest date that it is allowed to pay the funds to borrowers. Note that this rule parallels but is not the same as the excess cash rule at 34 CFR 668.166.

If you are requesting a check that requires the endorsement of a borrower, you may not ask the lender to provide the check any sooner than 30 days before it could be disbursed. (See sidebars.)

FFEL Lender/guarantor approval

The lender or guarantor will match the information included by the school on the certification (electronic or paper) to the MPN by comparing the borrower's identifying information. The lender or guarantor should check the permanent address information on the MPN to see if it has changed. The school must supply the borrower's cost of attendance, EFC and estimated financial assistance to the lender or guarantor upon request.

The lender will also check to make sure that the school is eligible to use the multi-year feature of the MPN. If a borrower transfers to an eligible foreign school that is not eligible to participate in the multi-year process and continues to use the same lender, the lender is responsible for obtaining a new signed MPN for each loan at the new school.

An FFEL lender is prohibited from discriminating against an applicant on the basis of race, national origin, religion, sex, marital status, age or disabled status. However, a lender may decline to make loans to students who do not meet the lender's credit standards or to students at a particular school because of the school's default rate, or to students enrolled in a particular program of study. A lender may decline to make FFELs for less than a specified amount; for example, a lender could refuse to make a loan for less than \$500.

Once guaranty agency approval is obtained and the lender has determined that it has an active MPN for the borrower, the lender will send Stafford loan funds to your school in the appropriate amount for each disbursement to the borrower or parent. At the request of the borrower, the lender will send the funds directly to the borrower if he or she is enrolled in a foreign school. For a PLUS, loan funds are sent in at least two disbursements to the school by EFT or by a check made copayable to the school and the parent borrower.

Review of the Stafford MPN Process

The process for completing the MPN for a Stafford Loan and making the initial loan includes the following elements, though the process may be a bit different for the FFEL and Direct Loan Programs and some school and lender procedures may be in a slightly different order.

Student Applies for Aid.

The student fills out the FAFSA (or a renewal FAFSA) and an MPN for the initial loan.

School Determines Eligibility and Loan Amount.

The school confirms the student's eligibility for federal student aid, determines the loan period and loan amount and packages the loan(s) requested.

Certification/Origination.

For FFEL loans, the school certifies the student's loan eligibility. For Direct Loans, the school originates the loan.

- In the FFEL Program, the loan is approved by the lender or guaranty agency.
- In the Direct Loan Program, the school submits an origination record to COD and receives an acknowledgment from COD.

Student completes MPN.

The student fills out an MPN for the initial loan.

- The *Borrower's Rights and Responsibilities Statement* must be given to the borrower with the MPN.

Disclosure & Entrance Counseling.

Either before or at the time of the first disbursement, the borrower must be given a disclosure statement with specific information about the types of loans the borrower is getting, anticipated disbursement amounts, anticipated disbursement dates and instructions on how to cancel the loans. (The disclosure is often provided by the lender or ED.)

- First-time Stafford borrowers must complete entrance counseling before a disbursement can be made. (See *Volume 2, chapter 6*.)

Disbursement to the Borrower.

The school (after checking that the borrower is still eligible) disburses the loan funds to the student's account or directly to the borrower, and notifies the borrower of each disbursement. (See Chapter 2 of this Volume.)

☛ Making Subsequent Loans.

If the MPN is used as a multi-year note, a new MPN is not required for subsequent loans. However, your school must use a confirmation process (either active or passive) for subsequent loans, and the borrower must receive a Plain Language Disclosure, at or prior to the disbursement of any subsequent loans provided under an existing MPN. (The Plain Language Disclosure is usually sent to the borrower by the lender or ED.) If the MPN is not used as a multi-year note, a borrower completes a new MPN for each subsequent loan period.

Copies of the Master Promissory Note are provided by lenders, guarantors or the ED to borrowers and schools. For your reference, sample copies of the MPN and related materials are available online :

FFEL Stafford Loan MPN: <http://ifap.ed.gov/dpcretters/GEN0207.html>

Direct Stafford Loan MPN: <http://www.ed.gov/DirectLoan/mpn.html>

