

(b) The administration of the FFEL programs by a guaranty agency is subject to subparts C, D, F, and G of this part.

(c) The Federal FFEL and Federal GSL programs are subject to subparts C, E, F, and G of this part.

(d) Certain requirements applicable to schools under all the FFEL and Federal GSL programs are set forth in subpart F of this part.

(Authority: 20 U.S.C. 1071 to 1087-2)

[57 FR 60323, Dec. 18, 1992, as amended at 64 FR 18975, Apr. 16, 1999; 64 FR 58952, Nov. 1, 1999]

Subpart B—General Provisions

§ 682.200 Definitions.

(a)(1) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR part 668:

- Academic year
- Campus-based programs
- Dependent student
- Eligible program
- Eligible student
- Enrolled
- Federal Consolidation Loan Program
- Federal Pell Grant Program
- Federal Perkins Loan Program
- Federal PLUS Program
- Federal Work-Study (FWS) Program
- Full-time student
- Independent student
- Leveraging Educational Assistance Partnership (LEAP) Program
- National of the United States (Referred to as U.S. Citizen or National in 34 CFR 668.2)
- Payment period
- Supplemental Educational Opportunity Grant (SEOG) Program
- Supplemental Loans for Students (SLS) Program

(2) The following definitions are set forth in the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600:

- Accredited
- Clock hour
- Correspondence course
- Educational program
- Federal Family Education Loan Program (formerly known as the Guaranteed Student Loan (GSL) Program)
- Institution of higher education (§ 600.4)
- Nationally recognized accrediting agency
- Postsecondary Vocational Institution
- Preaccredited

Secretary
State

(3) The definition for cost of attendance is set forth in section 472 of the Act, as amended.

(b) The following definitions also apply to this part:

Act. The Higher Education Act of 1965, as amended, 20 U.S.C. 1071 *et seq.*

Actual interest rate. The annual interest rate a lender charges on a loan, which may be equal to or less than the applicable interest rate on that loan.

Applicable interest rate. The maximum annual interest rate that a lender may charge under the Act on a loan.

Authority. Any private non-profit or public entity that may issue tax-exempt obligations to obtain funds to be used for the making or purchasing of FFEL loans. The term “Authority” also includes any agency, including a State postsecondary institution or any other instrumentality of a State or local governmental unit, regardless of the designation or primary purpose of that agency, that may issue tax-exempt obligations, any party authorized to issue those obligations on behalf of a governmental agency, and any non-profit organization authorized by law to issue tax-exempt obligations.

Borrower. An individual to whom a FFEL Program loan is made.

Co-Maker. One of two married individuals who jointly borrow a Consolidation loan, each of whom are eligible and who are jointly and severally liable for repayment of the loan. The term co-maker also includes one of two parents who are joint borrowers as previously authorized in the PLUS Program.

Default. The failure of a borrower and endorser, if any, or joint borrowers on a PLUS or Consolidation loan, to make an installment payment when due, or to meet other terms of the promissory note, the Act, or regulations as applicable, if the Secretary or guaranty agency finds it reasonable to conclude that the borrower and endorser, if any, no longer intend to honor the obligation to repay, provided that this failure persists for—

- (1) 270 days for a loan repayable in monthly installments; or
- (2) 330 days for a loan repayable in less frequent installments.

Disbursement. The transfer of loan proceeds by a lender to a holder, in the case of a Consolidation loan, or to a borrower, a school, or an escrow agent by issuance of an individual check, a master check or by electronic funds transfer that may represent loan amounts for borrowers.

Disposable income. That part of an individual's compensation from an employer and other income from any source, including spousal income, that remains after the deduction of any amounts required by law to be withheld, or any child support or alimony payments that are made under a court order or legally enforceable written agreement. Amounts required by law to be withheld include, but are not limited, to Federal, State, and local taxes, Social Security contributions, and wage garnishment payments.

Endorser. An individual who signs a promissory note and agrees to repay the loan in the event that the borrower does not.

Escrow agent. Any guaranty agency or other eligible lender that receives the proceeds of a FFEL program loan as an agent of an eligible lender for the purpose of transmitting those proceeds to the borrower or the borrower's school.

Estimated financial assistance. (1) The estimated amount of assistance for a period of enrollment that a student (or a parent on behalf of a student) will receive from Federal, State, institutional, or other sources, such as, scholarships, grants, financial need-based employment, or loans, including but not limited to—

(i) Except as provided in paragraph (2)(iii) of this definition, national service education awards or post-service benefits under title I of the National and Community Service Act of 1990 and veterans' educational benefits paid under chapters 30, 31, 32, and 35 of title 38 of the United States Code;

(ii) Educational benefits paid under Chapters 106 and 107 of Title 10 of the United States Code (Selected Reserve Educational Assistance Program);

(iii) Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under Chapter 2 of Title 10 and Chapter 2 of Title 37 of the United States Code;

(iv) Benefits paid under Pub. L. 97-376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits);

(v) Benefits paid under Pub. L. 96-342, section 903: Educational Assistance Pilot Program;

(vi) Any educational benefits paid because of enrollment in a postsecondary education institution;

(vii) The estimated amount of other Federal student financial aid, including but not limited to a Federal Pell Grant, campus-based aid, and the gross amount (including fees) of a Federal Stafford, Unsubsidized Stafford and Federal PLUS loan.

(2) The estimated amount of assistance does not include—(i) Those amounts used to replace the expected family contribution, including—

(A) Unsubsidized and nonsubsidized Stafford loan amounts for which interest benefits are not payable.

(B) PLUS loan amounts; and

(C) Private and state-sponsored loan programs;

(ii) Federal Perkins loan and Federal Work-Study funds that the school determines the student has declined; and

(iii) For the purpose of determining eligibility for a subsidized Stafford loan, veterans' educational benefits paid under chapter 30 of title 38 of the United States Code (Montgomery GI Bill—Active Duty) and national service education awards or post-service benefits under title I of the National and Community Service Act of 1990.

Expected family contribution. The amount a student and his or her spouse and family are expected to pay toward the student's cost of attendance.

Federal GSL programs. The Federal Insured Student Loan Program, the Federal Supplemental Loans for Students Program, the Federal PLUS Program, and the Federal Consolidation Loan Program.

Federal Insured Student Loan Program. The loan program authorized by title IV-B of the Act under which the Secretary directly insures lenders against losses.

Foreign school. A school not located in a State.

Grace period. The period that begins on the day after a Stafford loan borrower ceases to be enrolled as at least

a half-time student at an institution of higher education and ends on the day before the repayment period begins. See also “Post-deferment grace period.” For an SLS borrower who also has a Federal Stafford loan on which the borrower has not yet entered repayment, the grace period is an equivalent period after the borrower ceases to be enrolled as at least a half-time student at an institution of higher education.

Graduate or professional student. A student who, for a period of enrollment—

(1) Is enrolled in a program above the baccalaureate level at an institution of higher education or is enrolled in a program leading to a first professional degree;

(2) Has completed the equivalent of at least three academic years of full-time study at an institution of higher education, either before entrance into the program or as part of the program itself; and

(3) Is not receiving aid under title IV of the Act as an undergraduate student for the same period of enrollment.

Guaranty agency. A State or private nonprofit organization that has an agreement with the Secretary under which it will administer a loan guarantee program under the Act.

Half-time student. A student who is enrolled in an institution of higher education, and is carrying an academic workload that amounts to at least one-half the workload of a full-time student, as determined by the school, and is not a full-time student. A student enrolled solely in an eligible correspondence course, as defined in 34 CFR 668.8 is considered a half-time student as defined in 34 CFR 668.2.

Holder. An eligible lender owning an FFEL Program loan including a Federal or State agency or an organization or corporation acting on behalf of such an agency and acting as a conservator, liquidator, or receiver of an eligible lender.

Legal guardian. An individual appointed by a court to be a “guardian” of a person and specifically required by the court to use his or her financial resources for the support of that person.

Lender. (1) The term “eligible lender” is defined in section 435(d) of the Act,

and in paragraphs (2)–(5) of this definition.

(2) With respect to a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union—

(i) The phrase “subject to examination and supervision” in section 435(d) of the Act means “subject to examination and supervision in its capacity as a lender”;

(ii) The phrase “does not have as its primary consumer credit function the making or holding of loans made to students under this part” in section 435(d) of the Act means that the lender does not, or in the case of a bank holding company, the company’s wholly-owned subsidiaries as a group do not at any time, hold FFEL Program loans that total more than one-half of the lender’s or subsidiaries’ combined consumer credit loan portfolio, including home mortgages held by the lender or its subsidiaries.

(3) A bank that is subject to examination and supervision by an agency of the United States, making student loans as a trustee, may be an eligible lender if it makes loans under an express trust, operated as a lender in the FFEL programs prior to January 1, 1975, and met the requirements of this paragraph prior to July 23, 1992.

(4) The corporate parent or other owner of a school that qualifies as an eligible lender under section 435(d) of the Act is not an eligible lender unless the corporate parent or owner itself qualifies as an eligible lender under section 435(d) of the Act.

(5) The term “eligible lender” does not include any lender that the Secretary determines, after notice and opportunity for a hearing before a designated Department official, has—

(i) Offered, directly or indirectly, points, premiums, payments, or other inducements, to any school or other party to secure applicants for FFEL loans, except that a lender is not prohibited from providing assistance to schools comparable to the kinds of assistance provided by the Secretary to schools under, or in furtherance of, the Federal Direct Loan Program.

(ii) Conducted unsolicited mailings to a student or a student’s parents of FFEL loan application forms, except to

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a student who previously has received a FFEL loan from the lender or to a student's parent who previously has received a FFEL loan from the lender;

(iii) Offered, directly or indirectly, a FFEL loan to a prospective borrower to induce the purchase of a policy of insurance or other product or service by the borrower or other person; or

(iv) Engaged in fraudulent or misleading advertising with respect to its FFEL program loan activities.

(6) The term eligible lender does not include any lender that—

(i) Is debarred or suspended, or any of whose principals or affiliates (as those terms are defined in 34 CFR part 85) is debarred or suspended under Executive Order (E.O.) 12549 (3 CFR, 1986 Comp., p. 189) or the Federal Acquisition Regulation (FAR), 48 CFR part 9, subpart 9.4;

(ii) Is an affiliate, as defined in 34 CFR part 85, of any person who is debarred or suspended under E.O. 12549 (3 CFR, 1986 Comp., p. 189) or the FAR, 48 CFR part 9, subpart 9.4; or

(iii) Employs a person who is debarred or suspended under E.O. 12549 (3 CFR, 1986 Comp., p. 189) or the FAR, 48 CFR part 9, subpart 9.4, in a capacity that involves the administration or receipt of FFEL Program funds.

Master promissory note (MPN). A promissory note under which the borrower may receive loans for a single period of enrollment or multiple periods of enrollment.

National credit bureau. A credit bureau with a service area that encompasses more than a single region of the country.

Nonsubsidized Stafford loan. A Stafford loan made prior to October 1, 1992 that does not qualify for interest benefits under § 682.301(b) or special allowance payments under § 682.302.

Origination relationship. A special business relationship between a school and a lender in which the lender delegates to the school, or to an entity or individual affiliated with the school, substantial functions or responsibilities normally performed by lenders before making FFEL program loans. In this situation, the school is considered to have "originated" a loan made by the lender.

Origination fee. A fee that the lender is required to pay the Secretary to help

defray the Secretary's costs of subsidizing the loan. The lender may pass this fee on to the Stafford loan borrower. The lender must pass this fee on to the SLS or PLUS borrower.

Participating school. A school that has in effect a current agreement with the Secretary under § 682.600.

Period of enrollment. The period for which a Stafford, SLS, or PLUS loan is intended. The period of enrollment must coincide with a *bona fide* academic term established by the school for which institutional charges are generally assessed (e.g. semester, trimester, quarter, length of the student's program or academic year). The period of enrollment is also referred to as the loan period.

Post-deferment grace period. For a loan made prior to October 1, 1981, a single period of six consecutive months beginning on the day following the last day of an authorized deferment period.

Repayment period. (1) For a Stafford loan, the period beginning on the date following the expiration of the grace period and ending no later than 10 years, or 25 years under an extended repayment schedule, from the date the first payment of principal is due from the borrower, exclusive of any period of deferment or forbearance.

(2) For unsubsidized Stafford loans, the period that begins on the day after the expiration of the applicable grace period that follows after the student ceases to be enrolled on at least a half-time basis and ending no later than 10 years or 25 years under an extended repayment schedule, from that date, exclusive of any period of deferment or forbearance. However, payments of interest are the responsibility of the borrower during the in-school and grace period, but may be capitalized by the lender.

(3) For SLS loans, the period that begins on the date the loan is disbursed, or if the loan is disbursed in more than one installment, on the date the last disbursement is made and ending no later than 10 years from that date, exclusive of any period of deferment or forbearance. The first payment of principal is due within 60 days after the

loan is fully disbursed unless a borrower who is also a Stafford loan borrower but who, has not yet entered repayment on the Stafford loan requests that commencement of repayment on the SLS loan be delayed until the borrower's grace period on the Stafford loan expires. Interest on the loan accrues and is due and payable from the date of the first disbursement of the loan. The borrower is responsible for paying interest on the loan during the grace period and periods of deferment, but the interest may be capitalized by the lender.

(4) For Federal PLUS loans, the period that begins on the date the loan is disbursed, or if the loan is disbursed in more than one installment, on the date the last disbursement is made and ending no later than 10 years, or 25 years under an extended repayment schedule, from that date, exclusive of any period of deferment or forbearance. Interest on the loan accrues and is due and payable from the date of the first disbursement of the loan.

(5) For Federal Consolidation loans, the period that begins on the date the loan is disbursed and ends no later than 10, 12, 15, 20, 25, or 30 years from that date depending upon the sum of the amount of the Consolidation loan, and the unpaid balance on other student loans, exclusive of any period of deferment or forbearance.

Satisfactory repayment arrangement. (1) For purposes of regaining eligibility under § 682.401(b)(4), the making of six (6) consecutive, on-time, voluntary full monthly payments on a defaulted loan. A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once.

(2) For purposes of consolidating a defaulted loan under 34 CFR 682.201(c)(1)(iii)(C), the making of three (3) consecutive, on-time voluntary full monthly payments on a defaulted loan.

(3) The required full monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. Voluntary payments are those payments made directly by the borrower, and do not include payments obtained by income tax off-set, garnishment, or income or asset execution. On-time means a payment re-

ceived by the Secretary or a guaranty agency or its agent within 15 days of the scheduled due date.

School. (1) An "institution of higher education" as that term is defined in 34 CFR 600.4.

(2) For purposes of an in-school deferment, the term includes an institution of higher education, whether or not it participates in any title IV program or has lost its eligibility to participate in the FFEL program because of a high default rate.

School lender. A school, other than a correspondence school, that has entered into a contract of guarantee under this part with the Secretary or, a similar agreement with a guaranty agency.

Stafford Loan Program. The loan program authorized by Title IV-B of the Act which encourages the making of subsidized and unsubsidized loans to undergraduate, graduate, and professional students and is one of the Federal Family Education Loan programs.

State lender. In any State, a single State agency or private nonprofit agency designated by the State that has entered into a contract of guarantee under this part with the Secretary, or a similar agreement with a guaranty agency.

Subsidized Stafford Loan. A Stafford loan that qualifies for interest benefits under § 682.301(b) and special allowance under § 682.302.

Temporarily totally disabled. The condition of an individual who, though not totally and permanently disabled, is unable to work and earn money or attend school, during a period of at least 60 days needed to recover from injury or illness. With regard to a disabled dependent of a borrower, this term means a spouse or other dependent who, during a period of injury or illness, requires continuous nursing or similar services for a period of at least 90 days.

Third-party servicer. Any State or private, profit or nonprofit organization or any individual that enters into a contract with a lender or guaranty agency to administer, through either manual or automated processing, any aspect of the lender's or guaranty agency's FFEL programs required by

any statutory provision of or applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA that governs the FFEL programs, including, any applicable function described in the definition of third-party servicer in 34 CFR part 668; originating, guaranteeing, monitoring, processing, servicing, or collecting loans; claims submission; or billing for interest benefits and special allowance.

Totally and permanently disabled. The condition of an individual who is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death.

Undergraduate student. A student who is enrolled at a school in a program of study, at or below the baccalaureate level, that usually does not exceed four academic years, or is up to five academic years in length, and is designed to lead to a degree or certificate at or below the baccalaureate level.

Unsubsidized Stafford loan. A loan made after October 1, 1992, authorized under section 428H of the Act for borrowers who do not qualify for interest benefits under § 682.301(b) but do qualify for special allowance under § 682.302.

Write-off. Cessation of collection activity on a defaulted FFEL loan due to a determination in accordance with applicable standards that no further collection activity is warranted.

(Approved by the Office of Management and Budget under control number 1845-0020)

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§ 682.201 Eligible borrowers.

(a) *Student borrower.* Except for a refinanced SLS/PLUS loan made under § 682.209 (e) or (f), a student is eligible to receive a Stafford loan, and an inde-

pendent undergraduate student, a graduate or professional student, or, subject to paragraph (a)(3) of this section, a dependent undergraduate student, is eligible to receive an unsubsidized Stafford loan, if the student who is enrolled or accepted for enrollment on at least a half-time basis at a participating school meets the requirements for an eligible student under 34 CFR part 668, and—

(1) In the case of an undergraduate student who seeks a Stafford loan or unsubsidized Stafford loan for the cost of attendance at a school that participates in the Pell Grant Program, has received a final determination, or, in the case of a student who has filed an application with the school for a Pell Grant, a preliminary determination, from the school of the student's eligibility or ineligibility for a Pell Grant and, if eligible, has applied for the period of enrollment for which the loan is sought;

(2) In the case of any student who seeks an unsubsidized Stafford loan for the cost of attendance at a school that participates in the Stafford Loan Program, the student must—

(i) Receive a determination of need for a subsidized Stafford loan; and

(ii) If the determination of need is in excess of \$200, have made a request to a lender for a subsidized Stafford loan;

(3) For purposes of a dependent undergraduate student's eligibility for an additional unsubsidized Stafford loan amount, as described at § 682.204(d), is a dependent undergraduate student for whom the financial aid administrator determines and documents in the school's file, after review of the family financial information provided by the student and consideration of the student's debt burden, that the student's parents likely will be precluded by exceptional circumstances (e.g., denial of a PLUS loan to a parent based on adverse credit, the student's parent receives only public assistance or disability benefits, is incarcerated, or his or her whereabouts are unknown) from borrowing under the PLUS Program and the student's family is otherwise unable to provide the student's expected family contribution. A parent's refusal to borrow a PLUS loan does not