

§ 685.102 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
- Disburse
- Eligible program
- Eligible student
- Enrolled
- Federal Consolidation Loan Program
- Federal Direct Student Loan Program (Direct Loan Program)
- Federal Pell Grant Program
- Federal Perkins Loan Program
- Federal PLUS Program
- Federal Supplemental Educational Opportunity Grant Program
- Federal Work-Study Program
- Independent student
- Leveraging Educational Assistance Partnership Program
- One-third of an academic year
- Parent
- Payment period
- State
- Two-thirds of an academic year
- U.S. citizen or national

(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
- Educational program
- Eligible institution
- Federal Family Education Loan (FFEL) Program
- Institution of higher education
- Nationally recognized accrediting agency or association
- Preaccredited
- Program of study by correspondence
- Secretary

(3) The following definitions are set forth in the regulations for the Federal Family Education Loan (FFEL) Program, 34 CFR part 682:

- Act
- Endorser
- Expected family contribution
- Federal Insured Student Loan (FISL) Program
- Federal Stafford Loan Program
- Foreign school
- Full-time student
- Graduate or professional student
- Guaranty agency
- Holder

- Legal guardian
- Lender
- Totally and permanently disabled
- Undergraduate student

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

Alternative originator: An entity under contract with the Secretary that originates Direct Loans to students and parents of students who attend a Direct Loan Program school that does not originate loans.

Consortium: For purposes of this part, a consortium is a group of two or more schools that interacts with the Secretary in the same manner as other schools, except that the electronic communication between the Secretary and the schools is channeled through a single point. Each school in a consortium shall sign a Direct Loan Program participation agreement with the Secretary and be responsible for the information it supplies through the consortium.

Default: The failure of a borrower and endorser, if any, to make an installment payment when due, or to meet other terms of the promissory note, if the Secretary 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 270 days.

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, 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 Public Law 97-376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits);

(v) Benefits paid under Public Law 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 Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loan; and

(viii) 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.

(2) Estimated financial assistance does not include—

(i) Those amounts used to replace the expected family contribution, including—

(A) Direct PLUS Loan amounts;

(B) Direct Unsubsidized Loan amounts; and

(C) Non-Federal loan amounts;

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

(iii) For the purpose of determining eligibility for a Direct Subsidized 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.

Federal Direct Consolidation Loan Program: A loan program authorized by title IV, part D of the Act that provides loans to borrowers who consolidate certain Federal educational loan(s), and one of the components of the Direct Loan Program. Loans made under this program are referred to as Direct Consolidation Loans. There are three types of Direct Consolidation Loans:

(1) Direct Subsidized Consolidation Loans. Subsidized title IV education loans may be consolidated into a Direct Subsidized Consolidation Loan. Interest is not charged to the borrower

during in-school, grace, and deferment periods.

(2) Direct Unsubsidized Consolidation Loans. Certain Federal education loans may be consolidated into a Direct Unsubsidized Consolidation Loan. The borrower is responsible for the interest that accrues during any period.

(3) Direct PLUS Consolidation Loans. Parent Loans for Undergraduate Students, Federal PLUS, Direct PLUS, and Direct PLUS Consolidation Loans may be consolidated into a Direct PLUS Consolidation Loan. The borrower is responsible for the interest that accrues during any period.

Federal Direct PLUS Program: A loan program authorized by title IV, part D of the Act that provides loans to parents of dependent students attending schools that participate in the Direct Loan Program, and one of the components of the Direct Loan Program. The borrower is responsible for the interest that accrues during any period. Loans made under this program are referred to as Direct PLUS Loans.

Federal Direct Stafford/Ford Loan Program: A loan program authorized by title IV, part D of the Act that provides loans to undergraduate, graduate, and professional students attending Direct Loan Program schools, and one of the components of the Direct Loan Program. The Secretary subsidizes the interest while the borrower is in an in-school, grace, or deferment period. Loans made under this program are referred to as Direct Subsidized Loans.

Federal Direct Unsubsidized Stafford/Ford Loan Program: A loan program authorized by title IV, part D of the Act that provides loans to undergraduate, graduate, and professional students attending Direct Loan Program schools, and one of the components of the Direct Loan Program. The borrower is responsible for the interest that accrues during any period. Loans made under this program are referred to as Direct Unsubsidized Loans.

Grace period: A six-month period that begins on the day after a Direct Loan Program borrower ceases to be enrolled as at least a half-time student at an eligible institution and ends on the day before the repayment period begins.

Half-time student: A student who is not a full-time student and who is enrolled in an institution of higher education and is carrying an academic workload that is at least one-half the workload of a full-time student, as determined by the school. A student enrolled solely in an eligible program of study by correspondence is considered a half-time student.

Interest rate: The annual interest rate that is charged on a loan, under title IV, part D of the Act.

Loan fee: A fee, payable by the borrower, that is used to help defray the costs of the Direct Loan Program.

Master promissory note (MPN): A promissory note under which the borrower may receive loans for a single academic year or multiple academic years. Loans for multiple academic years may no longer be made under an MPN after the earliest of—

(i) The date the Secretary or the school receives the borrower's written notice that no further loans may be disbursed;

(ii) One year after the date of the borrower's first anticipated disbursement if no disbursement is made during that twelve-month period; or

(iii) Ten years after the date of the first anticipated disbursement except that a remaining portion of a loan may be disbursed after this date.

Period of enrollment: The period for which a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan is intended. The period of enrollment must coincide with one or more academic terms established by the school (such as semester, trimester, quarter, academic year, and length of the program of study), for which institutional charges are generally assessed. The period of enrollment is also referred to in this part as the loan period.

Satisfactory repayment arrangement. (1) For the purpose of regaining eligibility under section 428F(b) of the HEA, the making of six consecutive, voluntary, on-time, 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 the purpose of consolidating a defaulted loan under 34 CFR 685.220(d)(1)(ii)(E), the making of three

consecutive, voluntary, on-time, full monthly payments on a defaulted loan.

(3) The required monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. "On-time" means a payment made within 15 days of the scheduled due date, and voluntary payments are those payments made directly by the borrower, regardless of whether there is a judgment against the borrower, and do not include payments obtained by income tax offset, garnishment, or income or asset execution.

School origination option 1: In general, under this option the school performs the following functions: creates a loan origination record, transmits the record to the Servicer, prepares the promissory note, obtains a completed and signed promissory note from a borrower, transmits the promissory note to the Servicer, receives the funds electronically, disburses a loan to a borrower, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Servicer initiates the drawdown of funds for schools participating in school origination option 1. The Secretary may modify the functions performed by a particular school.

School origination option 2: In general, under this option the school performs the following functions: creates a loan origination record, transmits the record to the Servicer, prepares the promissory note, obtains a completed and signed promissory note from a borrower, transmits the promissory note to the Servicer, determines funding needs, initiates the drawdown of funds, receives the funds electronically, disburses a loan to a borrower, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Secretary may modify the functions performed by a particular school.

Servicer: An entity that has contracted with the Secretary to act as the Secretary's agent in providing services relating to the origination or servicing of Direct Loans.

Standard origination: In general, under this option the school performs the following functions: creates a loan origination record, transmits the

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record to the Servicer, receives funds electronically, disburses funds, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Servicer prepares the promissory note, obtains a completed and signed promissory note from a borrower, and initiates the drawdown of funds for schools participating in standard origination. The Secretary may modify the functions performed by a particular school.

(Authority: 20 U.S.C. 1087a *et seq.*)

[59 FR 61690, Dec. 1, 1994, as amended at 60 FR 61793, Dec. 1, 1995; 61 FR 29899, June 12, 1996; 61 FR 60610, Nov. 29, 1996; 64 FR 58965, Nov. 1, 1999; 65 FR 38729, June 22, 2000; 65 FR 65629, Nov. 1, 2000; 66 FR 34765, June 29, 2001]

§ 685.103 Applicability of subparts.

(a) Subpart A contains general provisions regarding the purpose and scope of the Direct Loan Program.

(b) Subpart B contains provisions regarding borrowers in the Direct Loan Program.

(c) Subpart C contains certain requirements regarding schools in the Direct Loan Program.

(d) Subpart D contains provisions regarding school eligibility for participation and origination in the Direct Loan Program.

(Authority: 20 U.S.C. 1087a *et seq.*)

Subpart B—Borrower Provisions

§ 685.200 Borrower eligibility.

(a) *Student borrower.* (1) A student is eligible to receive a Direct Subsidized Loan, a Direct Unsubsidized Loan, or a combination of these loans, if the student meets the following requirements:

(i) The student is enrolled, or accepted for enrollment, on at least a half-time basis in a school that participates in the Direct Loan Program.

(ii) The student meets the requirements for an eligible student under 34 CFR part 668.

(iii) In the case of an undergraduate student who seeks a Direct Subsidized Loan or a Direct Unsubsidized Loan at a school that participates in the Federal Pell Grant Program, the student has received a determination of Federal Pell Grant eligibility for the pe-

riod of enrollment for which the loan is sought.

(iv) In the case of a borrower whose previous loan was cancelled due to total and permanent disability, the student—

(A) In the case of a borrower whose prior loan under title IV of the Act was discharged after a final determination of total and permanent disability, the borrower—

(1) Obtains a certification from a physician that the borrower is able to engage in substantial gainful activity; and

(2) Signs a statement acknowledging that the Direct Loan the borrower receives cannot be discharged in the future on the basis of any impairment present when the borrower applied for a total and permanent disability discharge or when the new loan is made, unless that impairment substantially deteriorates.

(B) In the case of a borrower whose prior loan under title IV of the Act was discharged on or after July 1, 2001 and before July 1, 2002 after a final determination of total and permanent disability, the borrower—

(1) Complies with the requirements of paragraph (a)(1)(iv)(A) of this section; and

(2) If the borrower receives another loan within three years from the date that the borrower became totally and permanently disabled, as certified by the physician, reaffirms the previously discharged loan. For the purposes of this paragraph, reaffirmation means the acknowledgement of the loan by the borrower in a legally binding manner. The acknowledgement may include, but is not limited to, the borrower signing a new promissory note that includes the same terms and conditions as the original note signed by the borrower, making a payment on the loan, or signing a repayment agreement.

(v) In the case of a student who seeks a loan but does not have a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, the student meets the requirements under 34 CFR 668.32(e)(2), (3) or (4).

(2)(i) A Direct Subsidized Loan borrower must demonstrate financial need