

§ 682.205

34 CFR Ch. VI (7-1-03 Edition)

(ii) If the student is enrolled in a program, the remainder of which is less than a full academic year, the maximum annual amount that the student may receive may not exceed the amount that bears the same ratio to the amount in paragraph (f)(3)(i) of this section as the remainder measured in semester, trimester, quarter, or clock hours bears to one academic year.

(g) *SLS Program aggregate limit.* The total unpaid principal amount of SLS Program loans made to—

(1) An undergraduate student may not exceed—

(i) \$20,000, for loans for which the first disbursement is made prior to July 1, 1993; or

(ii) \$23,000, for loans for which the first disbursement was made on or after July 1, 1993; and

(2) A graduate student may not exceed—

(i) \$20,000, for loans for which the first disbursement is made prior to July 1, 1993; or

(ii) \$73,000, for loans for which the first disbursement was made on or after July 1, 1993 including loans for undergraduate study.

(h) *PLUS Program annual limit.* The total amount of all PLUS Program loans that parents may borrow on behalf of each dependent student for any academic year of study may not exceed the student's cost of education minus other estimated financial assistance for that student.

(i) *Minimum loan interval.* The annual loan limits applicable to a student apply to the length of the school's academic year.

(j) *Treatment of Consolidation loans for purposes of determining loan limits.* The percentage of the outstanding balance on a Consolidation loan counted against a borrower's aggregate loan limits under the Stafford loan, Unsubsidized Stafford loan, Direct Stafford loan, Direct Unsubsidized loan, SLS, PLUS, Perkins Loan, or HEAL program must equal the percentage of the original amount of the Consolidation loan attributable to loans made to the borrower under that program.

(k) *Maximum loan amounts.* In no case may a Stafford, PLUS, or SLS loan amount exceed the student's estimated cost of attendance for the period of en-

rollment for which the loan is intended, less—

(1) The student's estimated financial assistance for that period; and

(2) The borrower's expected family contribution for that period, in the case of a Stafford loan that is eligible for interest benefits.

(l) In determining a Stafford loan amount in accordance with § 682.204 (a), (c) and (d), the school must use the definition of academic year in 34 CFR 688.3.

[59 FR 33350, June 28, 1994, as amended at 64 FR 18976, Apr. 16, 1999; 64 FR 58954, Nov. 1, 1999; 66 FR 34763, June 29, 2001; 67 FR 67078, Nov. 1, 2002]

§ 682.205 Disclosure requirements for lenders.

(a) *Initial disclosure statement.* (1) A lender must disclose the information described in paragraph (a)(2) of this section to a borrower, in simple and understandable terms, before or at the time of the first disbursement on a Federal Stafford or Federal PLUS loan. The information given to the borrower must prominently and clearly display, in bold type, a clear and concise statement that the borrower is receiving a loan that must be repaid.

(2) The lender shall provide the borrower with—

(i) The lender's name;

(ii) A toll-free telephone number accessible from within the United States that the borrower can use to obtain additional loan information;

(iii) The address to which correspondence with the lender and payments should be sent;

(iv) Notice that the lender may sell or transfer the loan to another party and, if it does, that the address and identity of the party to which correspondence and payments should be sent may change;

(v) The principal amount of the loan;

(vi) The amount of any charges, including the origination fee if applicable, and the insurance premium, to be collected by the lender before or at the time of each disbursement on the loan, and an explanation of whether those charges are to be deducted from the proceeds of the loan or paid separately by the borrower;

(vii) The actual interest rate;

(viii) The annual and aggregate maximum amounts that may be borrowed;

(ix) A statement that information concerning the loan, including the date of disbursement and the amount of the loan, will be reported to a national credit bureau;

(x) An explanation of when repayment of the loan is required and when the borrower is required to pay the interest that accrues on the loan;

(xi) The minimum and maximum number of years in which the loan must be repaid and the minimum amount of required annual payments;

(xii) An explanation of any special options the borrower may have for consolidating or refinancing the loan;

(xiii) A statement that the borrower has the right to prepay all or part of the loan at any time, without penalty;

(xiv) A statement describing the circumstances under which repayment of the loan or interest that accrues on the loan may be deferred;

(xv) A statement of availability of the Department of Defense program for repayment of loans on the basis of military service, as provided for in 10 U.S.C. 2171;

(xvi) The definition of “default” found in §682.200, and the consequences to the borrower of a default, including a statement concerning likely litigation, a statement that the default will be reported to a national credit bureau, and statements that the borrower will be liable for substantial collection costs, that the borrower’s Federal and State income tax refund may be withheld to pay the debt, that the borrower’s wages may be garnished or offset, and that the borrower will be ineligible for additional Federal student financial aid, as well as for assistance under most Federal benefit programs;

(xvii) An explanation of the possible effects of accepting the loan on the student’s eligibility for other forms of student financial assistance;

(xviii) An explanation of any costs the borrower may incur in the making or collection of the loan; and

(xix) In the case of a Stafford or SLS loan, other than an SLS loan made under §682.209 (e) or (f) or a loan made to a borrower attending a school that is not in a State, a statement that the loan proceeds will be transmitted to

the school for delivery to the borrower; and

(xx) A statement of the total cumulative balance, including the loan applied for, owed to that lender, and an estimate of, or information that will allow the borrower to estimate, the projected monthly payment amount based on that cumulative outstanding balance.

(3) With the exception of paragraphs (a)(2)(i) through (a)(2)(iii), (a)(2)(v) through (a)(2)(vii), and (a)(2)(xx) of this section, a lender’s disclosure requirements are met if it provides the borrower with either—

(i) The borrower’s rights and responsibilities statement approved by the Secretary under paragraph (b) of this section; or

(ii) The plain language disclosure approved by the Secretary under paragraph (g) of this section for subsequent loans made under a Master Promissory Note.

(b) *Separate statement of borrower rights and responsibilities.* In addition to the disclosures required by paragraph (a) of this section, the lender must provide the borrower with a separate written statement, using simple and understandable terms, at or prior to the time of the first disbursement, that summarizes the rights and responsibilities of the borrower with respect to the loan. The statement must also warn the borrower about the consequences described in paragraph (a)(2)(xvi) of this section if the borrower defaults on the loan. The Borrower’s Rights and Responsibilities statement approved by the Secretary satisfies this requirement.

(c) *Disclosure of repayment information.* (1) The lender must disclose the information described in paragraph (c)(2) of this section, in simple and understandable terms, in a statement provided to the borrower at or prior to the beginning of the repayment period. In the case of a Federal Stafford or Federal SLS loan, the disclosures required by this paragraph must be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. If the borrower enters the repayment period without the lender’s knowledge, the

lender must provide the required disclosures to the borrower immediately upon discovering that the borrower has entered the repayment period.

(2) The lender shall provide the borrower with—

(i) The lender's name, a toll-free telephone number accessible from within the United States that the borrower can use to obtain additional loan information, and the address to which correspondence with the lender and payments should be sent;

(ii) The scheduled date the repayment period is to begin;

(iii) The estimated balance, including the estimated amount of interest to be capitalized, owed by the borrower as of the date upon which the repayment period is to begin, or the date of the disclosure, whichever is later;

(iv) The actual interest rate on the loan;

(v) An explanation of any fees that may accrue or be charged to the borrower during the repayment period;

(vi) The borrower's repayment schedule, including the due date of the first installment and the number, amount, and frequency of payments;

(vii) Except in the case of a Consolidation loan, an explanation of any special options the borrower may have for consolidating or refinancing the loan and of the availability and terms of such other options;

(viii) The estimated total amount of interest to be paid on the loan, assuming that payments are made in accordance with the repayment schedule; and

(ix) A statement that the borrower has the right to prepay all or part of the loan at any time, without penalty.

(d) *Exception to disclosure requirement.* In the case of a Federal PLUS loan, the lender is not required to provide the information in paragraph (c)(2)(viii) of this section if the lender, instead of that disclosure, provides the borrower with sample projections of the monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the student is in school. Sample projections must disclose the

cost to the borrower of principal and interest, interest only, and capitalized interest. The lender may rely on the PLUS promissory note and associated materials approved by the Secretary for purposes of complying with this section.

(e) *Borrower may not be charged for disclosures.* The lender must provide the information required by this section at no cost to the borrower.

(f) *Method of disclosure.* Any disclosure of information by a lender under this section may be through written or electronic means.

(g) *Plain language disclosure.* The plain language disclosure text, as approved by the Secretary, must be provided to a borrower in conjunction with subsequent loans taken under a previously signed Master Promissory Note. The requirements of paragraphs (a) and (b) of this section are satisfied for subsequent loans if the borrower is sent the plain language disclosure text and an initial disclosure containing the information required by paragraphs (a)(2)(i) through (iii), (a)(2)(v), (a)(2)(vi), (a)(2)(vii), and (a)(2)(xx) of this section.

(h) *Notice of availability of income-sensitive repayment option.* (1) At the time of offering a borrower a loan and at the time of offering a borrower repayment options, the lender must provide the borrower with a notice that informs the borrower of the availability of income-sensitive repayment. This information may be provided in a separate notice or as part of the other disclosures required by this section. The notice must inform the borrower—

(i) That the borrower is eligible for income-sensitive repayment, including through loan consolidation;

(ii) Of the procedures by which the borrower can elect income-sensitive repayment; and

(iii) Of where and how the borrower may obtain more information concerning income-sensitive repayment.

(2) The promissory note and associated materials approved by the Secretary satisfy the loan origination notice requirements provided for in paragraph (h)(1) of this section.

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

(Authority: 20 U.S.C. 1077, 1078, 1078-1, 1078-2, 1078-3, 1082, 1083(a))

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§ 682.206 Due diligence in making a loan.

(a) *General.* (1) Loan-making duties include determining the borrower's loan amount, approving the borrower for a loan, explaining to the borrower his or her rights and responsibilities under the loan, and completing and having the borrower sign the promissory note (except with respect to subsequent loans made under an MPN).

(2) A lender that delegates substantial loan-making duties to a school on a loan thereby enters into a loan origination relationship with the school in regard to that loan. If that relationship exists, the lender may rely in good faith upon statements of the borrower made in the loan application process, but may not rely upon statements made by the school in that process. A non-school lender that does not have an origination relationship with a school with respect to a loan may rely in good faith upon statements of both the borrower and the school in the loan application process. Except as provided in 34 CFR part 668, subpart E, a school lender may rely in good faith upon statements made by the borrower in the loan application process.

(b) *Processing forms.* Before disbursing a loan, a lender must determine that all required forms have been accurately completed by the borrower, the student, the school, and the lender. A lender may not ask the borrower to sign any form before the borrower has provided on the form all information requested from the borrower.

(c) *Approval of borrower and determination of loan amount.* (1) A lender may make a loan only to an eligible borrower. To the extent authorized by paragraph (a)(2) of this section, the lender may rely on the information provided by the school, the borrower, and, if the borrower is a parent, the student on whose behalf the loan is sought, in determining the borrower's eligibility for a loan.

(2) Except in the case of a Consolidation loan, in determining the amount of the loan to be made, in no case may the loan amount exceed the lesser of the amount the borrower requests, the amount certified by the school under § 682.603, or the loan limits under § 682.204.

(d)(1) The lender must ensure that each loan is supported by an executed legally-enforceable promissory note as proof of the borrower's indebtedness.

(e) *Security, endorsement, and co-makers.* (1) A FISL, SLS or Federal PLUS loan must be made without security or endorsement.

(2) A Federal PLUS Program Loan may be made to an eligible borrower with an endorser who is secondarily liable for repayment of the loan.

(3) A Federal Consolidation loan may be made to two eligible spouses provided both borrowers agree to be jointly and severally liable for repayment of the loan as co-makers.

(f) *Additional requirement for Consolidation loans.* (1) Prior to disbursement of a Consolidation loan, the lender shall obtain from the holder of each loan to be consolidated a certification with respect to the loan held by the holder that—

(i) The loan is a legal, valid, and binding obligation of the borrower;

(ii) The loan was made and serviced in compliance with applicable laws and regulations; and

(iii) In the case of a FFEL loan, that the guarantee on the loan is in full force and effect.

(2) The Consolidation loan lender may rely in good faith on the certification provided under paragraph (f)(1)