

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 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; 67 FR 67081, Nov. 1, 2002]

§ 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 period 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 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 applies for 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 before receiving the new 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.

(C) In the case of a borrower whose prior loan under title IV of the Act was conditionally discharged based on an initial determination that the borrower was totally and permanently disabled—

(1) The suspension of collection activity on the prior loan has been lifted;

(2) The borrower complies with the requirement in paragraph (a)(1)(iv)(A)(1) of this section;

(3) The borrower signs a statement acknowledging that neither the prior loan nor the Direct Loan that the borrower receives may 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; and

(4) The borrower signs a statement acknowledging that the suspension of collection activity on the prior loan will be lifted.

(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 in accordance with title IV, part F of the Act.

(ii) The Secretary considers a member of a religious order, group, community, society, agency, or other organization who is pursuing a course of study at an institution of higher education to have no financial need if that organization—

(A) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(B) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(C)(1) Directs the member to pursue the course of study; or

(2) Provides subsistence support to its members.

(b) *Parent borrower.* (1) A parent is eligible to receive a Direct PLUS Loan if the parent meets the following requirements:

(i) The parent is borrowing to pay for the educational costs of a dependent undergraduate student who meets the requirements for an eligible student under 34 CFR part 668.

(ii) The parent provides his or her and the student's social security number.

(iii) The parent meets the requirements pertaining to citizenship and residency that apply to the student under 34 CFR 668.33.

(iv) The parent meets the requirements concerning defaults and overpayments that apply to the student in 34 CFR 668.32(g).

(v) The parent complies with the requirements for submission of a Statement of Educational Purpose that apply to the student under 34 CFR part 668, except for the completion of a Statement of Selective Service Registration Status.

(vi) The parent meets the requirements that apply to a student under paragraph (a)(1)(iv) of this section.

(vii)(A) The parent—

(1) Does not have an adverse credit history;

§ 685.201

(2) Has an adverse credit history but has obtained an endorser who does not have an adverse credit history; or

(3) Has an adverse credit history but documents to the satisfaction of the Secretary that extenuating circumstances exist.

(B) For purposes of paragraph (b)(1)(vii)(A) of this section, an adverse credit history means that as of the date of the credit report, the applicant—

(1) Is 90 or more days delinquent on any debt; or

(2) Has been the subject of a default determination, bankruptcy discharge, foreclosure, repossession, tax lien, wage garnishment, or write-off of a debt under title IV of the Act during the five years preceding the date of the credit report.

(C) For the purposes of (b)(1)(vii)(A) of this section, the Secretary does not consider the absence of a credit history as an adverse credit history and does not deny a Direct PLUS loan on that basis.

(2) For purposes of paragraph (b)(1) of this section, a “parent” includes the individuals described in the definition of “parent” in 34 CFR 688.2 and the spouse of a parent who remarried, if that spouse’s income and assets would have been taken into account when calculating a dependent student’s expected family contribution.

(c) *Defaulted FFEL Program and Direct Loan borrowers.* Except as noted in § 685.220(d)(1)(ii)(F), in the case of a student or parent borrower who is currently in default on an FFEL Program or a Direct Loan Program Loan, the borrower shall make satisfactory repayment arrangements, as described in paragraph (2) of the definition of that term under § 685.102(b), on the defaulted loan.

(d) *Use of loan proceeds to replace expected family contribution.* The amount of a Direct Unsubsidized Loan, a Direct PLUS Loan, a State-sponsored loan, or another non-Federal loan obtained for a loan period may be used to replace

34 CFR Ch. VI (7–1–03 Edition)

the expected family contribution for that loan period.

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

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§ 685.201 Obtaining a loan.

(a) *Application for a Direct Subsidized Loan or a Direct Unsubsidized Loan.* (1) To obtain a Direct Subsidized Loan or a Direct Unsubsidized Loan, a student must complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application.

(2) If the student is eligible for a Direct Subsidized Loan or a Direct Unsubsidized Loan, the Secretary or the school in which the student is enrolled must perform specific functions. Unless a school’s agreement with the Secretary specifies otherwise, the school must perform the following functions:

(i) A school participating under school origination option 2 must create a loan origination record, ensure that the loan is supported by a completed Master Promissory Note (MPN), draw down funds, and disburse the funds to the student.

(ii) A school participating under school origination option 1 must create a loan origination record, ensure that the loan is supported by a completed MPN, and transmit the record and MPN (if required) to the Servicer. The Servicer initiates the drawdown of funds. The school must disburse the funds to the student.

(iii) If the student is attending a school participating under standard origination, the school must create a loan origination record and transmit the record to the alternative originator, which either confirms that a completed MPN supports the loan or prepares an MPN and sends it to the student. The Servicer receives the completed MPN from the student (if required) and initiates the drawdown of funds. The school must disburse the funds to the student.