

§ 682.600

34 CFR Ch. VI (7-1-08 Edition)

by applicable regulations and to any other pertinent books, documents, papers, computer programs, and records; and

(2) Providing reasonable access to lender personnel associated with the lender's administration of the Title IV, HEA programs for the purpose of obtaining relevant information. In providing reasonable access, the institution may not—

(i) Refuse to supply any relevant information;

(ii) Refuse to permit interviews with those personnel that do not include the presence of representatives of the lender's management; and

(iii) Refuse to permit personnel interviews with those personnel that are not recorded by the lender.

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

(Authority: 20 U.S.C. 1077, 1078-1, 1078-2, 1078-3, 1079, 1080, 1082)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9120, Feb. 19, 1993; 64 FR 58965, Nov. 1, 1999]

Subpart F—Requirements, Standards, and Payments for Participating Schools

§ 682.600 [Reserved]

§ 682.601 Rules for a school that makes or originates loans.

(a) *General.* To make or originate loans under the FFEL program, a school—

(1) Must employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending the school;

(2) Must not be a home study school;

(3) Must not—

(i) Make a loan to any undergraduate student;

(ii) Make a loan other than a Federal Stafford loan to a graduate or professional student; or

(iii) Make a loan to a borrower who is not enrolled at that school;

(4) Must award any contract for financing, servicing, or administration of FFEL loans on a competitive basis;

(5) Must offer loans that carry an origination fee or an interest rate, or

both, that are less than the fee or rate authorized under the provisions of the Act;

(6) Must not have a cohort default rate, as calculated under subpart M of 34 CFR part 668, greater than 10 percent;

(7) Must, for any fiscal year beginning on or after July 1, 2006 in which the school engages in activities as an eligible lender, submit an annual compliance audit that satisfies the following requirements:

(i) With regard to a school that is a governmental entity or a nonprofit organization, the audit must be conducted in accordance with § 682.305(c)(2)(v) and chapter 75 of title 31, United States Code, and in addition, during years when the student financial aid cluster (as defined in Office of Management and Budget Circular A-133, Appendix B, Compliance Supplement) is not audited as a "Major Program" (as defined under 31 U.S.C. 7501) must, without regard to the amount of loans made, include in such audit the school's lending activities as a Major Program.

(ii) With regard to a school that is not a governmental entity or a nonprofit organization, the audit must be conducted annually in accordance with § 682.305(c)(2)(i) through (iii);

(8) Must use any proceeds from special allowance payments and interest payments from borrowers, interest subsidy payments, and any proceeds from the sale or other disposition of loans (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loans, and the cost of charging origination fees or interest rates at less than the fees or rates authorized under the HEA) for need-based grants; and

(9) Must have met the requirements to be an eligible lender as of February 7, 2006, and must have made one or more FFEL program loans on or before April 1, 2006.

(b) An eligible school lender may use a portion of the proceeds described in paragraph (a)(8) of this section for reasonable and direct administrative expenses. Reasonable and direct administrative expenses are those that are incurred by the school and are directly related to the school's performance of

actions required of the school under the Act or the regulations in this part. Reasonable and direct administrative expenses do not include financing and similar costs such as costs paid by the school to obtain funding to make FFEL loans, the cost of paying Federal default fees on behalf of borrowers, or the cost of providing origination fees or interest rates at less than the fee or rate authorized under the provisions of the Act.

(c) An eligible school lender must ensure that the proceeds described in paragraph (a)(8) of this section are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.

(Authority: 20 U.S.C. 1077, 1078-1, 1078-2, 1078-3, 1082, 1085)

[71 FR 45708, Aug. 9, 2006, as amended at 71 FR 64399, Nov. 1, 2006]

§ 682.602 Rules for a school or school-affiliated organization that makes or originates loans through an eligible lender trustee.

(a) A school or school-affiliated organization may not contract with an eligible lender to serve as trustee for the school or school-affiliated organization unless—

(1) The school or school-affiliated organization originated and continues or renews a contract made on or before September 30, 2006 with the eligible lender; and

(2) The eligible lender held at least one loan in trust on behalf of the school or school-affiliated organization on September 30, 2006.

(b) As of January 1, 2007, and for loans first disbursed on or after that date under a lender trustee arrangement that continues in effect after September 30, 2006—

(1) A school in a trustee arrangement or affiliated with an organization involved in a trustee arrangement to originate loans must comply with the requirements of § 682.601(a), except for paragraphs (a)(4), (a)(7), and (a)(9) of that section; and

(2) A school-affiliated organization involved in a trustee arrangement to make loans must comply with the requirements of § 682.601(a) except for

paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), and (a)(9) of that section.

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

(Authority: 20 U.S.C. 1082, 1085)

[72 FR 62007, Nov. 1, 2007]

§ 682.603 Certification by a participating school in connection with a loan application.

(a) A school shall certify that the information it provides in connection with a loan application about the borrower and, in the case of a parent borrower, the student for whom the loan is intended, is complete and accurate. Except as provided in 34 CFR part 668, subpart E, a school may rely in good faith upon statements made by the borrower and, in the case of a parent borrower of a PLUS loan, the student and the parent borrower.

(b) The information to be provided by the school about the borrower pertains to—

(1) The borrower's eligibility for a loan, as determined in accordance with § 682.201 and § 682.204;

(2) For a subsidized Stafford loan, the student's eligibility for interest benefits as determined in accordance with § 682.301; and

(3) The schedule for disbursement of the loan proceeds, which must reflect the delivery of the loan proceeds as set forth in § 682.604(c).

(c) Except as provided in paragraph (e) of this section, in certifying a loan, a school must certify a loan for the lesser of the borrower's request or the loan limits determined under § 682.204.

(d) Before certifying a PLUS loan application for a graduate or professional student borrower, the 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—

(i) The maximum interest rate for a Stafford loan and the maximum interest rate for a PLUS loan;