

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;

(ii) Periods when interest accrues on a Stafford loan and periods when interest accrues on a PLUS loan; and

(iii) The point at which a Stafford loan enters repayment and the point at which a PLUS loan enters repayment; and

(2) Give the graduate or professional student borrower the opportunity to request the maximum Stafford loan amount for which the borrower is eligible.

(e) A school may not certify a Stafford or PLUS loan, or a combination of loans, for a loan amount that—

(1) The school has reason to know would result in the borrower exceeding the annual or maximum loan amounts in § 682.204; or

(2) Exceeds the student's estimated cost of attendance for the period of enrollment, less—

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

(ii) In the case of a Subsidized Stafford loan, the borrower's expected family contribution for that period.

(f)(1)(i) The minimum period of enrollment for which a school may certify a loan application is—

(A) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, or has terms that are substantially equal in length with no term less than nine weeks in length, a single term (e.g., a semester or quarter); or

(B) Except as provided in paragraphs (f)(1)(ii) or (iii) of this section, at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length, the lesser of—

(1) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining) at the school; or

(2) The academic year as defined by the school in accordance with 34 CFR 668.3.

(ii) For a student who transfers into a school with credit or clock hours from another school, and the prior school certified or originated a loan for

a period of enrollment that overlaps the period of enrollment at the new school, the new school may certify a loan for the remaining portion of the program or academic year. In this case the school may certify a loan for an amount that does not exceed the remaining balance of the student's annual loan limit.

(iii) For a student who completes a program at a school, where the student's last loan to complete that program had been for less than an academic year, and the student then begins a new program at the same school, the school may certify a loan for the remainder of the academic year. In this case the school may certify a loan for an amount that does not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program.

(2) May not, for first-time borrowers, assign through award packaging or other methods, a borrower's loan to a particular lender;

(3) May refuse to certify a Stafford or PLUS loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the borrower in writing, provided that—

(i) The determination is made on a case-by-case basis; and

(ii) The documentation supporting the determination is retained in the student's file; and

(4) May not, under paragraph (f)(1), (2), and (3) of this section, engage in any pattern or practice that results in a denial of a borrower's access to FFEL loans because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, or selection of a particular lender or guaranty agency.

(g)(1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

(h)(1) The minimum period of enrollment for which a school may certify a loan application is—

(i) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, a single academic term (e.g., a semester or quarter); or

(ii) At a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system, the lesser of—

(A) The length of the student's program at the school; or

(B) The academic year as defined by the school in accordance with 34 CFR 668.3.

(2) The maximum period for which a school may certify a loan application is—

(i) Generally an academic year, as defined by 34 CFR 668.3, except that a guaranty agency may allow a school to use a longer period of time, corresponding to the period to which the agency applies the annual loan limits under § 682.401(b)(2)(ii); or

(ii) For a defaulted borrower who has regained eligibility under § 682.401(b)(4), the academic year in which the borrower regained eligibility.

(3) In certifying a Stafford or SLS loan amount in accordance with § 682.204—

(i) A program of study must be considered at least one full academic year if—

(A) The number of weeks of instruction time is at least 30 weeks; and

(B) The number of clock hours is at least 900, the number of semester or trimester hours is at least 24, or the number of quarter hours is at least 36.

(ii) A program of study must be considered two-thirds $\frac{2}{3}$ of an academic year if—

(A) The number of weeks of instruction time is at least 20 weeks; and

(B) The number of clock hours is at least 600, the number of semester or trimester hours is at least 16, or the number of quarter hours is at least 24.

(iii) A program of study must be considered one-third $\frac{1}{3}$ of an academic year if—

(A) The number of weeks of instruction time is at least 10 weeks; and

(B) The number of clock hours is at least 300, the number of semester or trimester hours is at least 8, or the number of quarter hours is at least 12.

(4) In prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school certifies the loan.

(i)(1) A school must cease certifying loans based on the exceptions in § 682.604(c)(5)(i) and § 682.604(c)(8)(i) no later than—

(i) 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate,

§ 682.604

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

calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs; or

(ii) October 1, 2002.

(2) A school must cease certifying loans based on the exceptions in § 682.604(c)(5)(ii) and § 682.604(c)(8)(ii) no later than 30 days after the date the school receives notification from the Secretary of an FFEL cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in those paragraphs.

(j) A school may not assess the borrower, or the student in the case of a parent PLUS loan, a fee for the completion or certification of any FFEL Program form or information or for providing any information necessary for a student or parent to receive a loan under part B of the Act or any benefits associated with such a loan.

(j) *Requesting loan proceeds.* Pursuant to paragraph (b)(3) of the section, a school may not request the disbursement by the lender for loan proceeds earlier than the period specified in § 668.167.

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

(Authority: 20 U.S.C. 1077, 1078, 1078-1, 1078-2, 1082, 1085, 1094)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9120, Feb. 19, 1993; 59 FR 33358, June 28, 1994; 59 FR 61722, Dec. 1, 1994; 60 FR 61757, Dec. 1, 1995; 61 FR 60609, Nov. 29, 1996; 64 FR 18981, Apr. 16, 1999; 64 FR 58963, Nov. 1, 1999; 65 FR 65650, Nov. 1, 2000; 66 FR 34764, June 29, 2001; 67 FR 67080, Nov. 1, 2002; 68 FR 75429, Dec. 31, 2003; 71 FR 45709, Aug. 9, 2006; 72 FR 62007, 62031, Nov. 1, 2007]

EDITORIAL NOTE: At 72 FR 62031, Nov. 1, 2007, § 682.603 was amended by redesignating paragraph (i) as paragraph (j), although there already exists a paragraph (j).

§ 682.604 Processing the borrower's loan proceeds and counseling borrowers.

(a) *General.* (1) This section establishes rules governing a school's processing of a borrower's Stafford or PLUS loan proceeds, and for counseling borrowers. The school shall also comply with any rules for processing a loan contained in 34 CFR part 668.

(2) Prior to a school delivering or crediting an FFEL loan account by EFT or master check, the school must provide the student or parent borrower with the notice as described under § 668.165.

(3) Except as provided in § 668.167, if the school is placed under the reimbursement payment method, a school shall not disburse a loan.

(b) *Releasing loan proceeds.* (1)(i) Except as provided in § 682.207(b)(1)(v)(C)(1) and (D), the proceeds of a Stafford or PLUS loan disbursed using electronic transfer of funds must be sent directly to the school by the lender.

(ii) Upon notification by a lender under § 682.207(b)(2)(iv) that it has disbursed a loan directly to a borrower as provided under § 682.207(b)(1)(v)(C)(1) and (D), the institution must immediately notify the lender if the student is no longer eligible to receive the disbursement.

(2)(i) Except in the case of a late disbursement under paragraph (e) of this section or as provided in paragraph (b)(2)(iii) or (iv) of this section, a school may release the proceeds of any disbursement of a loan only to a student, or a parent in the case of a PLUS loan, if the school determines the student has continuously maintained eligibility in accordance with the provisions of § 682.201 from the beginning of the loan period for which the loan was intended.

(ii) [Reserved]

(iii) If, after the proceeds of the first disbursement are transmitted to the student, the student becomes ineligible due solely to the school's loss of eligibility to participate in the Title IV programs, the school may transmit the proceeds of the second or subsequent disbursement to the borrower as permitted by § 668.26.

(iv) If, prior to the transmittal of the proceeds of a disbursement to the student, the student temporarily ceases to be enrolled on at least a half-time basis, the school may transmit the proceeds of that disbursement and any subsequent disbursement to the student if the school subsequently determines and documents in the student's file—