


**The Higher Education Opportunity Act
(HEOA)**

**FFEL and Direct Loan
School and Borrower Provisions**


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The HEOA

- Reauthorization of the HEA of 1965 as amended
 - Public Law 110-315
- Signed by the President August 14, 2008
- Effective dates specified in each section and include:
 - Date of enactment (August 14, 2008)
 - July 1, 2009
 - July 1, 2010
 - Other dates specified in the Law and the Dear Colleague Letter (GEN-08-12)

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School Requirements




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Title IV Loan Code of Conduct

- Applies to any school participating in any of the Title IV loan programs
 - Also applies to the officers, employees, and agents of the institution
- Requirement included in the Program Participation Agreement between the Secretary and participating institutions
- Schools must develop, publish, and enforce the code of conduct

4 Effective August 14, 2008 


Title IV Loan Code of Conduct

- Must include the following:
 - Ban on revenue-sharing arrangements with any lender
 - Ban on employees of the financial aid office receiving gifts from a lender, guaranty agency or loan servicer
 - Ban on contracting arrangements
 - Ban on staffing assistance

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Title IV Loan Code of Conduct

- Also,
 - Prohibition against steering borrowers to particular lenders or delaying loan certifications
 - Prohibition on offers of funds for private loans
 - Includes both the request for or acceptance of funds for offers of private loans to students or parents
 - Ban on advisory board compensation with the exception of reimbursement for reasonable expenses incurred

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New Unsubsidized Stafford Flexibility

- FAA has discretion to award a dependent student unsubsidized loan funds without parental data provided:
 - The parent refuses to complete the information on the FAFSA, and
 - The parent has ended financial support for that student
- Documentation required
 - Parent may self-certify both of above
 - In lieu of parent, may accept statement of objective third party

7 Effective August 14, 2008 


New Unsubsidized Stafford Flexibility

- This is a form of professional judgment and it is not a requirement
- This is NOT an entitlement to the student
- This is NOT a dependency override
 - Dependency overrides may not be made simply because a parent has ceased support or refuses to complete the FAFSA
 - A dependency override affects all forms of Title IV aid

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New Unsubsidized Stafford Eligibility

- Parental support includes
 - The student living in the parent's home
 - Including the student on auto insurance policy or health insurance
 - Providing a car to drive on anything other than an occasional basis
 - Payment of tuition or fees
 - Parent owns 529/Prepaid Tuition Plan or Coverdell Account for which student is beneficiary
 - Borrowing a parent PLUS loan on the student's behalf

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New Unsubsidized Stafford Flexibility

- Students must complete the FAFSA
 - Paper FAFSA for 2008-2009
 - Paper FAFSA or FOTW for 2009-2010
- Student must be determined eligible through all database matches and other eligibility criteria
- Application will result in a rejected SAR/ISIR because parental data not provided
 - No EFC calculated
- Student will not be eligible for any aid other than FFEL/DL unsubsidized Stafford Loan

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New Unsubsidized Stafford Flexibility


- Loan limits based on current dependent undergraduate student annual maximums
 - First year student \$5,500
 - \$3,500 + \$2,000
 - Second year student \$6,500
 - \$4,500 + \$2,000
 - Third year and above \$7,500
 - \$5,500 + \$2,000
- All amounts received must be unsubsidized


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Preferred Lender List

- Requirements added to PPA for institution that enters into a preferred lender arrangement
- School must compile, maintain, and make available to students and their families a list of the lenders for Title IV programs and private education loans the school recommends or promotes
- This must be done at least annually and be made available in print or other medium


Effective August 14, 2008


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Preferred Lender List


- In this process an institution must:
 - Disclose detailed information about the terms and conditions of the loans
 - Disclose why it entered into an arrangement with each lender
 - Disclose that the students do not have to borrow from the lenders on the list
 - Ensure that the list contains at least 3 unaffiliated lenders for Title IV loans
 - Ensure that the list contains at least 2 unaffiliated lenders for private education loans


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Preferred Lender List


- They must also:
 - Prominently disclose the method and criteria used in selecting the lenders
 - Compile the list with care, and without prejudice for the sole benefit of the students and their families
 - Not deny or impede the borrower's choice of a lender or delay certifying a loan for a borrower who chooses a lender not on the list

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Alternative to Preferred Lender List

- Schools are not required to have a preferred lender list
- As an alternative, schools may provide a neutral list of all lenders who have made loans to students at their school in last few years
 - May include lender contact information
 - May NOT include any information related to benefits offered by the lender
 - Must include statement that borrower can choose any lender, including one not on that list
- See DCL GEN-08-06 for more detail

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Private Education Loan Certification

- Added to Truth in Lending Act (TILA) is a new requirement that the school must, upon the request of an applicant for a private education loan, provide form disclosing required information about a private education loan
- School must complete the form with requested information to extent the information is available
- Model form to be developed by the Federal Reserve Board and made available no later than August 14, 2010

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Private Loan Marketing Limitations


- Under TILA private educational lenders may not offer or provide any gift to any educational institution in exchange for advantage or consideration related to loans to students or parents
- May not engage in co-branding the use of the name, emblem, mascot or logo of a covered educational institution
- Any person employed in a financial aid office cannot receive anything of value from the lender, other than reimbursement for reasonable expenses, to serve on an advisory board

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Direct Loan Disclosure Requirements

- Direct Loan participating institutions are required to provide the same student loan borrower disclosures required of lenders in the FFEL program
- Although effective date of enactment, this provision is subject to regulations
- No immediate action required of DL schools at this time

Effective August 14, 2008 but subject to regulation

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Entrance Counseling

- Entrance counseling by schools
 - Required for all first time borrowers of FFEL and DL
 - Encouraged to use interactive programs to test the borrower's understanding of the terms and conditions of the loans
 - Adds to items required in current regulation

Effective August 14, 2008

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Entrance Counseling

- New information required
 - What effect loan acceptance will have on other forms of student aid
 - Information on how interest accrues and is capitalized if not paid by the borrower
 - For Unsubsidized Stafford Loans or PLUS Loans the option to pay interest while in school
 - Definition of half-time enrollment and consequences of not attending at least half-time

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Entrance Counseling

- New information (continued)
 - The importance of contacting the appropriate office if a student withdraws
 - Information on NSLDS and how the borrower may access their records
 - Name and contact information of the individual the borrower can contact with questions regarding rights and responsibilities, as well as terms and conditions of the loan

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Exit Counseling

- Exit Counseling
 - Required for borrowers who received loans made under FFEL and DL
 - Excludes borrowers who received Consolidation or parent PLUS Loans

Effective August 14, 2008

START HERE
GO FURTHER
FEDERAL STUDENT AID

Exit Counseling

- New items to be included in exit counseling:
 - Options to prepay or change repayment plans
 - Information on loan forgiveness and cancellation provisions, as well as forbearance options
 - Information on Consolidation Loans
 - Impact on interest, fees, length of repayment and underlying loan benefits
 - Option to prepay or change repayment plans
 - That borrower benefit programs may vary depending on the lender
 - General description of tax benefits that might be available

START HERE
GO FURTHER
FEDERAL STUDENT AID

Estimated Financial Assistance


- Excludes all federal VA educational benefits from estimated financial assistance
 - Applies when determining eligibility for all Title IV aid programs
 - VA benefits question will be eliminated from 2010-11 FAFSA

Effective July 1, 2010 for 2010-2011 Award Year

START HERE
GO FURTHER
FEDERAL STUDENT AID

3-Year Cohort Default Rate


- Beginning with the FY 2009 cohort, institutional cohort default rate will be calculated based on a three fiscal year monitoring period
- Replaces the current measurement based on the two most recent fiscal years



2-Year vs 3-Year Cohort Default Rate


Numerator = # of borrowers from the denominator who default within a FY
 Denominator = # of borrowers who enter repayment within a FY

FY-09	FY-10	
125	230	<u>355</u>
5,000		5000 = .071 or 7.1%
<i>Released Sept 2011</i>		
FY-09	FY-10	FY-11
125	230	250
5,000		<u>605</u>
		5000 = .121 or 12.1%
<i>Released Sept 2012</i>		




Cohort Default Rate Penalty

- Beginning when there are three “3-year” cohort rates institutional cohort default rate penalty will be based on those three cohort default rates.
- Default rate threshold for institutional eligibility raised from 25% to 30%
- Three cohorts are –
 - FY 09 – Released in September of 2012
 - FY 10 – Released in September of 2013
 - FY 11 – Released in September of 2014




Cohort Default Rate Prevention Plan

- If cohort default rate exceeds 30% for two consecutive fiscal years
 - Institution's default prevention task force must revise its default prevention plan
 - Plan must be submitted to ED
 - ED must review and may require the school to take additional steps to promote student loan repayment

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Cohort Default Rate Mitigating Circumstances

- ED may not place a school on provisional certification based solely on its cohort default rate if the school has filed a successful mitigating circumstances appeal after exceeding the applicable default rate percentage
- Effective August 14, 2008

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3-Year Sanctions Explained

- Beginning with the 2011 cohort default rate published September 2014, the following applies:
 - First year 30% or more
 - Default prevention plan and task force
 - Submit default prevention plan to ED
 - Second consecutive year 30% or more
 - Review and revise default prevention plan
 - Submit revised plan to ED
 - ED may require additional steps to promote student loan repayment
 - Third consecutive year 30% or more
 - Loss of institutional eligibility for Pell, ACG/SMART and FFEL/DL
 - School may appeal based on mitigating circumstances


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Parent PLUS Loan Deferment

- Deferment eligibility to parent PLUS borrowers based on the enrollment status of the dependent student on whose behalf the PLUS Loan was made
 - Student must meet conditions required for in-school deferment
 - Includes the six-month period beginning after the date the student ceased at least half-time enrollment status

Effective for loans first disbursed on/after July 1, 2008


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Parent PLUS Loan Deferment

- Parent borrower **MUST REQUEST** this deferment
 - Lender may not grant automatically
- Parent must be provided information related to how and when interest accrues, and
- Parent must be offered the opportunity to pay interest as accrued, or to decline the deferment

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Student PLUS Deferment

- Deferment to Grad/Professional PLUS Loan borrowers for six-month period beginning with the date the student ceased to be enrolled at least half-time
 - Corresponds to grace period applicable to Stafford Loans
 - Borrower not required to request this deferment
 - Must be given the opportunity to decline this deferment period

Effective for loans first disbursed on/after July 1, 2008

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PLUS Loan Capitalization

- Clarifies changes made in ECASLA
- Applies to Parent PLUS and Grad PLUS
- Repayment of loan principal begins no later than 60 days after the last disbursement of a loan
 - Interest accrues from the date of each disbursement
- Interest that accrues during deferment periods may be paid monthly or quarterly, or may be capitalized on a quarterly basis

Effective for loans first disbursed on/after July 1, 2008


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Servicemembers Civil Relief Act

- FFEL and DL loans subject to 6% interest rate limitation
- Applies to borrowers who
 - Are in military service as of August 14, 2008, and
 - Have loans first disbursed on or after July 1, 2008
- Borrower must request the interest rate reduction in writing


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Servicemembers Civil Relief Act

- Borrowers who meet criteria may not receive a refund of interest paid above the 6% rate prior to August 14, 2008
- Provision does not apply to an endorser of a PLUS loan (parent or grad/prof) unless the endorser also meets the criteria


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Total and Permanent Disability

- Borrower is eligible for a disability discharge if the borrower provides documentation from Veterans Affairs showing that the borrower has been determined unemployable due to a service connected disability
- No other medical documentation necessary for borrowers who meet this condition


Effective for discharge requests made on/after Aug 14, 2008

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Teacher Loan Forgiveness

- Adds teachers employed by an educational service agency as eligible for teacher loan forgiveness
 - Teaching service may be performed at one or more locations that are not a school
 - Eligible locations must be determined by the Secretary in consultation with the State


Effective August 14, 2008 but subject to regulation

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Direct Loan Public Service Job

- For Direct Loan borrowers the definition of “public service job” is amended
 - A job in government excludes any time served as a member of the U.S. Congress
 - Other job titles added to list of applicable public service jobs in areas of public health and public interest law services

Effective October 1, 2007

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Title IV Code of Conduct Requirements

1. A ban on revenue-sharing arrangements with any lender. This is defined as any arrangement between a school and a lender that results in the lender paying a fee or other benefits, including a share of the profits, to the school, its officer, employees or agents, as a result of the school recommending the lender to its students or families of those students.
2. A ban on employees of the financial aid office receiving gifts from any lender, guaranty agency or loan servicer. This is not limited just to those providers of Title IV loans. The statutory language refers to lenders of “educational loans” thus private education loans offered to students at your institution are covered in this provision as well. The law does provide for some exceptions related to specific types of activities or literature. This includes:
 - a. Brochures or training material related to default aversion or financial literacy.
 - b. Food, training or informational materials as part of training as long as that training contributes to the professional development of those individuals attending the training.
 - c. Favorable terms and benefits to the student employed by the institution as long as those same terms are provided to all students at the institution.
 - d. Entrance and exit counseling as long as the institution’s staff are in control and they do not promote the services of a specific lender.
 - e. Philanthropic contributions from a lender, GA or servicer unrelated to education loans.
 - f. State education, grants, scholarships, or financial aid funds administered by or on behalf of the State.
3. A ban on contracting arrangements whereby any employee of the school’s financial aid office may not accept any fee, payment or financial benefit as compensation for any type of consulting arrangement or contract to provide services to or on behalf of a lender relating to education loans.
4. A prohibition against steering borrowers to particular lenders, or delaying loan certifications. This includes assigning any first-time borrower’s loan to a particular lender as part of their award packaging or other methods.
5. A prohibition on offers of funds for private loans. Schools may not request or accept such offers. This includes any offer of funds for loans to students at the institution, including funds for an opportunity pool loan, in exchange for providing concessions or promises to the lender for a specific number of loans, or inclusion on a preferred lender list.

6. A ban on staffing assistance from a lender. Schools may not request or accept any assistance with call center staffing or financial aid office staffing. However, the law does not prohibit schools from requesting or accepting assistance from a lender related to:
 - a. Professional development training for financial aid administrators.
 - b. Providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials.
 - c. Staffing services on a short-term, nonrecurring basis to assist the school with financial aid-related functions during emergencies, including State-declared or federally declared natural disasters, and other localized disasters and emergencies identified by the Secretary.
7. A ban on advisory board compensation. Employees of the institution may not receive anything of value from a lender, guarantor, or group in exchange for serving in this capacity. They may, however, accept reimbursement for reasonable expenses incurred while serving in this capacity.