

Providing Consumer & Safety Information

This chapter describes information that a school must provide about financial aid and its campus, facilities, and student-athletes, as well as information to promote campus security and fire safety, and to prevent drug and alcohol abuse. It also discusses counseling for students receiving FSA loans, and disclosures that must be made for private education loans. Additional disclosure requirements that are specific to disbursements of FSA loans are described in Volume 4.

AVAILABILITY OF INFORMATION

Notice to enrolled students

Each year a school must distribute to all enrolled students a notice of the availability of the information it must provide in the following general categories:

1. general disclosures for enrolled or prospective students,
2. annual security report and annual fire safety report,
3. report on athletic program participation rates and financial support data (Equity in Athletics Data or EADA), and
4. FERPA information (Family Educational Rights and Privacy Act of 1974, discussed in *Chapter 7*).

The notice must list and briefly describe the information and tell the student how to obtain the information.

The notice must be provided to an individual on a one-to-one basis through an appropriate mailing or publication, including direct mailing through the U.S. Postal Service, campus mail, or electronic mail. Posting on an Internet website or an Intranet website does not constitute a notice.

Web dissemination

A school may satisfy the requirements for the general disclosures and the EADA, security, and fire safety reports by posting the information on the Web.

- *Enrolled students or current employees*—the school may post the information on an Internet website or an Intranet website that is reasonably accessible to the individuals to whom the information must be disclosed.
- *Prospective students or prospective employees*—the school may post the information on an Internet website.

CHAPTER 6 HIGHLIGHTS

- Availability of information
- General student disclosures
- Disclosures and gainful employment
- Campus crime and safety information
- Information about athletics
- Textbook information
- Loan counseling
- Drug & alcohol abuse prevention
- Misrepresentation
- Information about private loans

Consumer information

HEA Sec. 485(f); 20 USC 1092

Regulations: 34 CFR 668.41–48

Notice to enrolled students: 34 CFR 668.41(c)

Web dissemination: 34 CFR 668.41(b), (c)(2),

(e)(2) through (4), and (g)(1)(ii)

Availability of school staff: 34 CFR 668.44

Suggestions for disseminating HEA-required information

The National Postsecondary Education Cooperative (NPEC) has issued a publication entitled *Information Required to Be Disclosed Under the Higher Education Act of 1965: Suggestions for Dissemination*.

(NPEC 2010-831), prepared by Carol Fuller and Carlo Salerno, Coffey Consulting.

This publication is available at:

<http://nces.ed.gov>

Note: NPEC was established by the National Center for Education Statistics (NCES) in 1995 as a voluntary organization comprising federal agencies, postsecondary schools, associations, and others with an interest in postsecondary education data collection.

The information and opinions in NPEC publications do not necessarily represent the policy or views of the U.S. Department of Education or NCES.

Assessing your school's compliance

To assess your school's compliance with the provisions of this chapter, see the FSA Assessment module for "Consumer Information," at

www.ifap.ed.gov/qahome/qassessments/consumerinformation.html

Civil penalty

In addition to limiting, suspending, or terminating the participation of any school that fails to comply with the consumer information requirements, the Department may impose civil fines of up to \$27,500 for each violation.

Civil penalty
Sec. 487(c)(3)(B) of the HEA

Sample notice of FERPA rights

You can find a sample notification at ED's FERPA website

www.ed.gov/policy/gen/guid/fpco/ferpa/ps-officials.html

A school that uses Internet or Intranet disclosure for this purpose must include in its annual notice to enrolled students—

- The exact electronic address at which the information is posted, and
- A statement that the school will provide a paper copy of the information on request.

In the case of Internet or Intranet distribution of the security and fire safety reports to current employees, the school must, by October 1 of each year, distribute to all current employees a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the school will provide a paper copy of the report upon request.

The same information must be included in a notice to prospective students and employees if a school that decides to use the Web to provide annual security or fire safety reports to them. The only difference is that there is no annual date for distribution of this notice. In the case of Web distribution to prospective students and employees, note that the school must use an Internet, rather than an Intranet, site.

Availability of employees for information dissemination purposes

A school must designate an employee or group of employees who shall be available on a full-time basis to assist enrolled or prospective students in obtaining the information on financial assistance, the school, graduation and completion rates, and security policies and crime statistics, as described in the following sections.

If the school designates one person, that person shall be available, upon reasonable notice, to any enrolled or prospective student throughout the normal administrative working hours of that school. If more than one person is designated, their combined work schedules must be arranged so that at least one of them is available, upon reasonable notice, throughout the normal administrative working hours of that school.

The Department may waive this requirement if the school's total enrollment, or the portion of the enrollment participating in the FSA programs, is too small to necessitate an employee or group of employees being available on a full-time basis. The school must request this waiver from the Department.

General disclosure

General disclosure: 34 CFR 668.41(d)
Financial assistance: 34 CFR 668.42
Institutional information: 34 CFR 668.43
Completion/graduation rates: 34 CFR 668.45
Retention, placement, postgraduate study:
34 CFR 668.41(d)(4), (5), and (6)
Definitions: 34 CFR 668.41(a) and 668.47(b)

GENERAL STUDENT DISCLOSURES

A school must make the following information available to any enrolled student or prospective student through appropriate publications, mailings, or electronic media.

Financial assistance available to students

At a minimum, the school must publish and make readily available to current and prospective students a description of all the federal, state, local,

private, and institutional student financial assistance programs available to its students, including both need-based and non-need-based programs.

For each of these financial aid programs, the information provided by the school must describe—

- the procedures and forms by which students apply for assistance,
- the student eligibility requirements,
- the criteria for selecting recipients from the group of eligible applicants, and
- the criteria for determining the amount of a student's award.

The school may describe its own financial assistance programs by listing them in general categories.

The school must also describe the rights and responsibilities of students receiving financial assistance and, specifically, Federal Student Aid funds. This description must include specific information regarding—

- criteria for continued student eligibility under each program,
- satisfactory progress standards that the student must meet to receive financial assistance; and criteria by which the student who has failed to maintain satisfactory progress may re-establish his or her eligibility for financial assistance (see *Volume 1*),
- the method by which financial assistance disbursements will be made to the students and the frequency of those disbursements,
- the way the school provides for Pell-eligible students to obtain or purchase required books and supplies by the 7th day of a payment period (see *Volume 4* for conditions), and how the student may opt out.
- the terms of any loan received by a student as part of the student's financial assistance package, a sample loan repayment schedule for sample loans and the necessity for repaying loans,
- the general conditions and terms applicable to any employment provided to a student as part of the student's financial assistance package,
- the terms and conditions of the loans students receive under the Direct Loan and Perkins Loan programs, and
- the exit counseling information the school provides and collects as described later in this chapter. (Also see *Volume 6* for Perkins Loans exit counseling.)



Explaining verification requirements

Although it is not among the financial aid disclosures given to all students, you should be aware of the following information that must be provided in writing to students who are selected for verification—

1. Documents required for verification,
2. Student responsibilities—including correction procedures, deadlines for completing any actions required, and the consequences of missing the deadlines.
3. Notification methods—how your school will notify students if their awards change as a result of verification, and the time frame for such notification.

34 CFR 668.53

Consumer information from the Department

The Department is required to make available to schools, lenders, and secondary schools descriptions of the FSA programs to assist students in gaining information through school sources, and to assist schools in carrying out the FSA program requirements.

We provide comprehensive student aid information to students and their families through the *Student Aid on the Web* site (<http://studentaid.ed.gov>).

Colleges and high schools may order bulk quantities of student/borrower publications such as the *College Preparation Checklist* from the FSA Pubs website (www.fsapubs.gov).

Statutory requirement:
HEA Sec. 485

Net Price Calculator

A school with undergraduate students that participates in the FSA programs must have posted a net price calculator on its website by October 29, 2011.

The net price calculator uses institutional data to provide estimated net price information to current and prospective students and their families based on a student's individual circumstances.

ED's National Center for Education Statistics has designed and developed a fully functional net price calculator available to all schools. A school may use the Department's net price calculator template or develop its own. Institutionally developed calculators must include "at a minimum the same data elements" found in the Department's Net Price Calculator template.

To use or review the template, go to <http://npc.inovas.net/institution/>

More information about the calculator and the template is available at: <http://nces.ed.gov/ipeds/resource>

See GEN–08–12 (pages 33ff) for a description of the requirements for the calculator. Higher Education Opportunity Act of 2008 20 USC 1015a

College affordability website

The Department's College Affordability and Transparency Center (<http://collegecost.ed.gov/catc/Default.aspx>) includes information for students, parents, and policymakers about college costs at America's colleges and universities. The Center includes several lists of institutions based on the tuition and fees and net prices (the price of attendance after considering all grant and scholarship aid) charged to students. These lists meet requirements outlined in the HEOA and will be updated annually and posted on the College Navigator website (<http://nces.ed.gov/collegenavigator/>) by July 1.

Vaccination policy

Schools must make available to current and prospective students information about its vaccinations policies. Higher Education Opportunity Act of 2008 HEA section 485(a)

Information about the school's academic programs, costs, facilities, & policies

At a minimum, the school must provide to enrolled and prospective students the following information about itself.

Academic programs—

- The current degree programs and other educational and training programs.
- The instructional, laboratory, and other physical facilities that relate to the academic program.
- The school's faculty and other instructional personnel.
- Any plans by the school to improve its academic program, upon a determination by the school that such a plan exists.
- A description of the written arrangements it has entered into (see **NEW** Written Arrangements in *Chapter 2*).

School costs—

- Tuition and fees charged to full-time and part-time students.
- Estimates of costs for necessary books and supplies.
- Estimates of typical charges for room and board.
- Estimates of transportation costs for students.
- Any additional cost of a program in which a student is enrolled or expresses a specific interest.

Withdrawal procedures, refunds, and return of aid—

- The requirements and procedures for officially withdrawing from the school.
- Any refund policy with which the school is required to comply for the return of unearned tuition and fees or other refundable portions of costs paid to the school.
- A summary of the requirements for the return of FSA grant or loan funds (see *Volume 5*).

Accreditation and licensure—

- The names of associations, agencies, or governmental bodies that accredit, approve, or license the school and its programs.
- The procedures by which documents describing that activity may be reviewed—the school must make available for review to any enrolled or prospective student a copy of the documents describing its accreditation, approval, or licensing.
- Contact information for filing complaints with its accreditor, its state approval or licensing entity, and any other relevant state official or agency that would appropriately handle a student's complaint.

Disability—

- The services and facilities available to students with disabilities, including students with intellectual disabilities (see *Volume 1* for a definition for students with intellectual disabilities).

FSA eligibility for study abroad—

- A statement that a student's enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment at the home institution for the purpose of applying for assistance under the FSA programs.

Transfer of credit policies—

- Any established criteria the school uses regarding the transfer of credit earned at another institution.
- A list of postsecondary schools with which the school has established an articulation agreement.

Contact information—

- The titles of persons designated by the school to provide information to enrolled and prospective students and information regarding how and where those persons may be contacted.

Penalties and institutional policies on copyright infringement—

- A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities.

Student access to accreditation/ approval documents

The school must make available for review, upon request of any enrolled or prospective student, a copy of the documents describing the school's accreditation and its state, federal, or tribal approval or licensing.

**Copyright information**

The sample statement and other copyright requirements are included in GEN 10–08. See *Chapter 7* for the requirement to develop copyright policies: 34 CFR 668.43(a)(10)

Sample statement of penalties for copyright infringement

A school may use this sample statement to meet the requirement that it disseminate a summary of the penalties for violating federal copyright law. The use of this sample summary is optional.

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or

"statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense. For more information, please see the website of the U.S. Copyright Office at www.copyright.gov.

Student Right-to-Know

HEA Sec. 485(a)
34 CFR 668.45

- A summary of the penalties for violation of federal copyright laws (see the following sample statement).
- A description of the school's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the school's information technology system.
- The legal alternatives for downloading or otherwise acquiring copyrighted material, based on the school's periodic review described in *Chapter 7*. (This information is to be provided through a website or other means.)

Retention Rates

34 CFR 668.41 and 45

Disseminating completion, graduation, and transfer-out rates (Student Right-to-Know)

As explained in *Chapter 8*, a school must report its completion or graduation rates (and, if required, the transfer-out rate) to the Department through the IPEDS website. A school must make its annual rates available no later than July 1st each year.

In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the school.

Retention, placement & post-graduate study

The school must also provide information on

- Its retention rate as reported to the Integrated Postsecondary Education Data System (IPEDS). In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the institution.
- The placement of, and types of employment obtained by, graduates of the school's degree or certificate programs. Placement rate information may be gathered from state data systems, alumni or student satisfaction surveys, the school's placement rate for any program, if it calculates such a rate, or other relevant sources. If the school calculates a placement rate, it must disclose that rate.
- For any 4-year program at the school, the types of graduate and professional education in which its graduates enroll. This information may be gathered from state data systems, alumni or student satisfaction surveys, or other relevant sources.

In the case of placement information, and the types of graduate and professional education, the school must identify the source of the information, as well as any time frames and methodology associated with it.

**DISCLOSURES AND GAINFUL EMPLOYMENT PROGRAMS**

A school must disclose certain information about each of its gainful employment programs to prospective students—

- The occupations that the program prepares students to enter (by occupation name and SOC code), along with links to occupational profiles on the O*NET website (see sidebar),
- The on-time graduation rate for students completing the program (see below),
- The tuition and fees the school charges a student for completing the program within normal time; the cost of room and board, if applicable; and the typical costs for books and supplies (unless those costs are included as part of tuition and fees),
- The job placement rate for students completing the program (see below),
- The median loan debt incurred by students who completed the program (separately by FSA loans, private educational loans, and institutional financing plans, as described below),
- Other information the Department provided to the school about the program.

Your school may include information on other costs, such as transportation and living expenses, but it must provide a Web link, or access, to the cost information discussed earlier.

Disseminating information about gainful employment programs

The school must include the required information in promotional materials it makes available to prospective students and post the information on its websites—

- The information must be provided in a simple and meaningful manner on the home page of the school's program website, in an open format that can be retrieved, downloaded, indexed, and searched by commonly used Web search applications. (An open format is one that is platform-independent, is machine-readable, and is made available to the public without restrictions that would impede the reuse of that information.)
- Any other webpage containing general, academic, or admissions information about the program must provide a prominent and direct link to the single webpage that contains all the required information.

These disclosures must begin no later than July 1, 2011. A school must use an ED-developed disclosure form when that form is made available (see sidebar). Schools are responsible for meeting these disclosure requirements using their own form until the Department releases its form.

Gainful employment programs

"Gainful employment" refers to certain programs offered at public, private nonprofit, and proprietary institutions.

- All programs at for-profit schools except for programs leading to baccalaureate degree in liberal arts (proprietary institution)
- Any program at a public or nonprofit school that is not—
 - A program leading to a degree
 - A transfer program of at least two years

Source: GEN-11-10 (4/20/2011)

See detailed explanation in *Chapter 2*.

CIP & SOC codes

Classification of Instructional Programs (CIP) codes are developed by the U.S. Department of Education's National Center for Education Statistics.

The *Standard Occupational Classification* (SOC) codes are listed on the *Occupational Information Network* (www.onetonline.org). You may identify the occupations for each of your programs by entering the program's full 6-digit CIP code on the O*NET crosswalk (www.onetonline.org/crosswalk).

If the crosswalk lists more than 10 related occupations for a program, your school may provide Web links to a representative sample of the identified occupations (by name and SOC code) for which its graduates typically find employment within a few years after completing the program.

ED-provided disclosure form via Web

34 CFR 668.6(b)(2)(iv)

Schools will be required to use an ED-developed website to create their own webpages containing the required disclosure information for their gainful employment programs.

Your school will enter the data for each gainful employment program into the online form, resulting in an HTML file that the school will post to the website home page for that program. (The process is similar to the one used for ED's net price calculator template.)

Some of the information entered (such as the OPEID of the institution and CIP code for the program) will be used to look up and import data from Department databases for use in the output disclosure webpage. Additional program-level data will be entered by the school and included on the output page.

Access to the Web application and a more detailed description of the data elements required to be entered will be made available at a later date.

Additional information on IFAP

The Gainful Employment page on IFAP includes links to Frequently Asked Questions, and resources such as electronic announcements, Webinars, and regulatory materials.

Calculating the on-time graduation (completion) rate

668.6 ***

(c) *On-time completion rate.*

An institution calculates an on-time completion rate for each program subject to this section by—

(1) Determining the number of students who completed the program during the most recently completed award year;

(2) Determining the number of students in paragraph (c)(1) of this section who completed the program within normal time, as defined under §668.41(a), regardless of whether the students transferred into the program or changed programs at the institution. For example, the normal time to complete an associate degree is two years and this timeframe applies to all students in the program. If a student transfers into the program, regardless of the number of credits the institution accepts from the student's attendance at the prior institution, those transfer credits have no bearing on the two-year timeframe. The student would still have two years to complete from the date he or she began attending the two-year program. To be counted as completing on time, a student who changes programs at the institution and begins attending the two-year program must complete within the two-year timeframe beginning from the date the student began attending the prior program; and

(3) Dividing the number of students who completed the program within normal time, as determined under paragraph (c)(2) of this section, by the total number of students who completed the program, as determined under paragraph (c)(1) of this section, and multiplying the result by 100.

Median loan debt

As noted, your school must disclose the median loan debt incurred by students who completed the gainful employment program. In anticipation of the receipt of student-level information from schools (see Section 2.8.2) and to provide consistency among schools, these median amounts will be provided to the school by the Department for the school's disclosure to prospective students.

However, since the first disclosures under the new regulation must be made no later than July 1, 2011, and the first reporting by schools is not required until October 1, 2011, a school must include in its disclosures its own calculation of median debt—separately showing FSA debt and other educational debt—until such time as the Department provides that loan debt information.

The loan debt information disseminated by the school should be consistent with the information the school reports to the Department.

Placement rates

The placement rates for students completing a gainful employment program are to be determined under a methodology developed by the National Center for Education Statistics (NCES) when that rate is available.

In the meantime, beginning on July 1, 2011, if the school is required by its accrediting agency or state to calculate a placement rate on a program basis, it must disclose the rate under this section and identify the accrediting agency or state agency under whose requirements the rate was calculated. If the accrediting agency or state requires a school to calculate a placement rate at the institutional level or other than a program basis, the school must use the accrediting agency or state methodology to calculate a placement rate for the program and disclose that rate.

CAMPUS CRIME & SAFETY INFORMATION

A school must distribute campus security report to its students and employees on an annual basis. If the school maintains on-campus student housing, it must also disseminate an annual fire safety report.

The reports that are disseminated to the school community must include descriptions of the school's policies, procedures, and programs, as listed in the chart that follows.

Note that these reports must include the campus security and fire safety statistics reported to the Department each year (see *Chapter 8*).

Distributing security and fire safety reports to enrolled students & current employees

By October 1 of each year, a school must distribute to all enrolled students and current employees its annual security report and fire safety reports, through appropriate publications and mailings, including—

- direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail;
- a publication or publications provided directly to each individual; or
- posting on an Internet or Intranet website (see conditions for Web distribution at the beginning of this chapter).

The two reports can be published together or separately. If published together, the title of the document must clearly state that it contains both the Annual Security Report and the Annual Fire Safety Report. If published separately, each report must contain information on how to directly access the other report.

Dissemination of reports to prospective students & prospective employees

For each of the reports, the school must provide a notice to prospective students and prospective employees that includes a statement of the report's availability, a description of its contents, and an opportunity to request a copy. A school must provide its annual security report and annual fire safety report, upon request, to a prospective student or prospective employee.

If the school chooses to provide either its annual security report or annual fire safety report to prospective students and prospective employees by posting the disclosure on an Internet website, the school must follow the procedures for Web dissemination described earlier.

Clery/Campus Security Act

In 1990, Congress enacted the *Crime Awareness and Campus Security Act* (Title II of Public Law 101-542), which amended the Higher Education Act of 1965. The act was amended in 1992, 1998, 2000, and 2008. The 1998 amendments renamed the law the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*.
HEA Sec. 485(f)
20 U.S.C. 1092(f)
34 CFR 668.46

Crime & fire data on the Web

The Department posts the campus crime statistics and fire safety statistics for participating schools on the Web at: <http://ope.ed.gov/security/>
Crime statistics are also posted on the Department's College Navigator site: <http://nces.ed.gov/collegenavigator/>

Sample statement of availability

Schools may use the following sample notice from the *Handbook for Campus Safety and Security Reporting* to inform students and employees of the availability of its Combined Annual Security Report and Annual Fire Safety Report:

CNO University is committed to assisting all members of the CNO community in providing for their own safety and security. The annual security and fire safety compliance document is available on the UPD website at http://_____.edu

If you would like to receive the combined Annual Security and Fire Safety Report that contains this information, you can stop by the University Police Department at 2033 Canal Street, NW, Mercer Building, Washington, DC, 20052 or you can request that a copy be mailed to you by calling (XXX) XXX-XXXX.

The website and booklet contain information regarding campus security and personal safety including topics such as: crime prevention, fire safety, university police law enforcement authority, crime reporting policies, disciplinary procedures, and other matters of importance related to security and safety on campus. They also contain information about crime statistics for the three previous calendar years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by CNO; and on public property within, or immediately adjacent to and accessible from the campus.

This information is required by law and is provided by The CNO University Police Department.

Required contents of annual campus security & fire safety reports

The Annual Security Report must include—

- (1) The crime statistics submitted to the Department (see *Chapter 8*).
- (2) A statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including—
 - Policies for making timely warning reports to members of the campus community regarding the occurrence of crimes described in *Chapter 8*;
 - Policies for preparing the annual disclosure of crime statistics; and
 - A list of the titles of each person or organization to whom students and employees should report criminal offenses for the purpose of making timely warning reports and the annual statistical disclosure. (See *Chapter 8* for a list of criminal offenses that must be reported).
 - This statement must also disclose whether the institution has any policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics, and, if so, a description of those policies and procedures.
- (3) A statement of current policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.
- (4) A statement of current policies concerning campus law enforcement that—
 - Addresses the enforcement authority of security personnel, including their relationship with State and local police agencies and whether those security personnel have the authority to arrest individuals;
 - Encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies; and
 - Describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
- (5) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.
- (6) A description of programs designed to inform students and employees about the prevention of crimes.
- (7) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution, including student organizations with off-campus housing facilities.
- (8) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of state underage drinking laws.
- (9) A statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of federal and state drug laws.
- (10) A description of any drug or alcohol-abuse education programs, as described in *Chapter 8*. For the purpose of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with the requirements in *Chapter 8*.
- (11) A statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses, and procedures to follow when a sex offense occurs. The statement must include—
 - A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;
 - Procedures students should follow if a sex offense occurs, including procedures concerning who should be contacted, the importance of preserving evidence for the proof of a criminal offense, and to whom the alleged offense should be reported;
 - Information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel;
 - Notification to students of existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;
 - Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available;
 - Procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that—
 - (A) The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - (B) Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Compliance with this paragraph does not constitute a violation of the Family Educational Rights and Privacy Act (see *Chapter 7*). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused; and
 - Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.
- (12) A statement advising the campus community where law enforcement agency information provided by a state under 42 USC 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.
- (13) A description of the school's emergency response and evacuation procedures, as described in *Chapter 8*, including—
 - a list of the titles of those persons or organizations responsible for determining whether an emergency or dangerous situation exists and who are authorized to initiate the notification process.
 - a statement that the school will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.
- (14) A statement of the school's policy regarding missing student notification procedures, as described in *Chapter 8*.

The Annual Fire Safety Report must include—

- (1) The fire statistics submitted to the Department (see *Chapter 8*).
- (2) A description of each on-campus student housing facility fire safety system.
- (3) The number of fire drills held during the previous calendar year.
- (4) The institution's policies or rules on portable electrical appliances, smoking, and open flames in a student housing facility.
- (5) The institution's procedures for student housing evacuation in the case of a fire.
- (6) The policies regarding fire safety education and training programs provided to the students and employees. In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire.
- (7) For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred.
- (8) Plans for future improvements in fire safety, if determined necessary by the institution.

INFORMATION ABOUT ATHLETICS***Report on athletic program participation rates & financial support***

The Equity in Athletics Disclosure Act (EADA) requires a school that has an intercollegiate athletic program to make prospective students aware of its commitment to providing equitable athletic opportunities for its men and women students. The required contents of this report are described as a part of the reporting requirements in *Chapter 8*.

A school must publish its EADA report by October 15 and make it available upon request to students, prospective students, and the public in easily accessible places. For example, a school may make copies of the report physically available in intercollegiate athletic offices, admissions offices, or libraries, or by providing a copy to every student in his or her electronic mailbox.

A school must provide the report promptly to anyone who requests the information. For example, a school may not refuse to provide a copy of the report to the news media, and the school may not require an individual requesting the information to come to the school to view the report. A school may not charge a fee for the information.

Providing completion & graduation rates for student athletes

When a school offers a prospective student athlete athletically related student aid, it must provide the report on completion or graduation rates for student athletes to the prospective student and the student's parents, high school coach, and guidance counselor (see the sidebar exception).

Equity in Athletics Disclosure Act (EADA)

Equity in Athletics Disclosure Act (EADA) of 1994
 HEA Section 485(e) and (g)
 20 USC 1092
 34 CFR 668.41(g)
 34 CFR 668.47

EADA data on the Web

The Department posts the EADA reports for participating schools on the Web at:
<http://ope.ed.gov/athletics/>

Waiver of completion/graduation data calculation

A school does not have to calculate and make available its completion or graduation rate (and, if applicable, transfer-out rate) if it is a member of an athletic association or conference that has voluntarily published completion or graduation rate data, or has agreed to publish data and ED has granted a waiver of the requirements to provide these rates to coaches and guidance counselors. To receive a waiver, your school or its athletic association or conference must submit a written application to ED that explains why it believes the data the athletic association or conference publishes are accurate and substantially comparable to the information required by this section.

Even if the waiver is granted, your school must comply with the requirements of §668.41(d) (3) [upon request, providing its retention rate to a prospective student] and (f) [providing retention rates and completion or graduation rates for student athletes].

34 CFR 668.45(e)(1)

Exception to providing completion/ graduation rates for student athletes

A school does not have to provide a report on completion or graduation rates to the prospective student athlete and the athlete's parents, high school coach, and guidance counselor, if—

- (A) The institution is a member of a national collegiate athletic association,
 - (B) The association compiles data on behalf of its member institutions, which ED determines are substantially comparable to those required by §668.48(a), and
 - (C) The association distributes the compilation to all secondary schools in the United States.
- 34 CFR 668.41(f)

Textbook information

The textbook information requirement was added by the Higher Education Opportunity Act of 2008, and took effect on July 1, 2010. The statutory requirement was described in GEN-08-12.
HEA section 133

Further guidance was given in DCL GEN-10-09. Also note that the law requires textbook publishers to provide information to faculty about pricing, copyright dates of previous editions, content revisions, alternate formats, etc.

TEXTBOOK INFORMATION

To the maximum extent practicable, a school must post verified textbook pricing information for both required and recommended materials for each class on the schedule of classes that the school has posted online.

This pricing information must include the International Standard Book Number (ISBN) and retail price of the materials charged by the school or a bookstore on the campus or otherwise associated with the school. If the ISBN is not available, the pricing information must include the publisher and copyright date, as well as the title and author. If the school determines that disclosure of this pricing information is not practicable, it may substitute the designation “To Be Determined (TBD)” in lieu of the required pricing information.

If applicable, the school must include on its written course schedule a reference to the textbook information available on its Internet schedule and the Internet address for that schedule.

Schools are encouraged to provide information on renting textbooks, purchasing used textbooks, textbook buy-back programs, and alternative content delivery programs.

A school must provide the following information to its bookstore, if the college bookstore requests it:

- the school’s course schedule for the subsequent academic period; and
- for each course or class offered, the information it must include on its Internet course schedule for required and recommended textbooks and supplemental material, the number of students enrolled, and the maximum student enrollment.

Loan counseling in regulations

DL: 34 CFR 685.304
Perkins: 34 CFR 674.16(a)

DL Online Counseling

Students can take entrance and exit counseling online—

Entrance counseling
StudentLoans.gov

Exit Counseling
NSLDS.gov

Your school can sign up to receive regular reports with the names of students who have completed online counseling.

If your school documents that the student completed ED’s online counseling session, it has satisfied its responsibilities for electronic counseling.

LOAN COUNSELING

Entrance counseling

Before making the first disbursement of a loan to a Direct Subsidized or Unsubsidized Loan borrower, a school must ensure that the student has received entrance counseling or document that the student has received a prior Direct Subsidized, Direct Unsubsidized, Federal Stafford, or Federal SLS Loan. Similarly, a school must ensure that a graduate or professional student who is borrowing a Direct PLUS Loan has received entrance counseling, unless the student has received a prior Direct PLUS Loan or Federal PLUS Loan. There are similar counseling and disclosure requirements for Perkins loans (see *Volume 6*). (Note that loan counseling is not required for parent PLUS borrowers.)

Direct Loan counseling on the Web

The Direct Loan Program offers both entrance and exit counseling on the Web (see sidebar). Your school may also elect to provide entrance counseling through an in-person session, or using a separate written form provided to the student that the student signs and returns to the school.

If your staff are conducting in-person counseling sessions, charts, handouts, audiovisual materials, and question-and-answer sessions can help convey the information in a more dynamic manner. We also recommend the use of written tests or interactive programs to ensure that the student understands the terms and conditions of his or her loans. Moreover, the regulations require (for any form of counseling) that someone with expertise in the FSA programs be available shortly after the counseling to answer borrowers' questions about those programs.

Regardless of the counseling methods your school uses—

- It must ensure that an individual with expertise in the FSA programs is reasonably available shortly after the counseling to answer the student's questions.
- It must document that the student received and understood entrance and exit counseling.

Providing borrower information at separation

The personal and contact information collected at the time of exit counseling must be provided to the student's loan servicer within 60 days. A student authorizes his or her school to release information to lenders as part of the promissory note the student signs as part of the loan application process. No further permission is needed.

Exit counseling follow up

If the student borrower drops out without notifying your school, you must confirm that the student has completed online counseling, or mail exit counseling material to the borrower at his or her last known address. It is also acceptable to email the information to the borrower at his or her home (not school) email address, if you have that address. Note that you may send the print or PDF version of the *Exit Counseling Guide for Federal Student Loan Borrowers* to satisfy the exit counseling requirement. The material must be mailed or emailed within 30 days of your learning that a borrower has withdrawn or failed to participate in an exit counseling session.

When mailing exit materials to a student who has left school, you're not required to use certified mail with a return receipt requested, but you must document in the student's file that the materials were sent. If the student fails to provide the updated contact information, you are not required to take any further action.

TEACH exit counseling

Since TEACH Grants convert to loans if the service requirement is not completed, all grant recipients receive entrance counseling and subsequent counseling on the TEACH website before receiving their grant.

In addition, all recipients must receive TEACH Grant exit counseling, which is available on the NSLDS Student Access site (www.nsls.ed.gov/nsls_SA/). You will receive reports from NSLDS on all students who have

TEACH Grant Counseling

Initial and subsequent counseling is delivered through the TEACH website before the student receives his or her grant.

Students complete exit counseling on the NSLDS Student Access site (www.nsls.ed.gov/nsls_SA/). It is the school's responsibility to see that TEACH recipients receive exit counseling when they are no longer enrolled in the program.

See NSLDS Newsletter #33 on the IFAP website (<http://ifap.ed.gov>) for more details on TEACH exit counseling and for information on related reporting tools on the NSLDS Professionals website (www.nsls.ed.gov/nsls_FAP/).

Student PLUS borrowers

Counseling requirements for graduate/professional PLUS borrowers were published November 1, 2007.
34 CFR 685.304

Direct Loan counseling materials

Direct Loan schools can order counseling materials, such as the Direct Loan Entrance Counseling Guide and the Direct Loan Exit Counseling Guide from the FSA PUBS Web site at www.fsapubs.gov

Alternative entrance counseling approaches

The Direct Loan regulations describe how a school may adopt alternative approaches as a part of its quality assurance plan—see 34 CFR 685.304(a)(8).

Providing borrower information

A Direct Loan School should mail updated borrower information to the Direct Loan servicer to whom the loan has been assigned.

Providing additional information

Your school can take additional steps to counsel its students in developing a budget, estimating their need for loans, and planning for repayment. You can reinforce these messages through continuing contacts with your student borrowers. You have an opportunity at each disbursement to remind students about the importance of academic progress, planning for future employment, and staying in touch with the holder of the loan. Additional ideas for loan counseling are given in the “Sample Default Management and Prevention Plan.”

Financial literacy—schools should provide borrowers with information concerning the income potential of occupations relevant to their course of study, counseling at various stages of enrollment, interactive tools to manage debt, repayment options, and school contact information. Schools can offer this information through a variety of media such as counseling, classes, publications, e-tutorials, electronic newsletters to email accounts, and adding the information to award letters.

At-Risk Students—schools should identify and provide special counseling for “at-risk” students (such as students who withdraw prematurely from their educational programs, borrowers who do not meet standards of satisfactory academic progress, or both). The most recent sample default plan was issued as an attachment to GEN-05-14 and is also available in the collection of “Default Rate Materials” on the IFAP website.

completed TEACH exit counseling. If the student doesn’t complete the exit counseling session on the NSLDS website, you must ensure that the counseling is provided either in person, through interactive electronic means, or by mailing written counseling materials (such as the PDF version of the exit counseling program on the NSLDS website) to the grant recipient’s last known address. In the case of unannounced withdrawals, you must provide this counseling within 30 days of learning that a grant recipient has withdrawn from school (or from a TEACH Grant-eligible program).

Counseling for correspondence and study-abroad students

If the student has enrolled in a study-abroad program (approved by a U.S. school for credit) or a correspondence or distance learning program, and has not previously received an FFEL or Direct Loan at that school, the school must document that the student has completed online entrance counseling that meets FSA requirements, or provide entrance counseling information by mail before releasing loan proceeds.

In the case of exit counseling for correspondence programs or study abroad programs, the school may mail or email the borrower written counseling materials within 30 days after the borrower completes the program, with a request that the borrower provide the contact and personal information that would ordinarily have been collected through the counseling process.

DL Entrance Counseling—Required Elements

Entrance counseling for Direct Subsidized and Unsubsidized Loans **34 CFR 685.304(a)(6)**

Entrance counseling for Direct Subsidized and Unsubsidized loan borrowers must:

- (i) Explain the use of a master promissory note (MPN);
- (ii) Emphasize to the borrower the seriousness and importance of the repayment obligation the student borrower is assuming;
- (iii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under federal law, and litigation;
- (iv) Emphasize that the student borrower is obligated to repay the full amount of the loan even if the student borrower does not complete the program, does not complete the program within the regular time for program completion, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student borrower purchased from the school;
- (v) Inform the student borrower of sample monthly repayment amounts based on—
 - (A) A range of student levels of indebtedness of Direct Subsidized Loan and Direct Unsubsidized Loan borrowers, or student borrowers with Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loans depending on the types of loans the borrower has obtained; or
 - (B) The average indebtedness of other borrowers in the same program at the same school as the borrower;
- (vi) To the extent practicable, explain the effect of accepting the loan to be disbursed on the eligibility of the borrower for other forms of student financial assistance;
- (vii) Provide information on how interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Secretary;
- (viii) Inform the borrower of the option to pay the interest on a Direct Unsubsidized Loan while the borrower is in school;
- (ix) Explain the definition of half-time enrollment at the school, during regular terms and summer school, if applicable, and the consequences of not maintaining half-time enrollment;
- (x) Explain the importance of contacting the appropriate offices at the school if the borrower withdraws prior to completing the borrower's program of study so that the school can provide exit counseling, including information regarding the borrower's repayment options and loan consolidation;

- (xi) Provide information on the National Student Loan Data System and how the borrower can access the borrower's records; and
- (xii) Provide the name of and contact information for the individual the borrower may contact if the borrower has any questions about the borrower's rights and responsibilities or the terms and conditions of the loan.

Entrance counseling for graduate or professional students (Direct PLUS Loan borrowers) **34 CFR 685.304(a)(7)**

Entrance counseling for graduate or professional student Direct PLUS loan borrowers must:

- (i) Inform the student borrower of sample monthly repayment amounts based on—
 - (A) A range of student levels or indebtedness of graduate or professional student PLUS loan borrowers, or student borrowers with Direct PLUS Loans and Direct Subsidized Loans or Direct Unsubsidized Loans, depending on the types of loans the borrower has obtained; or
 - (B) The average indebtedness of other borrowers in the same program at the same school;
- (ii) Inform the borrower of the option to pay interest on a PLUS Loan while the borrower is in school;
- (iii) For a graduate or professional student PLUS Loan borrower who has received a prior FFEL Stafford, or Direct Subsidized or Unsubsidized Loan, provide the information specified in §685.301(a)(3)(i)(A) through §685.301(a)(3)(i)(C),* and
- (iv) For a graduate or professional student PLUS Loan borrower who has not received a prior FFEL Stafford, or Direct Subsidized or Direct Unsubsidized Loan, provide the information specified in paragraph (a)(6)(i) through paragraph (a)(6)(xii) of this section. [See the entrance counseling requirements i-xii beginning in the first column of this page]

* §685.301(a)(3)(i) requires that the counseling provide the borrower with a comparison of—

- (A) The maximum interest rate for a Direct Subsidized Loan and a Direct Unsubsidized Loan and the maximum interest rate for a Direct PLUS Loan;
- (B) Periods when interest accrues on a Direct Subsidized Loan and a Direct Unsubsidized Loan, and periods when interest accrues on a Direct PLUS Loan; and
- (C) The point at which a Direct Subsidized Loan and a Direct Unsubsidized Loan enters repayment, and the point at which a Direct PLUS Loan enters repayment...

DL Exit Counseling—Required Elements

34 CFR 685.304(b)(4)

Exit counseling must:

- (i) Inform the student borrower of the average anticipated monthly repayment amount based on the student borrower's indebtedness or on the average indebtedness of student borrowers who have obtained Direct Subsidized Loans and Direct Unsubsidized Loans, student borrowers who have obtained only Direct PLUS Loans, or student borrowers who have obtained Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loans, depending on the types of loans the student borrower has obtained, for attendance at the same school or in the same program of study at the same school;
- (ii) Review for the student borrower available repayment plan options including the standard repayment, extended repayment, graduated repayment, income contingent repayment plans, and income-based repayment plans, including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments under each plan;
- (iii) Explain to the borrower the options to prepay each loan, to pay each loan on a shorter schedule, and to change repayment plans;
- (iv) Provide information on the effects of loan consolidation including, at a minimum—
 - (A) The effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;
 - (B) The effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;
 - (C) The options of the borrower to prepay the loan and to change repayment plans; and
 - (D) That borrower benefit programs may vary among different lenders;
- (v) Include debt-management strategies that are designed to facilitate repayment;
- (vi) Explain to the student borrower how to contact the party servicing the student borrower's Direct Loans;
- (vii) Meet the requirements described in paragraphs (a)(6)(i), (a)(6)(ii), and (a)(6)(iv) of this section [see entrance counseling requirements (i), (ii), and (iv) in the first column of the previous page];
- (viii) Describe the likely consequences of default, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

- (ix) Provide—
 - (A) A general description of the terms and conditions under which a borrower may obtain full or partial forgiveness or discharge of principal and interest, defer repayment of principal or interest, or be granted forbearance on a title IV loan; and
 - (B) A copy, either in print or by electronic means, of the information the Secretary makes available pursuant to section 485(d) of the HEA;*
- (x) Review for the student borrower information on the availability of the Department's Student Loan Ombudsman's office;
- (xi) Inform the student borrower of the availability of title IV loan information in the National Student Loan Data System (NSLDS) and how NSLDS can be used to obtain title IV loan status information;
- (xii) A general description of the types of tax benefits that may be available to borrowers; and
- (xiii) Require the student borrower to provide current information concerning name, address, social security number, references, and driver's license number and state of issuance, as well as the student borrower's expected permanent address, the address of the student borrower's next of kin, and the name and address of the student borrower's expected employer (if known).

* Section 485 requires the Secretary (i.e., the Department) to provide "descriptions of federal student assistance programs including the rights and responsibilities of student and institutional participants," including "information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations" for their loans.

Section 485(d) also mentions information—

- to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles.
- concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service.
- on the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization.
- on state and other prepaid tuition programs and savings programs and disseminate such information to states, eligible institutions, students, and parents in departmental publications.

DRUG AND ALCOHOL ABUSE PREVENTION

A school that participates in the FSA programs must provide information to its students, faculty, and employees to prevent drug and alcohol abuse. (A school is also required to have a drug and alcohol prevention program, as discussed in *Chapter 8*.)

In addition, a school that participates in the Campus-Based programs must have a drug-free awareness program for its employees that includes a notice to its employees of unlawful activities and the actions the school will take against an employee who violates these prohibitions.

Information to be included in drug prevention materials for students

A school must provide the following in its materials:

- information on preventing drug and alcohol abuse;
- standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of drugs and alcohol by students and employees on the school's property, or as part of the school's activities;
- a description of the sanctions under local, state, and federal law for unlawful possession, use, or distribution of illicit drugs and alcohol;
- a description of any drug and alcohol counseling, treatment, or rehabilitation programs available to students and employees;
- a description of the health risks associated with the use of illicit drugs and alcohol; and
- a clear statement that the school will impose sanctions on students and employees for violations of the standards of conduct (consistent with local, state, and federal law) and a description of these sanctions, up to and including expulsion, termination of employment, and referral for prosecution.

Distribution of materials to all students and employees

The school may include this information in publications such as student or employee handbooks, provided that these publications are distributed to each student and employee. Merely making drug prevention materials available to those who wish to take them is not sufficient. The school must use a method that will reach every student and employee, such as the method used to distribute grade reports or paychecks.

The school must distribute these materials annually. If new students enroll or new employees are hired after the initial distribution for the year, the school must make sure that they also receive the materials.

Drug and alcohol prevention

Drug-Free Schools and Communities Act
(Public Law 101-226)
Drug-Free Workplace Act of 1988 (Public Law
101-690)
34 CFR 84 Government-Wide Requirements
for Drug-Free Workplace
34 CFR 86 Drug and Alcohol Abuse
Prevention
34 CFR 668.14(c)

Notice of penalties

A school must provide to every student, upon enrollment, a separate, clear, and conspicuous written notice with information on the penalties associated with drug-related offenses (see *Volume 1* of this Handbook for a description of the penalties).
Higher Education Act of 2008
HEA section 485(k)

Misrepresentation

34 CFR Subpart F
34 CFR 668.71
Misrepresenting educational program
34 CFR 668.72
Misrepresenting financial charges
34 CFR 668.73
Employability of graduates
34 CFR 668.74
Relationship with the Department of
Education
34 CFR 668.75

Prospective student

Any individual who has contacted an eligible institution for the purpose of requesting information about enrolling at the institution or who has been contacted directly by the institution or indirectly through advertising about enrolling at the institution.

Sanctions

If the Department determines that an eligible institution has engaged in substantial misrepresentation, it may—

- revoke the eligible institution's program participation agreement;
- impose limitations on the institution's participation in the FSA programs;
- deny participation applications made on behalf of the institution; or
- initiate a proceeding against the eligible institution under subpart G of 34 CFR 668.



MISREPRESENTATION

A school is deemed to have engaged in *substantial misrepresentation* when the school itself, one of its representatives, or other related parties (see below), makes a substantial misrepresentation regarding the school, including about the nature of its educational program, its financial charges, or the employability of its graduates.



Misrepresentation

Misrepresentation is defined as a false, erroneous or misleading statement made directly or indirectly to—

- a student, prospective student, or any member of the public, or
- an accrediting agency, a state agency, or the Department.

A *misleading statement* includes any statement that has the likelihood or tendency to deceive or confuse. A statement is any communication made in writing, visually, orally, or through other means.

This definition applies to statements made by—

- an eligible school
- one of its representatives, or
- any ineligible institution, organization, or person with whom the eligible institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting or admissions services.

Misrepresentation includes the dissemination of a student endorsement or testimonial that a student gives either under duress or because the school required the student to make such an endorsement or testimonial to participate in a program.

Substantial misrepresentation

Substantial misrepresentation is defined as any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment.

Substantial misrepresentations are prohibited in all forms, including those made in any advertising, promotional materials, or in the marketing or sale of courses or programs of instruction offered by the institution.

Misrepresentation regulations



34 CFR 668.72 Nature of educational program

Misrepresentation concerning the nature of an eligible institution's educational program includes, but is not limited to, false, erroneous or misleading statements concerning—

- (a) The particular type(s), specific source(s), nature and extent of its institutional, programmatic, or specialized accreditation;
- (b)(1) Whether a student may transfer course credits earned at the institution to any other institution;
- (2) Conditions under which the institution will accept transfer credits earned at another institution;
- (c) Whether successful completion of a course of instruction qualifies a student—
 - (1) For acceptance to a labor union or similar organization; or
 - (2) To receive, to apply to take or to take the examination required to receive, a local, State, or Federal license, or a nongovernmental certification required as a precondition for employment, or to perform certain functions in the States in which the educational program is offered, or to meet additional conditions that the institution knows or reasonably should know are generally needed to secure employment in a recognized occupation for which the program is represented to prepare students;
- (d) The requirements for successfully completing the course of study or program and the circumstances that would constitute grounds for terminating the student's enrollment;
- (e) Whether its courses are recommended or have been the subject of unsolicited testimonials or endorsements by—
 - (1) Vocational counselors, high schools, colleges, educational organizations, employment agencies, members of a particular industry, students, former students, or others; or
 - (2) Governmental officials for governmental employment;
- (f) Its size, location, facilities, or equipment;
- (g) The availability, frequency, and appropriateness of its courses and programs to the employment objectives that it states its programs are designed to meet;
- (h) The nature, age, and availability of its training devices or equipment and their appropriateness to the employment objectives that it states its programs and courses are designed to meet;
- (i) The number, availability, and qualifications, including the training and experience, of its faculty and other personnel;
- (j) The availability of part-time employment or other forms of financial assistance;
- (k) The nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during or after the completion of a course;
- (l) The nature or extent of any prerequisites established for enrollment in any course;
- (m) The subject matter, content of the course of study, or any other fact related to the degree, diploma, certificate of completion, or any similar document that the student is to be, or is, awarded upon completion of the course of study;
- (n) Whether the academic, professional, or occupational degree that the institution will confer upon completion of the course of study has been authorized by the appropriate State educational agency. This type of misrepresentation includes, in the case of a degree that has not been authorized by the appropriate State educational agency or that requires specialized accreditation, any failure by an eligible institution to disclose these facts in any advertising or promotional materials that reference such degree; or
- (o) Any matters required to be disclosed to prospective students under §§ 668.42 and 668.43 of this part.

(Authority: 20 U.S.C. 1094)

34 CFR 668.73 Nature of financial charges

Misrepresentation concerning the nature of an eligible institution's financial charges includes, but is not limited to, false, erroneous, or misleading statements concerning—

- (a) Offers of scholarships to pay all or part of a course charge;
- (b) Whether a particular charge is the customary charge at the institution for a course;
- (c) The cost of the program and the institution's refund policy if the student does not complete the program;
- (d) The availability or nature of any financial assistance offered to students, including a student's responsibility to repay any loans, regardless of whether the student is successful in completing the program and obtaining employment; or
- (e) The student's right to reject any particular type of financial aid or other assistance, or whether the student must apply for a particular type of financial aid, such as financing offered by the institution.

(Authority: 20 U.S.C. 1094)

34 CFR 668.74 Employability of graduates

Misrepresentation regarding the employability of an eligible institution's graduates includes, but is not limited to, false, erroneous, or misleading statements concerning—

- (a) The institution's relationship with any organization, employment agency, or other agency providing authorized training leading directly to employment;
- (b) The institution's plans to maintain a placement service for graduates or otherwise assist its graduates to obtain employment;
- (c) The institution's knowledge about the current or likely future conditions, compensation, or employment opportunities in the industry or occupation for which the students are being prepared;
- (d) Whether employment is being offered by the institution or that a talent hunt or contest is being conducted, including, but not limited to, through the use of phrases such as "Men/women wanted to train for * * *," "Help Wanted," "Employment," or "Business Opportunities";
- (e) Government job market statistics in relation to the potential placement of its graduates; or
- (f) Other requirements that are generally needed to be employed in the fields for which the training is provided, such as requirements related to commercial driving licenses or permits to carry firearms, and failing to disclose factors that would prevent an applicant from qualifying for such requirements, such as prior criminal records or preexisting medical conditions.

(Authority: 20 U.S.C. 1094)

34 CFR 668.75 Relationship with Department of Education

An eligible institution, its representatives, or any ineligible institution, organization, or person with whom the eligible institution has an agreement may not describe the eligible institution's participation in the title IV, HEA programs in a manner that suggests approval or endorsement by the U.S. Department of Education of the quality of its educational programs.

(Authority: 20 U.S.C. 1094)

Private education loans

34 CFR 668.14(b)(28) and (29)
 Requirements for preferred lender list:
 34 CFR 682.212(h)
 34 CFR 601.10
 Self-certification form
 34 CFR 601.11(d)
 Information required to complete the self-certification form
 34 CFR 668.14(b)(29)

Truth in Lending Act

Truth in Lending Act section 128(e)(1)
 15 USC 1638(e)(1)
 Federal Reserve System Truth in Lending regulations (as published on August 14, 2009)
 12 CFR 226.47 and 226.48.

Private education loan definition

The definition of a private education loan given at the beginning of this section is based on the definition given in the Federal Reserve System regulations, which excludes some forms of credit—

(1) An extension of credit under an open end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling; or

(2) An extension of credit in which the educational institution is the lender if—

(i) The term of the extension of credit is 90 days or less; or

(ii) An interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

12 CFR 226.46(b)(5)

Authority: 20 USC 1019

INFORMATION ABOUT PRIVATE LOANS

A private education loan is a non-FSA loan that is made to a borrower expressly for postsecondary education expenses, regardless of whether the loan is provided through the educational institution that the student attends or directly to the borrower from the private educational lender. (See sidebar definition for exclusions.)

NEW

Private education loans made by schools include Public Health Service Loans, such as Health Professions Student Loans. However, Federal Perkins Loans are not considered to be private educational loans.

If a private education loan is part of a preferred lender arrangement, it is also subject to the rules for those arrangements (as described later in this section).

Disclosures required for private education loans

A school or affiliated organization that provides information regarding a private education loan from a lender to a prospective borrower must provide the following disclosures, even if it does not participate in a preferred lender arrangement.

The private education loan disclosures must—

- provide the prospective borrower with the information required by 15 U.S.C. 1638(e)(1) [12 CFR 226.47(a) in the the Federal Reserve System regulations], and
- inform the prospective borrower that he or she may qualify for FSA loans or other assistance from the FSA programs, and that the terms and conditions of an FSA loan may be more favorable than the provisions of private education loans.

NEW

The school or affiliate must ensure that information regarding private education loans is presented in such a manner as to be distinct from information regarding FSA loans.

The school must, upon the request of the applicant, discuss with the applicant the availability of federal, state, and institutional student financial aid.

Self-certification form for private education loans

A lender must obtain a completed and signed self-certification form from the applicant before consummating a private education loan.

The loan applicant may obtain a copy of the self-certification form from the private lender and submit it to your school for completion or confirmation. A school may also, at its option, provide the information needed to complete the form directly to the lender.

NEW

If the applicant requests a copy of the self-certification form from your school, you must provide it.

If the student has been enrolled or admitted to the school, the student or parent loan applicant may request that the school complete section 2 before providing the form to the applicant. The school must comply with the applicant's request to the extent that the school possesses the required information. Section 2 of the self-certification form collects the following information—

The school must also provide the information required to complete the form, to the extent the school possesses such information, including—

- the applicant's cost of attendance (see *Volume 3, Chapter 2*);
- the applicant's estimated financial assistance (including, for students who have completed the FAFSA, the amounts of financial assistance used to replace the EFC, as determined by the school in accordance with the rules in *Volume 3, Chapter 9*); and
- the difference between the applicant's cost of attendance and estimated financial assistance, as applicable.

The school should not include any private education loans that it is making to an enrolled applicant when determining the amount of estimated financial assistance to report in section 2 of the self-certification form.

Schools as private lenders

Note that if a school solicits, makes, or extends private education loans, it is considered to be a private educational lender that is subject to the Federal Reserve's regulations on private educational lenders.



When the school is the private education lender, it must complete and provide the Self-Certification form to the loan applicant, and subsequently obtain the signed form from the applicant before consummating the private education loan.

In some cases, a school may be making more than one private education loan to an applicant. For example, a school may be providing a loan funded by the school (or from donor-directed contributions) and a Public Health Service loan. In such cases, the school can provide one Self-Certification form to the applicant.

Preferred lender lists

For any year in which the school has a preferred lender arrangement, it will at least annually compile, maintain, and make available for students attending the school, and the families of such students, a list in print or other medium, of the specific lenders for private education loans that the school recommends, promotes, or endorses in accordance with such preferred lender arrangement.

The school's preferred lender list must fully disclose—

- why it participates in a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower, and

Self-certification form for private education loans

Beginning February 14, 2010, schools must provide the Private Education Loan Applicant Self-certification form upon request from the loan applicant. A school may post an exact copy (pdf) of the self-certification form on its website for applicants to download, or it may provide a paper copy directly to an applicant. A copy of the self-certification form is included as an attachment to GEN 11-01.

The self-certification form must be printed by the school (or lender) with black ink on white paper. The typeface, point size, and general presentation of the form may not be changed from the version approved by OMB.

The only changes that may be made to the self-certification form are:

- Bold type in section headings may be removed, and bold or italic type may be added to the instructions.
- Schools and lenders may use any blank spaces at the top, bottom, or sides of the form for bar coding or other school/lender-specific information. (However, such space may not be used to include the student's or parent's Social Security number.)

Source: GEN-11-01



Public health service loans

Loans made under Titles VII and VIII of the Public Health Service Act are considered to be private education loans, including—

- Health Professions Student Loan (HPSL)
- Primary Care Loan (PCL)
- Loans for Disadvantaged Students (LDS)
- Nursing Student Loan (NSL)

These loans are administered by the Health Resources and Services Administration (www.hrsa.gov).

Preferred lenders

34 CFR 601.10

12 CFR 226.47

20 USC 1019a(a)(1)(A) and 1019b(c)

15 USC 1638(e)(11)

As enacted in—

HEA section 153(a)(2)(A)

Truth in Lending Act, section 128(e)(11)

Preferred lender lists

The school is required to

- exercise a duty of care and a duty of loyalty to compile the preferred lender list, without prejudice and for the sole benefit of the school's students and their families and
- not deny or otherwise impede the borrower's choice of a lender for those borrowers who choose a lender that is not included on the preferred lender list. (This requirement is also included in the school's Code of Conduct; see *Chapter 3*).

Use of school or lender name

34 CFR 612

20 USC 1019a(a)(2)–(a)(3)

Preferred lenders & code of conduct

Note that the code of conduct discussed in *Chapter 3* prohibits school staff from steering borrowers to particular lenders or delaying loan certifications.

Institution-affiliated organization definition

34 CFR 601.2

(1) Any organization that—

(i) Is directly or indirectly related to a covered institution; and

(ii) Is engaged in the practice of recommending, promoting, or endorsing education loans for students attending such covered institution or the families of such students.

(2) An institution-affiliated organization—

(i) May include an alumni organization, athletic organization, foundation, or social, academic, or professional organization, of a covered institution; and

(ii) Does not include any lender with respect to any education loan secured, made, or extended by such lender.

- that the students attending the school (or their families), do not have to borrow from a lender on the preferred lender list, and
- when available, the information identified on a model disclosure form (to be developed by the Department), for each type of education loan that is offered through a preferred lender arrangement to the school's students or their families.

The preferred lender list must also prominently disclose the method and criteria used by the school in selecting lenders, to ensure that such lenders are selected on the basis of the best interests of the borrowers, including—

- payment of origination or other fees on behalf of the borrower,
- highly competitive interest rates, or other terms and conditions or provisions of FSA loans or private education loans,
- high-quality servicing for such loans, or
- additional benefits beyond the standard terms and conditions or provisions for such loans.

The preferred lender list must indicate, for each listed lender, whether the lender is or is not an affiliate of each other lender on the preferred lender list. If a lender is an affiliate of another lender on the preferred lender list, the listing must describe the details of this affiliation.

Preferred lender disclosures

For each type of private education loan offered under a preferred lender arrangement, a school (or school-affiliated organization) must disclose—

- the maximum amount of FSA grant and loan aid available to students, in an easy-to-understand format,
- the Truth in Lending information [15 USC 1638(e)(11)], for each type of private education loan offered through a preferred lender arrangement to the school's students and their families, and
- when available, the information identified on a model disclosure form (to be developed by the Department), for each type of education loan that is offered through a preferred lender arrangement to the school's students or their families

The school must disseminate this information on its website and in all informational materials such as publications, mailings, or electronic messages or materials, that—

- are distributed to prospective or current students and their families, and
- describe financial aid that is available at an institution of higher education.

Use of institution & lender name

A school or school-affiliated organization that participates in a preferred lender arrangement regarding private education loans must not agree to the lender's use of its name, emblem, mascot, or logo in the marketing of private education loans to students attending the school in any way that implies that the loan is offered or made by the school or its affiliate instead of the lender. This prohibition also applies to other words, pictures, or symbols readily identified with the school or affiliate.

The school or its affiliate must also ensure that the name of the lender is displayed in all information and documentation related to the private education loans described in this section.

Preferred lender arrangement definition

34 CFR 601.2(b)

(1) An arrangement or agreement between a lender and a covered institution or an institution-affiliated organization of such covered institution—

(i) Under which a lender provides or otherwise issues education loans to the students attending such covered institution or the families of such students; and

(ii) That relates to such covered institution or such institution-affiliated organization recommending, promoting, or endorsing the education loan products of the lender.

(2) A preferred lender arrangement does not include—

(i) Arrangements or agreements with respect to loans made under the William D. Ford Federal Direct Loan Program; or

(ii) Arrangements or agreements with respect to loans that originate through the PLUS Loan auction pilot program under section 499(b) of the HEA.

(3) For purpose of this definition, an arrangement or agreement does not exist if the private education loan provided or issued to a student attending a covered institution is made by the covered institution or by an institution-affiliated organization of the covered institution, and the private education loan is—

(i) Funded by the covered institution's or institution-affiliated organization's own funds;

(ii) Funded by donor-directed contributions;

(iii) Made under title VII or title VIII of the Public Service Health Act; or

(iv) Made under a State-funded financial aid program, if the terms and conditions of the loan include a loan forgiveness option for public service.

Private educational lender definition

12 USC 1650

(A) a financial institution, as defined in section 1813 of title 12 that solicits, makes, or extends private education loans;

(B) a Federal credit union, as defined in section 1752 of title 12 that solicits, makes, or extends private education loans; and

(C) any other person engaged in the business of soliciting, making, or extending private education loans;

