

Institutional Eligibility and Administrative Requirements for DL/FFEL

Before your institution can begin making loans in the Direct Loan (DL) Program or the Federal Family Educational Loan (FFEL) Program, it must meet the statutory definition of an “eligible school,” and agree to perform certain administrative functions. Most of the statutory requirements for institutional eligibility have already been discussed in Volume 2 of the SFA Handbook. But there are a few exceptions and additional requirements for these loan programs, as discussed below.

ELIGIBILITY ISSUES FOR LOANS

In order to participate in the Direct Loan and/or FFEL programs, a school must meet the SFA program eligibility criteria discussed in the *SFA Handbook, Volume 2: Institutional Eligibility and Participation*. Only institutional eligibility issues specific to the Direct Loan and FFEL programs are discussed here.

A school must be accredited as an institution of higher education offering a graduate-level program to be eligible to certify Direct Loans or FFELs at the **graduate level**. (Students must be unconditionally accepted into a graduate or professional program.) A school that only offers **correspondence programs** is not eligible to participate in the Direct Loan and/or FFEL programs.

A school can choose to participate in either the Stafford or PLUS programs, or both. (See 34 CFR 685.300)

Foreign schools are eligible to participate in the FFEL programs (Stafford and PLUS loans made through private lenders). In fact, these are the only two SFA programs that are available to students enrolled in degree or certificate program at a foreign school. However, an eligible school in the U.S. may pay a student with funds from any of the SFA programs for “study abroad” coursework, provided that the coursework is considered part of the student’s eligible program at the domestic school.

ELIGIBILITY ISSUES:

- Eligibility for in-school deferment at non-participating schools
- Program Participation Agreement
- Prohibited school and lender activity
- Recordkeeping and audits
- Loss of eligibility
- Cohort default rates

Program Participation Requirements

Current requirements may have changed since your school's agreement was executed—see Volume 2 of this Handbook and 34 CFR 668.14

Eligibility for in-school deferments only

If a school has never participated in the SFA programs but wants to be considered an eligible school so that its students can receive in-school deferments on previous loans, the school must demonstrate that it meets the Department's definition of an eligible school before the school may certify borrower deferment forms. To find out more about eligibility for deferment purposes, contact the Case Management Team for your state. For students attending a foreign school to receive in-school deferments, the school must apply for eligibility through the Foreign Schools Team.

Applications to request designation as an eligible institution for in-school deferment should be sent via the Electronic Application that can be found at <eligcert.ed.gov> Go to the "Initial Applicant" area of the **Electronic Application** to find information about the requirements to be an eligible institution. If you believe that your school meets the requirements, you may provide certain basic information by fax to the Case Management Team that serves your state. After review and approval, you will receive an OPEID number which will enable you to complete the full application to request designation as an eligible institution.

PROGRAM PARTICIPATION AGREEMENT REQUIREMENTS

Financial aid administrators should be familiar with the terms of the Program Participation Agreement (PPA) that the school has made with the Department. See *Volume 2: Institutional Eligibility and Participation* for complete information about all of the requirements. For your reference, we have listed some of the key provisions of the PPA that relate specifically to the loan programs. A school's PPA requires that

- an FFEL school must inform enrolled eligible borrowers of the availability of state grant assistance from the state in which the school is located, and provide a source of information for programs in the home state of the eligible borrower,
- a school must furnish information to the holders of Stafford or PLUS loans that were made at that school, as needed to carry out program requirements,
- a school must not certify or originate an FFEL or Direct Loan for an amount that exceeds the annual or aggregate loan limits,
- a school that is beginning participation in the Stafford or PLUS programs or that has changed ownership (resulting in a change in control) must use a default management plan approved by the Department for its first years of participation unless the school has a default rate of 10% or less. (If the owner has owned any other schools, the default rates at those schools may not have exceeded 10% during the time he/she owned the school.)

The PPA (as well as program regulations) also prohibits schools from charging fees for processing applications or data required to determine eligibility for SFA Programs or for processing Direct Loan or FFEL Program deferment forms.

Prohibition on commissions for enrollment recruiting

Discussed as one of the program participation requirements — see Section 487(a)(20) of the HEA and 34 CFR 668.14(b)(22)

PROHIBITED SCHOOL AND LENDER ACTIVITY

The Higher Education Act prohibits a school from paying a commission, bonus, or other payment that is based directly or indirectly on success in securing enrollments or financial aid if the payee is engaged in any student recruiting or admission activities, or in making decisions regarding the awarding of student aid. This prohibition applies equally to payments to school staff, entities, or contractors. However, the law makes one exception: it does not prohibit a school from making incentive payments for recruiting foreign students in foreign countries who aren't eligible for Federal student aid. The regulations further clarify that single token gifts to students or alumni for referrals are not considered prohibited payments, provided that the gift is worth no more than \$25 and is not in the form of cash, check, or money order.

Prohibited inducements

Schools 34 CFR 682.212

Lenders 34 CFR 682.200

Guarantors 34 CFR 682.401(e)

Similarly, a school is prohibited from paying points, premiums, payments, or additional interest of any kind to any eligible lender or other party in order to induce a lender to make loans to students at the school or the parents of the students.

Lenders may not offer, directly or indirectly, points, premiums, payments, or other inducements, to any school or other party to secure applicants for FFEL loans. Similar restrictions apply to guaranty agencies. In addition, lenders and guaranty agencies are forbidden to mail unsolicited loan application forms to students enrolled in high school or college, or to their parents, unless the prospective borrower has previously received loans guaranteed by that agency.

However, lenders, guaranty agencies, and other participants in the FFEL Program may assist schools in the same way that the Department assists schools under the Direct Loan Program. For example, a lender's representatives can participate in counseling sessions at a school, including initial counseling, provided that school staff are present, the sessions are controlled by the school, and the lender's counseling activities reinforce the student's right to choose a lender. A lender can also provide loan counseling for a school's students through the Web or other electronic media, and it can help a school develop, print, and distribute counseling materials.

Record retention requirements

General Provisions —34 CFR 668.24

FFEL—34 CFR 682.610

DL—34 CFR 685.309(c)

If a school is a lender and the holder of a promissory note, the school has additional record retention responsibilities comparable to those in 34 CFR 682.414(a)(4)(ii)

Audit Guide Reference

The Audit Guides are posted on the Web in PDF format — go to the IFAP main page, select “Current SFA Publications” and go to the alphabetical listing for “Audit Guides.” The specific Web address for the listing of publications is: ifap.ed.gov/library/current.htm

RECORDKEEPING AND AUDITS

Recordkeeping

In establishing or reviewing your office’s procedures, you should consult *Volume 2: Institutional Eligibility and Participation* for information on requirements that are common to all of the SFA programs. Following is an overview of recordkeeping requirements specific to the Stafford and PLUS loan programs:

- A copy of the loan certification that the school sends to the lender (in FFEL) or the Direct Loan Origination Center, including the amount of the loan and the period of enrollment. The requirement includes certification information submitted electronically.
- The cost of attendance, estimated financial assistance, and estimated family contribution used to calculate the loan amount (and any other information that may be required to determine the borrower’s eligibility, such as the student’s Federal Pell Grant eligibility or ineligibility).
- The date(s) and amount(s) the school disbursed the loan funds to the student or to the parent borrower. (For loans delivered to the school by check, the date the school endorsed each loan check, if required.)
- Documentation of any confirmation process or processes associated with multi-year use of the Master Promissory Note. This does not have to be part of individual borrower files, but can be part of a student handout or other written statement of your policies. There is no retention limit for this documentation; you must keep it indefinitely because it may affect the enforceability of loans made at the time.

A school must keep records relating to a student or parent borrower’s eligibility and participation in the Direct Loan or FFEL program for three years after the end of the award year in which the student last attended the institution. A school must keep all other records relating to the school’s participation in the Direct Loan or FFEL program for at least three years after the end of the award year in which the records are submitted.

Audits

At least once a year a school that participates in any SFA Program must have an independent auditor conduct a compliance audit and a financial statements audit. More information is provided in *Volume 2: Institutional Eligibility and Participation* and the *Audit Guide: Audits of Student Financial Assistance Programs*. (Both publications are available in electronic format at ifap.ed.gov)

Effective July 1, 2000, institutions that have disbursed less than \$200,000 of SFA program funds for two consecutive completed award years may apply for a waiver of the annual audit submission requirement if they meet all of the conditions in 34 CFR 668.27. If granted, the waiver permits compliance audits and financial statement audits to be submitted six months after the end of a three-year period or, in certain cases, after the end of a two-year period.

Under the waiver, compliance and financial statement audits are not required until six months after the end of the third fiscal year in which the institution last submitted a compliance and financial statement audit. For instance, suppose the last year your school submitted a compliance audit and financial statement audit was in the fiscal year ending December 31, 1999. If the school receives an audit submission waiver, it is not required to submit another compliance audit or financial statement audit until June 30, 2003, which is six months after its third fiscal year (FY 2002) following the audits submitted in its 1999 fiscal year.

However, the waiver is not applicable when a school intends to apply for recertification in an award year that is part of the third fiscal year referred to above. In that case, the school must submit its compliance audit and financial statement audit six months after the second fiscal year following the fiscal year for which the school last submitted audits. Another limit on the waiver is when the school has a change in ownership that changes the control of the school—the application for approval of that change must be supported by audited financial statements for the two fiscal years completed immediately prior to the change.

LOSS OF ELIGIBILITY OR WITHDRAWAL FROM LOAN PROGRAMS

If a school is notified that it has lost its eligibility to participate in the Direct Loan and/or FFEL programs and the school does not intend to appeal the decision, it must immediately inform all current and **prospective** students of its loss of eligibility. The school must also explain that it can no longer certify Direct Loans and/or FFELs for students or parents. If the school appeals its loss of eligibility within the required time frame, the school may continue certifying Direct Loans and/or FFELs during the appeal process. Once a final decision on the appeal is made, the school must take the appropriate action described in the Department's final appeal decision letter.

If a school loses eligibility or decides not to participate in Direct and/or FFEL programs, reinsurance of loans previously disbursed will not be affected, and interest subsidies will continue as long as each student maintains his or her required enrollment status. The student's grace period and eligibility for in-school status and in-school deferment also will not be affected by a school's loss of eligibility.

Procedures for withdrawal from the FFEL or DL programs
For FFEL information, contact the Case Management Team for your state.
For Direct Loans, call 202/708-6103

Cohort Default Rate Guide

This chapter only provides a brief overview of the default rate process. For more technical information, please refer to the Official Cohort Default Rate Guide. The Guide is updated annually and is available with other Default Rate Materials on the IFAP Web site.

If a school plans to withdraw from participation in the Direct Loan and/or FFEL programs, it must notify the appropriate guaranty agency or agencies (for FFEL schools) and the Department (for schools with either loan program) of its decision in writing. Once the effective date of withdrawal has been established, the school is prohibited from disbursing loan funds to the student (with one exception, discussed in the following paragraph). Any loan funds that cannot be disbursed must be returned to the lender within 30 days.

Questions about Default Reduction

U.S. Department of Education
Default Management
Portals Building, Room 6300
400 Maryland Avenue, SW
Washington, DC 20202-5353

Telephone:

202/708-6048

Hotline: 202/708-9396

E:mail:

OSFA_IPOS_Default_Management_Division
@ed.gov

If the first payment of a Stafford Loan was made to the student before the school ceased to be eligible, the school may be able to make a subsequent disbursement to the student if it continues to provide instruction and the loan meets the other requirements in 34 CFR 668.26(d) (2) and (3). However, if a school loses eligibility before it delivers **any** loan proceeds to the student, the school is not permitted to deliver the loan proceeds to the student.

If a foreign medical school loses eligibility to participate in the FFEL Program, its students who were continuously enrolled at the school before the loss of eligibility may receive FFELs through the next academic year.

COHORT DEFAULT RATES

Generally speaking, a cohort default rate is the percentage of a school's student borrowers who enter repayment on Stafford loans during a particular fiscal year and default before the end of the next fiscal year. (There are other criteria and exceptions — see the complete definition in the *Official Cohort Default Rate Guide*.)

The Department releases draft cohort default rates to allow schools an opportunity to review and/or correct the data that will be used to calculate their official cohort default rates. In the early fall of each year, the Department then issues the official cohort default rates. The most recent official default rate, issued in September 2001, is based on the cohort of students who entered repayment in the 1999 fiscal year. These rates were mailed to schools and are posted on the Web at:

www.ed.gov/offices/OSFAP/defaultmanagement/cdr.html

If your school has a default rate above established thresholds, it may be subject to certain sanctions. Conversely, a school with default rates below other established thresholds may be exempted from certain of the disbursement requirements discussed in Chapter 4. For more information, please refer to the *Official Cohort Default Rate Guide*.