



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

APR - 6 2015

GEN-15-06

Subject: Loan Counseling Requirements and Flexibilities

Summary: This letter reminds institutions of ways that they can help students and their families make informed decisions about taking out student loans.

Dear Colleague:

On June 9, 2014, President Obama signed an Executive Memorandum that directed the Department of Education (the Department) to take steps to help student loan borrowers better understand and manage their debt. This letter discusses the statutory and regulatory requirements for entrance counseling as well as institutions' flexibility to augment that counseling. The letter includes, in a Q&A format, information on loan counseling strategies that institutions can use to help ensure that students' borrowing decisions are well-informed and carefully considered.¹ The letter includes a reminder to institutions that, under the statute, they cannot deny or limit an otherwise eligible student's access to Direct Loans, except by using "professional judgment."

The letter also highlights our belief that parent PLUS Loan borrowers should have access to the same important information as do student borrowers. Therefore, we will be releasing a new parent PLUS Loan specific counseling tool this summer that will include a repayment calculator where the borrower can get an estimate of monthly repayment amounts. Our extensive consumer information on all of the Title IV student aid programs includes for the PLUS Loan program, information on borrower eligibility, repayment requirements and options, and interest rates. We hope that institutions will encourage their parent PLUS Loan borrowers to use the calculator, and that institutions will provide to all of their parent borrowers similar information to what they provide to their student borrowers on loan repayment options and responsibilities.²

The Department has also made available the [Financial Awareness Counseling Tool \(FACT\)](#). FACT is an online interactive resource that provides students with basic

¹ The information in this letter applies to all Direct Loan participating institutions, including institutions that are required under the statute to submit default management plans to the Department.

² On October 23, 2014, (79 Fed.Reg. 63317) the Department published final regulations that revise 34 CFR 685.200(b) and (c) to provide that any Direct PLUS Loan applicant (parent or graduate/professional student) who is initially denied a Direct PLUS Loan because of an adverse credit history, but who subsequently qualifies by obtaining an endorser or by providing documentation of extenuating circumstance, must complete PLUS Loan counseling provided by the Department before receiving the Direct PLUS Loan.

financial literacy and information about the student's federal student loan debt (and total student loan debt if the student enters information about his or her private student loans). The tool estimates what the student's loan debt and repayment amounts are likely to be when the student leaves school. It also provides financial planning tips. While students cannot be required to use FACT, we recommend that institutions encourage all of their borrowers to do so, especially before a student decides to continue borrowing. Students can access FACT at studentloans.gov.

The information in this letter is presented within the context of two statutory and regulatory provisions. The first is the entrance counseling requirements for first-time borrowers in section 485(l)(1)(A) of the Higher Education Act (the HEA) and in the Department's regulations at 34 CFR 685.304(a), which require that all first-time borrowers must undergo entrance counseling before an institution can disburse any Direct Loan funds. Once a borrower has completed the required entrance counseling, either at the borrower's current institution or at a previous institution, the borrower cannot be required to participate in any subsequent counseling as a condition of receiving a Direct Loan. The statute and regulations specify the information that must be included in the entrance counseling. While optional, most institutions meet this requirement by having their students complete online entrance counseling on the Department's website at studentloans.gov. As noted, the new parent PLUS Loan specific counseling tool will be provided by the Department this summer at studentloans.gov.

As discussed in the Q&As below, institutions have significant flexibility in providing additional loan counseling information and resources to their students.

The second statutory provision provides that, with a single exception, the borrower makes the decision of whether to borrow and how much to borrow (up to the statutory annual and aggregate limits) and not the institution. The exception is that, under section 479A(c) of the HEA and the regulations at 34 CFR 685.301(a)(8), an institution may, on a case-by-case basis, refuse to originate a Direct Loan or originate a loan for an amount that is less than what the borrower is eligible to receive. This professional judgment provision is discussed in detail in Volume 3, Chapter 5 of the Federal Student Financial Aid Handbook.

The following Questions and Answers (Q&As) describe the significant institutional flexibility allowed under the statute and the regulations with regard to loan counseling. While written to address student borrowers, the information also applies to parent Direct PLUS Loan borrowers, including those who are required to participate in loan counseling under the final regulations published on October 23, 2014 (see footnote #2).

Q1: May an institution's entrance counseling policies provide that, as a condition for receiving a Direct Loan, the student must undergo counseling that includes additional information beyond what is required by statute and regulations and/or provided in the Department's online counseling?

A1: Yes. An institution may include in its required entrance counseling additional content beyond what is required by the statute and regulations and included in the Department's online counseling at studentloans.gov. The additional content may be provided to the student through the institution's own website or other electronic means, as part of an in-person individual or group presentation, through the distribution of written materials, or through other methods. However, in all instances, the amount and scope of the additional material must be reasonable as to time, effort, and relevance to the student's borrowing decision, and may not be administered in a manner that unreasonably impedes a student's ability to borrow.

Q2: As part of its entrance counseling, may an institution require a first-time student borrower to take a test or other evaluation of the material that is included in the counseling?

A2: Yes. An institution may include, as part of its entrance counseling, a test or other evaluation to assess the student's knowledge of the information presented. However, while the institution may include a process that encourages the student to review information related to incorrect responses, it may not unreasonably impede a student's ability to borrow, for example, by establishing a passing score for the test or evaluation before the student can receive a Direct Loan.

Q3: As part of its entrance counseling, may an institution require a first-time student borrower to complete a worksheet or other exercise, such as developing a budget or providing estimates of earnings after graduation?

A3: Yes. As part of its entrance counseling, an institution may require a first-time student borrower to complete a worksheet, budget, or other exercise designed to improve financial literacy and the student's understanding of the implications of borrowing. However, the institution may not unreasonably impede a student's ability to borrow, for example, by requiring the student to justify the need for a loan. Finally, the amount and scope of the exercise must be reasonable as to time, effort, and relevance to the student's borrowing decision. We recommend that institutions encourage their borrowers to use the Department's budgeting tools that can be accessed at www.studentaid.gov/budget.

Q4: May an institution, as part of its required entrance counseling policy, require a first-time student borrower to participate in a workshop, loan orientation presentation, or similar activity before a loan can be disbursed?

A4: Yes. An institution may require a student borrower to participate in a workshop or similar activity if that activity is how the institution has chosen to implement, in whole or in part, its required loan entrance counseling. The timing and other conditions of the activity must be reasonable so that students will be able to receive loan funds in a timely manner.

Q5: May an institution require students who had previously completed entrance counseling to participate in additional or ongoing counseling as a condition of receiving a Direct Loan? For example, may an institution require transfer students who completed entrance counseling at another institution or returning students who completed entrance counseling several years ago to undergo additional entrance counseling? May an institution require all of its continuing borrowers to participate in counseling before receiving a new Direct Loan each year?

A5: No. An institution may not require students to participate in counseling beyond the required entrance counseling for first-time student borrowers as a condition for receiving a Direct Loan, regardless of when or where the earlier counseling occurred. However, an institution may encourage borrowers to participate in additional counseling to make informed borrowing decisions and to understand the terms and conditions of a Direct Loan, loan repayment responsibilities and options, and the consequences of default. For example, directing students to the studentloans.gov website to access the FACT resource discussed above, or the Department's loan calculator, may be helpful to such borrowers. Institutions must make clear that the additional counseling is not the same as the required entrance counseling for first-time student borrowers (e.g., it must have a different name than the institution's required entrance counseling).

While the institution may strongly recommend that the student participate in the additional counseling, it may not state or imply that such counseling is required as a condition for receiving a loan. Likewise, the institution may not refuse to originate or disburse a Direct Loan, or reduce the loan amount for an otherwise eligible student because the student chooses not to participate in the optional counseling.

Q6: May an institution provide, on a credit or non-credit basis, a financial literacy course, which could include, for example, information on budgeting, debt management, anticipated earnings by profession, and elements of loan counseling?

A6: Yes. Offering such a course is the academic prerogative of the institution, and we encourage institutions to counsel and educate their students about their finances and debt obligations. However, an institution may not make the disbursement of Direct Loans contingent upon completion of such activities.

Q7: May an institution require, as part of its Title IV satisfactory academic progress (SAP) policy, that students who have submitted SAP appeals be required, in addition to other academic conditions, to participate in loan counseling beyond the required entrance counseling for first-time borrowers?

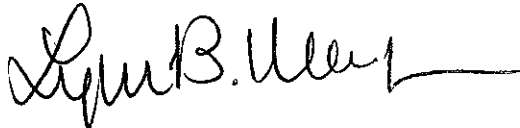
A7: No. As noted above in Q&A 5, institutions may not require additional loan counseling beyond the counseling required for first-time borrowers. Of course, an institution may, in its SAP policies, provide that a student failing SAP meet certain academic requirements (e.g., present an academic plan, complete a minimum number of credit or clock hours, obtain a minimum grade point) before the student can receive additional Title IV aid.

Q8: May an institution use the loan counseling flexibilities described in this set of Q&As for only certain defined groups of students, for example, students in certain majors or at certain grade levels?

A8: Yes. Institutions may develop a policy that uses information about their borrowers to identify who might benefit from additional information (e.g., by academic major, year in school, aggregate loan amounts, academic performance). However, participation must be voluntary and the selection of students cannot be based on a student's race, gender, religion, national origin, age, disability status, or income, which are the same prohibited factors identified in the regulations governing an institution's authority to refuse to certify loans using the professional judgment authority.

We thank you for your cooperation in ensuring that students and their families understand their rights and obligations as Direct Loan borrowers and helping them make informed borrowing decisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn B. Mahaffie", with a long horizontal flourish extending to the right.

Lynn B. Mahaffie
Deputy Assistant Secretary for
Policy, Planning, and Innovation