

Issue 7

Proposed Regulatory Language

Team II - School-based Loan Issues

Origin: HEOA section 493(c)
Issue: PPA: Preferred Lender Lists
Statutory cites: HEA section 487(h)
Regulatory cites: New §668.14(b)(28) and §682.212
DCL GEN-08-12 cite: Page 70
Status: Unresolved

Regulatory language:

§ 668.14 Program participation agreement.

(a)(1) An institution may participate in any Title IV, HEA program, other than the LEAP and ~~NEISP~~ GAP programs, only if the institution enters into a written program participation agreement with the Secretary, on a form approved by the Secretary. A program participation agreement conditions the initial and continued participation of an eligible institution in any Title IV, HEA program upon compliance with the provisions of this

part, the individual program regulations, and any additional conditions specified in the program participation agreement that the Secretary requires the institution to meet.

(2) An institution's program participation agreement applies to each branch campus and other location of the institution that meets the applicable requirements of this part unless otherwise specified by the Secretary.

(b) By entering into a program participation agreement, an institution agrees that-

* * * * *

(28) If For any year in which the institution enters into has a preferred lender arrangement (as defined in 34 CFR 601.2(b)), it will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list in print or other medium, of the specific lenders for loans made, insured, or guaranteed under title IV of the HEA or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such a list, the institution must

comply with the requirements in 34 CFR 682.212(h) and 34
CFR 601.10.

* * * * *

~~(Approved by the Office of Management and Budget under control number 1840-
0537)~~

~~(Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099a-
3, 1099c, and 1141)~~

~~[59 FR 22425, Apr. 29, 1994, as amended at 59 FR 34964,
July 7, 1994; 63 FR 40623, July 29, 1998; 64 FR 58617, Oct.
29, 1999; 64 FR 59038, Nov. 1, 1999; 65 FR 38729, June 22,
2000; 65 FR 65637, Nov. 1, 2000; 67 FR 67072, Nov. 1, 2002;
73 FR 35492, June 23, 2008]~~

§ 682.212 Prohibited transactions.

* * * * *

(h) ~~(1)~~ A school may, at its option, make available a list of recommended or suggested lenders, in print or any other medium or form, for use by the school's students or their parents ~~provided such list~~ **provided that such list complies with the requirements in 34 CFR 601.10 and 668.14(a)(28).**

~~(i) Is not used to deny or otherwise impede a borrower's choice of lender;~~

~~(ii) Does not contain fewer than three lenders that are not affiliated with each other and that will make loans to borrowers or students attending the school; and~~

~~(iii) Does not include lenders that have offered, or have offered in response to a solicitation by the school, financial or other benefits to the school in exchange for inclusion on the list or any promise that a certain number of loan applications will be sent to the lender by the school or its students.~~

~~(2) A school that provides or makes available a list of recommended or suggested lenders must-~~

~~(i) Disclose to prospective borrowers, as part of the list, the method and criteria used by the school in selecting any lender that it recommends or suggests;~~

~~(ii) Provide comparative information to prospective borrowers about interest rates and other benefits offered by the lenders;~~

~~(iii) Include a prominent statement in any information related to its list of lenders, advising prospective borrowers that they are not required to use one of the school's recommended or suggested lenders;~~

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

~~(v) Not cause unnecessary certification delays for borrowers who use a lender that has not been recommended or suggested by the school; and~~

~~(vi) Update any list of recommended or suggested lenders and any information accompanying such a list no less often than annually.~~

~~(3) For the purposes of paragraph (h) of this section, a lender is affiliated with another lender if-~~

~~(i) The lenders are under the ownership or control of the same entity or individuals;~~

~~(ii) The lenders are wholly or partly owned subsidiaries of the same parent company; or~~

~~(iii) The directors, trustees, or general partners (or individuals exercising similar functions) of one of the lenders constitute a majority of the persons holding similar positions with the other lender.~~

~~(Authority: 20 U.S.C. 1077, 1078, 1078-1, 1078-2, 1078-3, 1082, 1097)~~

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

~~[57 FR 60323, Dec. 18, 1992, as amended at 72 FR 62002, Nov. 1, 2007]~~

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

Issue 7

Amendatory Language

Team II - School-based Loan Issues

[The amendatory language for adding (b) (28) to §668.14 is set out in Issue Paper 2.]

"(b) By entering into a program participation agreement, an institution agrees that--"]

(28) For any year in which the institution has a preferred lender arrangement (as defined in 34 CFR 601.2(b)), it will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list in print or other medium, of the specific lenders for loans made, insured, or guaranteed under title IV of the HEA or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such a list, the institution must comply with the requirements in 34 CFR 682.212(h) and 34 CFR 601.10.

PART 682--FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

x. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C 1070g, 1071 to 1087-2, unless otherwise noted.

x. Paragraph (h) of §682.212 is revised to read as follows:

§682.212 Prohibited transactions.

* * * * *

(h) A school may, at its option, make available a list of recommended or suggested lenders, in print or any other medium or form, for use by the school's students or their parents provided that such list complies with the requirements in 34 CFR 601.10 and 668.14(a)(28).

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