



# The National Association of Student Financial Aid Administrators

## **National Conference**

Orlando, Florida

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# Loan Programs Update

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**U.S. Department of Education**





# Agenda

- Legislation Update
- Regulations Update
- Administrative Issues





# Legislation Update

- Higher Education Reconciliation Act of 2005 (P.L. 109-171)
- Higher Education Act Reauthorization
- College Cost Reduction and Access Act (P.L. 110-84)
- HEROES (P.L. 110-93)
- Ensuring Continued Access to Student Loans Act (P.L. 110-227)



# HERA

- Reauthorized FFEL Program
- Eligible Lender Trustee Relationships
- School-as-Lender
- “Negative SAP”
- Increased Loan Limits
- Disbursement Relief
- Phase Out Borrower Origination Fees



# CCRAA—Offsets (Subsidy Cuts)

- Lenders:
  - Exceptional Performer Status
  - Insurance
  - Loan Fees
  - Special Allowance Payments
- Guaranty Agencies:
  - Collection Retention Allowance
  - Account Maintenance Fees
- Origination Auction for PLUS (Parent)



# CCRAA — Benefits for Students

- Mandatory Pell Grant Increases
- Reduced FFEL/DL Interest Rates
- New Income Based Repayment
- Expanded Loan Forgiveness
- Revised Deferments:
  - Economic Hardship
  - Military Service
- TEACH Grants



# ECASLA

- Increased Loan Limits
  - GAO Impact Study
- Parent PLUS Grace Period/Relief
- Academic Competitiveness Grants
- National SMART Grants
- Lender-of-Last-Resort Authority
- ED Secondary Market Authority



# Regulations



# 2007-08 Negotiated Rulemaking

- Three Regional Hearings
- Four Negotiating Sessions
- Consensus Reached
- NPRM — July 1, 2008
- Final Rule — November 1, 2008
- Effective Date — July 1, 2009



# 2007-08 Negotiated Rulemaking

- Public Service Loan Forgiveness
- Income-based Repayment
- Economic Hardship Deferments
- Military Service Deferments
- Not-for-Profit Loan Holder Definition
- Federal Preemption of Certain State Laws



# 2007-08 Negotiated Rulemaking

## Public Service Loan Forgiveness

- Direct Loan Program Borrowers
- Not in Default
- Makes 120 Monthly On-time Payments:
  - After October 1, 2007
  - Income-Based Repayment
  - Income-Contingent Repayment
  - Other Plans with a Minimum Payment Amount
- Full-time Employment in Qualifying Service



# 2007-08 Negotiated Rulemaking

## Income-based Repayment

- FFEL and Direct Loan Program Borrowers
- Eligibility Tied to a “Partial Financial Hardship”
  - Standard Payment Amount, AGI, Poverty Income
- Payment Attribution:
  - Accrued Interest, Fees, Loan Principal
- Stafford Interest Covered for Three Years
- 25-year Loan Forgiveness



# 2007-08 Negotiated Rulemaking

## Economic Hardship Deferment

- Modified the Basic Income Criterion:
  - 150% of the Poverty Level Income Appropriate to Family Size
- Eliminated the Debt-to-Income Criterion:
  - “20/220 Rule”



# 2007-08 Negotiated Rulemaking

## Military Service Deferments

- HEROES Act of 2003 (P.L. 108-76)  
Permanently Extended by P.L. 110-93
- New HERA Military Service Deferment  
Modified by CCRAA
- New CCRAA Post-Active Duty Deferment
- Rules for Applying Benefits to Those Who  
Qualify for Multiple Benefits



# 2007-08 Negotiated Rulemaking Not-for-Profit Loan Holder Definition

- Differential SAP Rates for Lenders/holders
- HEA Defines an Eligible Not-for-Profit Holder:
  - States/Others Eligible to Issue Tax-exempt Bonds
  - Not-for-Profit Entity Under IRC 501(c)(3)
  - ELT Acting on Behalf of a State or NFP Entity
- Qualifying Lender Must Have Sole Beneficial Ownership Interest



# 2006-07 Negotiated Rulemaking

- No Consensus
- Internal Student Loan Task Force
- NPRM — August 8, 2007
- Final Rule — November 1, 2007
- Effective Date — July 1, 2008



# 2006-07 Negotiated Rulemaking

- Identity Theft
- PLUS Entrance Counseling
- Maximum Length of Loan Period
- Frequency of Capitalization for FFEL Consolidation Loan Borrowers
- Determination of Deferment Eligibility by One Loan Holder



# 2006-07 Negotiated Rulemaking

- Use of True and Exact Photocopy of a Death Certificate
- Prospective Discharge for Total and Permanent Disability
- Standardize NSLDS Reporting
- Retention of Disbursement Records and Certification of E-signatures for Assigned MPNs



# 2006-07 Negotiated Rulemaking

- FFEL Eligible Lender Trustee Relationships
- Clarify eligibility requirements for Perkins Child and Family Service Agency Cancellation
- Define “Reasonable” Perkins Collection Costs
- Mandate Assignment of Defaulted Perkins Loans



# 2006-07 Negotiated Rulemaking Prohibited Inducements

- 1986 HEA Amendments
  - No “Quid Pro Quo” for Applications or Volume
- 1998 HEA Amendments
  - Allow FFELP Offerings Comparable to Direct Loans
- Old Rules Generally Reflect the Statute



# 2006-07 Negotiated Rulemaking Prohibited Inducements

- New Rules
  - Codify Current Interpretive and Clarifying Guidance, Including the Prohibited and Permissible Activities Approach of the 1989 Dear Colleague Letter
  - Provide for a “Rebuttable Presumption” in Formal Enforcement Actions
  - Expand the Federal Trade Commission’s (FTC) “Holder Rule” to FFELP Loans Made to Students Attending All Schools



# 2006-07 Negotiated Rulemaking Prohibited Inducements—Lenders Cannot:

- Offer, directly or indirectly, points, premiums, payments or other inducements to any school to secure loan volume applications, or placement on a preferred list
- Pay referral or processing fees to another lender or other party
- Pay conference or training registration, transportation and lodging costs for school or school-affiliated organization employees
- Pay entertainment expenses related to lender-sponsored activities for employees of school or school-affiliated organization
- Undertake philanthropic activities in exchange for FFEL applications, volume or placement on lender list
- Provide staffing services to a school except on a short-term, emergency basis



# 2006-07 Negotiated Rulemaking Prohibited Inducements—Lenders May:

- Provide assistance comparable to that provided to a Direct Loan school by the Secretary
- Engage in student aid/financial literacy outreach, but no in-person counseling
- Provide meals, refreshments and receptions, reasonable in cost, in conjunction with meetings, training or conferences if provided to all participants
- Provide toll-free numbers for FFEL information/e-transmission
- Provide reduced borrower origination fees
- Provide reduced interest rates
- Pay Federal default fees
- Provide borrower benefits in the form of repayment incentives
- Provide items of nominal value



# 2006-07 Negotiated Rulemaking Prohibited Inducements—Guarantors

- Same As Lenders, Except May Pay:
  - Travel and lodging expenses related to school employee service on the GA's advisory or governing board; and
  - Reasonable costs of meals and refreshments for GA-sponsored training, workshops, and forums



# 2006-07 Negotiated Rulemaking Preferred Lender Lists

- School's Option
- Allowed, Never Regulated
- Evolution:
  - Cohort Default Rate Concerns
  - Facilitate Electronic Transactions
  - Competition/Proliferation of Borrower Benefits



# 2006-07 Negotiated Rulemaking Preferred Lender Lists

- Includes a Minimum of 3 Unaffiliated Lenders:
  - No common control or ownership
  - No common directors, trustees, or general partners
- Includes a Prominent Statement Advising Borrowers That Use of the School's Preferred Lenders Is Not Required
- Is Updated At Least Annually



# 2006-07 Negotiated Rulemaking Preferred Lender Lists

- An Institution Must:
  - Disclose Its Method and/or Criteria for Including a Lender On Its List
  - Provide Comparative Information on Borrower Benefits Offered By Its Listed Lenders
    - ED to Provide a Model Format for School Use



# 2006-07 Negotiated Rulemaking Preferred Lender Lists

- An Institution Must Not:
  - Include Lenders That Were Solicited and Provided School or School Employee Benefits, but May Include Lenders Solicited for Best Borrower Benefits
  - Assign a Lender to a First-time Borrower
  - Cause Any Unnecessary Delays in Certification for Borrowers Not Using One of the School's Preferred Lenders



# 2006-07 Negotiated Rulemaking Preferred Lender Lists

- The Department's Model Format:
  - Lender and Contact Information
    - Average Amount Borrowed From Lender
    - Average/Range of Interest Rates on Lender's Loans
  - Borrower Benefits
    - Base Interest Rate/APR
    - Interest Rate Discounts and Qualifying Conditions
    - Principal Reduction and Qualifying Conditions
    - Fees
    - Repayment Plans
  - Total Loan Cost



# 2006-07 Negotiated Rulemaking Schools Not Using Preferred Lender Lists

- All FFEL Certification Rules Apply
- May Identify the Lenders that Previously Made FFEL Loans To Its Students and Parents
- May Not Endorse or Recommend Any Lender
- Provide a “Neutral” Presentation of Factors to Consider When Selecting a Lender
- Simply State:
  - “You must select your lender. The aid office cannot do so for you.”



# Best Practices



# Some Things to Consider

- Scan the Field and Determine If Voluntary or Required:
  - Your School's Ethics Rules or Codes of Conduct
  - Private Agreements With State Attorney General
  - State Ethics Rules for Public Employees
  - Your State Laws Governing School Practices
  - Professional Association/ Accrediting Agency Best Practices or Recommended Codes of Conduct
  - Federal Title IV Regulations



# Some Things to Consider

- When Applying Legal Requirements in the Same Area From Multiple Sources:
  - Consult With Counsel
  - Default to the Strictest Requirement and Build Your Practices Around That
- If in Doubt, Assume a Gift or Service Is Not Permitted Until Otherwise Confirmed
- Avoid Appearance As Well As Reality of Conflicts of Interest
- Document Your Decisions



# Some Things to Consider

- Review School Web-sites and Other Published Materials for “Neutrality” in Loan and Lender Information
- Examine Your Existing Practices With Lenders, Guaranty Agencies, and Other Vendors for Possible Conflicts of Interest
- Talk to Your Colleagues at Other Schools
  - What Are They Implementing?
  - Why Are They Doing That?





# Administrative Issues





# Recent Letters and Announcements

- College Cost Reduction and Access Act (GEN-08-01, January 8, 2008)
- Aggregate Loan Limit for Certain Health Professions Graduate and Professional Students (GEN-08-04, April 14, 2008)
- School Use of a Preferred FFEL Lender List (GEN-08-06, May 9, 2008)
  - Lender Suspends/Ceases FFEL Participation
  - “Unaffiliated” Lenders



# Recent Letters and Announcements

- July 1, 2008 Interest Rate for Variable Rate Stafford and PLUS Loans (May 27, 2008)
- FFEL Lender-of-Last-Resort Services
  - GA Program Implementation and Operating Procedures (GEN-08-03, March 26, 2008)
  - Additional GA Guidance (GEN 08-05, May 5, 2008)
- Ensuring Continued Access to Student Loans Act (GEN-08-08, June 18, 2008)



# Recent Letters and Announcements

- Letter from Secretary Margaret Spellings (May 21, 2008)
  - FFEL Loan Purchase Commitment and Short-Term Market Liquidity
  - Maintain a Long-Term Program Commitment
  - Lender-of-Last-Resort Program
  - Direct Loan Capacity
- Letter from Secretary Spellings to College Presidents (June 18, 2008)
- <http://federalstudentaid.ed.gov/ffelp>



# Questions and Answers

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