

# The Value of Private Loan Preferred Lender Arrangements and Preferred Lender Lists



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Date: **June 16, 2011**

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## Agenda

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- Regulatory Overview and Definitions
- Why Have a Preferred Lender Arrangement/Preferred Lender List?
- Requirements for Preferred Lender Arrangements and Preferred Lender Lists
- Is it a Preferred Lender Arrangement/Preferred Lender List?
- Suggestions on How to Meet Requirements
- Questions

## ***Regulatory Overview and Definitions***



## Regulations

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- The Higher Education Opportunity Act of 2008 (HEOA) outlines requirements for schools offering a preferred lender list or in a preferred lender arrangement:
  - Defined Preferred Lender Arrangements/Preferred Lender Lists and requirements
  - Added disclosure, reporting, code of conduct requirements for schools and lenders that participate in Preferred Lender Arrangements/Preferred Lender Lists
- Regulatory references for specific Preferred Lender Arrangement requirements:
  - Federal Register, October 28, 2009, 34 CRF 601:  
<http://edocket.access.gpo.gov/2009/pdf/E9-25073.pdf>
  - Federal Reserve's final rules for private loans, August 14, 2009:  
<http://edocket.access.gpo.gov/2009/pdf/E9-18548.pdf>

## Intent of Regulations

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*“...a preferred lender list can be an effective tool to help families looking for federal student loans to finance the costs of postsecondary education, when the list reflects the school’s unbiased research to identify lenders providing the best combination of services and benefits to borrowers at that school. Additionally, by providing this information, schools may help students and their parents navigate the increasingly complex student loan landscape. Further, we believe that a borrower’s choice of lender may be better informed by preferred lender lists and other consumer information on the federal student loan process, which play a useful role in assisting financial aid administrators in dealing with the large volume of requests for information and assistance, and in informing borrower choice.”*

Dear Colleague Letter 08-06, May 9, 2008:

<http://www.ifap.ed.gov/dpcletters/GEN0806.html>



## What is a Preferred Lender Arrangement?

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- A Preferred Lender Arrangement is an arrangement or agreement between a lender and school, in which a lender provides education loans to students/families and the school recommends, promotes or endorses the education loan products of the lender
- A Preferred Lender Arrangement exists if a school recommends, promotes, or endorses a lender even if this is not in the form of a preferred lender list
- Activities that constitute a Preferred Lender Arrangement are not limited to the financial aid office. The guidelines apply to other offices on campus as well – such as the business office.

## ***Why Have a Preferred Lender Arrangement/ Preferred Lender List?***



## Advantages of a Preferred Lender Arrangement/ Preferred Lender List

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### **For your Students and Families**

- You provide a service to your students and families who are trying to navigate new waters
- Your objective research helps students and families understand products and services
- Helps students and families to make more informed choices by providing meaningful product and lender information in one place
- Helps avoid over-borrowing

### **For Schools**

- Allows you to be an advocate for your families and help guide them through the financial aid process
- Allows you to counsel families to the extent that you may want to recommend a product or a lender
- Makes for easier loan processing during peak seasons
- Support from dedicated lender representatives

# ***Requirements for Preferred Lender Arrangements and Preferred Lender Lists***



## Private Lender Arrangement Requirements

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- Any year a school participates in a Preferred Lender Arrangement it must maintain and make available for students a list of lenders that the school recommends, promotes or endorses
- Schools that are participating in a Preferred Lender Arrangement must disclose on their website and in all informational materials:
  - Application/Solicitation disclosure from each lender on the list annually before a student borrows
  - The maximum amount of aid available under Title IV
  - List no fewer than two unaffiliated private education lenders

## Private Lender Arrangement Requirements

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- Compile the list for the sole benefit of students
- Disclose method and criteria used to choose lenders to ensure lenders selected on basis of the best interest of borrowers
- Disclose reasons why your school has selected the lenders on list, particularly with respect to loan terms/conditions favorable to borrower
- Advise that students do not have to borrow from a lender on list
- Publish your school's Code of Conduct prominently on your website
- Maintain and update your list at least annually
- Submit to ED an annual report that includes information on each private education loan lender in the arrangement

## Not Considered a Preferred Lender Arrangement

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- Schools that don't wish to participate in a preferred lender arrangement can provide some information on private loans to their students under the guidance the Department extended in DCL GEN 08-06:
- Comprehensive list of lenders
  - A school is not considered to be participating in a preferred lender arrangement if it provides borrowers with a neutral, comprehensive list of private education lenders that have made loans to students at the school within the past 3-5 year time period
  - Must include a disclosure that borrowers can choose from any lender
  - Must include a statement that the school does not recommend any lender
  - Not required to include lenders who have exited the marketplace
  - The Department of Education has indicated that Application/Solicitation disclosures need to be provided for a comprehensive-neutral list. Schools should have their legal counsel review if they are not currently providing disclosures for a neutral list.



## Not Considered a Preferred Lender Arrangement

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- No lender list
  - The school has no communication with the student regarding loan options
  - The school does not provide assistance to students and families in their search for, or review of, private student loans
  - Research is left to students and families

## Not Considered a Preferred Lender Arrangement

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- Third party lender list

- Using a third party's site is not a safe harbor unless the third party's site meets the following requirements:

*“The Department does not consider an institution that refers its students to a third party entity that maintains a comprehensive, neutral listing of private education lenders to be participating in a preferred lender arrangement as long as the institution ensures that the listing is broad in scope, does not endorse or recommend any of the lenders on the list and the lenders on the list do not pay the third party entity to be placed on the list or pay the third party entity a fee based on any loan volume generated. “*

- It is the school's obligation to ensure compliance when using a 3rd party lender list
- The Department has indicated that this type of arrangement would still require schools to provide a PDF of the Application and Solicitation Disclosure forms. If the 3<sup>rd</sup> party has agreed to provide the disclosures on their website, schools should have their legal counsel review regulations regarding 3<sup>rd</sup> party servicing agreements.

Federal Register, October 28, 2009, page 55630

<http://edocket.access.gpo.gov/2009/pdf/E9-25073.pdf>

## Reporting Requirements

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*Per the September 10, 2010 ED Private Education Loans Webinar, the Department has not determined a submission date for the annual report.*

- **Schools participating in a Preferred Lender Arrangement will need to submit to ED an annual report that includes for each private education lender in the arrangement:**
  - Disclosures provided on school's Preferred Lender List
  - Detailed reasons why the school participates in a Preferred Lender Arrangement with each private education lender including why terms and conditions of each loan provided pursuant to a Preferred Lender Arrangement are beneficial to borrowers
  - Must ensure the report is made available to the public, and for current and prospective students

***Is it a Preferred Lender Arrangement  
and/or Preferred Lender List?***





Is it a Preferred Lender Arrangement/Preferred Lender List?

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## **Case #1**

- **The Preferred Lender List is limited and the lenders included are *some of* the lenders who have lent to students at the school in the past 3 to 5 years.**

*Yes, this is considered a Preferred Lender List*

- If the list is not a neutral, comprehensive list of private education lenders that have made loans to students at the school within the past 3-5 year time period it is considered to be a Preferred Lender List
- Note: Schools are not required to list lenders who have exited the marketplace

## Is it a Preferred Lender Arrangement/Preferred Lender List?

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### **Case #2**

- **The Preferred Lender List list includes *all* lenders who have lent private loans to students attending your school during the past 3 -5 years.**

*No, this is neither a Preferred Lender Arrangement nor a Preferred Lender List*

- A school is not considered to be participating in a preferred lender arrangement if it provides borrowers with a neutral, comprehensive list of private education lenders that have made loans to students at the school within the past 3-5 year time period and a statement that a borrower can choose any lender
- Schools cannot recommend any lender but may include a comparison of the private loan terms and conditions offered by lenders
- The Department of Education has indicated that Application/Solicitation disclosures need to be provided for a comprehensive-neutral list. Schools should have their legal counsel review if they are not currently providing disclosures for a neutral list.

## Is it a Preferred Lender Arrangement/Preferred Lender List?

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### **Case #3**

- **School directs students to a third party lender list.**

*No, this is neither a Preferred Lender Arrangement nor a Preferred Lender List*

- If a school refers borrowers to a 3rd party entity that maintains a neutral, comprehensive list that is broad in scope, and does not endorse any lender, and a lender does not pay to be placed on the list or pay the 3rd party entity a fee based on loan volume generated, then it is not considered a Preferred Lender Arrangement nor a Preferred Lender List
- It is recommended that the school document the reasons for using the 3<sup>rd</sup> party list
- It is the school's obligation to ensure the 3rd party list is neutral, comprehensive and compliant
- The Department has indicated that this type of arrangement would still require schools to provide a PDF of the Application and Solicitation Disclosure forms. If the 3<sup>rd</sup> party has agreed to provide the disclosures on their website, schools should have their legal counsel review regulations regarding 3<sup>rd</sup> party servicing agreements



Is it a Preferred Lender Arrangement/Preferred Lender List?

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### Case #4

- **The Preferred Lender List consists of three lenders that the school recommends to students and families based on the lender's customer service levels, commitment to student loan industry and the loan products/terms that they offer**

*Yes, this is considered a Preferred Lender Arrangement and a Preferred Lender list*

- This is a limited list, based on criteria established by the school

## ***Suggestions on How to Meet Requirements***













## What to Consider When Choosing Lenders

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- **Identify lenders providing the best combination of services and benefits to borrowers at that school:**
  - How long has the lender been in the student loan industry?
  - Does the lender have excellent customer service for families?
  - Does the lender provide dedicated lender representatives to quickly resolve issues?
  - Does the lender have a comprehensive product offering that will best meet the needs of students?

## Information to Compile and Disclose

	Requirement	Suggestions To Meet Requirement
	Code of Conduct	Post prominently on website and post on or link to on lender list
	Information on Title IV funding alternatives	Publish statement advising students of federal loan/ grant aid available and advise to exhaust these funds first
	Disclose rates, fees, loan cost, repayment terms, eligibility for each lender	Obtain PDFs of Application and Solicitation Disclosure forms from chosen lenders. Make available to students based on school lender list format (electronic, paper). A link to forms on the lender website may also be included.
	List at least two unaffiliated lenders	Make sure to inquire of lenders if they are affiliated
	State reasons lenders are included, with respect to loan terms/conditions favorable to borrower	Publish on website the reason why the school included these lenders (loan terms and conditions favorable to the borrower)
	Method/Criteria used to select lenders	Publish methodology and criteria to your website
	Advise students are free to choose any lenders, not limited to list	Publish a statement on website/ lender list
	Submit an annual report	Once defined by the Department

*This information is based on Discover's review and interpretation of regulations. This document should not be construed to be legal advice. Please consult with your own compliance and legal counsel to ensure that you are in full compliance with the preferred lender arrangement requirements applicable to your school.*

# Appendix A: Sample Private Loan Application Disclosure and Solicitation Form

XXX Bank  
Address  
Phone Number

## Loan Interest Rate & Fees

Your starting interest rate will be between

XX.X % and XX.X %

After the starting rate is set, your rate will then vary with the market.

### Your Starting Interest Rate (Upon Approval)

The starting interest rate you pay will be determined after you apply. Your interest rate and loan fee will be based upon your credit score, the credit score of any co-signer and other factors. If approved, we will notify you of the rate for which you qualify within the stated range.

### Your Interest Rate During the Life of the Loan

Your rate is variable. This means that your rate could move lower or higher than the rates on this form. The variable rate is based upon the 3-month LIBOR Rate as published in *The Wall Street Journal*. For more information on this rate, see the reference notes.

<<Information on interest rate cap>>

## Loan Fees

Loan Fee: A loan fee ranging from X.XX% to X.XX% is added to your principal balance at disbursement.  
Late Charge: \$XX per delinquent payment.

## Loan Cost Examples

The total amount you will pay for this loan will vary depending upon when you start to repay it. This example provides estimates based upon three (3) different repayment options available to you while enrolled in school.

Repayment Option (while enrolled in school)	Amount Provided (amount provided directly to you or your school)	Interest Rate (highest possible starting rate)	Loan Term (how long you have to pay off the loan)	Total Paid Over 180 Months (includes associated fees)
<b>1. DEFER PAYMENTS</b> Make no payments while enrolled in school. Interest will be charged and added to your loan.	\$10,000.00	XX%	180 months starting <u>after</u> the deferment period	\$XXX
<b>2. PAY ONLY THE INTEREST</b> Make the interest payments but defer payments on the principal amount while enrolled in school.	\$10,000.00	XX%	180 months starting <u>after</u> the deferment period	\$XXX
<b>3. MAKE FULL PAYMENT</b> Pay principal and interest amounts in fully amortizing payments while enrolled in school.	\$10,000.00	XX%	180 months starting <u>after</u> your first payment	\$XXX

### About This Example

The repayment examples assumes that you remain in school for 48 months and have a 6 month grace period before beginning repayment. The maximum repayment period is 180 months, starting once the initial principal payment is made. It assumes that unpaid accrued interest is capitalized at the end of the grace period. It is based on the highest starting rate currently charged and associated fees. A \$XX minimum monthly payment is required.

## Federal Loan Alternatives

Loan Program	Current Interest Rates by Program Type	
PERKINS for Students	5.00% fixed	
STAFFORD for Students	4.50% fixed	Undergraduate subsidized
	6.80% fixed	Undergraduate unsubsidized & Graduate
PLUS For Parents and Graduate / Professional Students	7.90% fixed	PLUS Loans

### You May Qualify for Federal Education Loans.

For additional information, contact your school's financial aid office or the Department of Education at: [www.federalstudentaid.ed.gov](http://www.federalstudentaid.ed.gov)

## Next Steps

### 1. Find Out About Other Loan Options.

Some schools have school-specific student loan benefits and terms not detailed on this form. Contact your school's financial aid office or visit the Department of Education's web site at [www.federalstudentaid.ed.gov](http://www.federalstudentaid.ed.gov) for more information about other loans.

### 2. To Apply for This Loan, Complete the Application and the Self-Certification Form.

You may get the self-certification form from your school's financial aid office. If you are approved for this loan, the loan terms will be available for 81 days (terms will not change during this period, except the variable interest rate may change based on adjustments to the index).

## REFERENCE NOTES

### Variable Interest Rate

- This loan has a variable interest rate that is indexed to the 3-month London Interbank Offered Rate (LIBOR), as published in the "Money Rates" section of *The Wall Street Journal*, rounded up to the nearest one-eighth of one percent, plus or minus a margin. Your rate is calculated quarterly by adding a margin between X.XX% and X.XX% to the LIBOR.
- Your rate will not increase more than once every three months, but there is no limit on the amount that the rate could increase at one time.

### Eligibility Criteria

#### Borrowers

- Students must be enrolled at least part-time in an educational program at an accredited and approved college or university in the U.S.
- Students must be at least 18 years of age, 19 in AL and NE, and 21 in MS and PR, or apply with a creditworthy co-signer.
- Permanent residents and international students are eligible for this loan and must provide applicable immigration documentation.
- International students must apply with a creditworthy U.S. citizen or permanent resident co-signer.

### Co-signers


- Interest rates are typically higher without a co-signer. Since private loans are credit based, applying with a creditworthy co-signer may increase the likelihood of your approval and may help you qualify for a lower interest rate.
- Must be a U.S. citizen or permanent resident who is at least 18 years of age, 19 in AL and NE, and 21 in MS and PR.

### Bankruptcy Limitations

- If you file for bankruptcy, you may still be required to pay back this loan.

More information about loan eligibility and repayment deferral or forbearance options are available in your loan application and loan agreement.

# *Questions*



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***Information in this presentation is subject to change.***