§ 1019b

§ 1019b. Loan information to be disclosed and
required under Federal law, each lender of a
lender shall annually certify the lender’s compli-
adherence to the requirements of this chapter
described in section 1019(3)(A) of this title that
be made available, the information that
Board of Governors of the Federal Re-
serve System requires to be disclosed
section 1078(b)(1)(U)(iii) of title 15, modified
consider the merits of requiring
each covered institution, and each institu-
tion-affiliated organization of such cov-
ered institution, with a preferred lender
arrangement to provide to prospective bor-
rrowers and the families of such borrowers
the following information for each type of
education loan offered pursuant to such
preferred lender arrangement:
(i) The interest rate and terms and
conditions of the loan for the next award
year, including loan forgiveness and
deferment.
(ii) Information on any charges, such as
origination and Federal default fees,
that are payable on the loan, and whether
those charges will be—
(aa) collected by the lender at or
prior to the disbursement of the loan, in-
cluding whether the charges will be de-
ducted from the proceeds of the loan or
paid separately by the borrower; or
(bb) paid in whole or in part by the
lender.
(iii) The annual and aggregate maxi-
num amounts that may be borrowed.
(iv) The average amount borrowed
from the lender by students who grad-
uated from such institution in the pre-
ceeding year, for—
(V) The amount the borrower may pay
in interest, based on a standard repay-
ment plan and the average amount bor-
rrowed from the lender by students who
graduated from such institution in the pre-
ceeding year and who obtained loans of
such type from the lender for the preceding
year;
(aa) borrowers of loans made under
section 1078 of this title;
(bb) borrowers of loans made under
section 1078–2 or 1078–8 of this title,
who pay the interest while in school;
and
(cc) borrowers of loans made under
section 1078–2 or 1078–8 of this title,
who do not pay the interest while in
school.

(B) Consultation and content of minimum
disclosures
In carrying out subparagraph (A), the Sec-
retary shall—
(i) consult with students, the families of
such students, representatives of covered
institutions (including financial aid ad-
ministrators, admission officers, and busi-
ness officers), representatives of institu-
tion-affiliated organizations, secondary
school guidance counselors, lenders, loan
servicers, and guaranty agencies;
(ii) include, in the minimum information
under subparagraph (A) that is required to
be made available, the information that
the Board of Governors of the Federal Re-
sure System requires to be disclosed
under section 1638(e)(1) of title 15, modified
as necessary to apply to such loans; and
(iii) consider the merits of requiring
each covered institution, and each institu-
tion-affiliated organization of such cov-
ered institution, with a preferred lender
arrangement to provide to prospective bor-
rrowers and the families of such borrowers
the following information for each type of
education loan offered pursuant to such
preferred lender arrangement:
(I) The interest rate and terms and
conditions of the loan for the next award
year, including loan forgiveness and
deferment.
(ii) Information on any charges, such as
origination and Federal default fees,
that are payable on the loan, and whether
those charges will be—
(aa) collected by the lender at or
prior to the disbursement of the loan, in-
cluding whether the charges will be de-
ducted from the proceeds of the loan or
paid separately by the borrower; or
(bb) paid in whole or in part by the
lender.
(iii) The annual and aggregate maxi-
num amounts that may be borrowed.
(iv) The average amount borrowed
from the lender by students who grad-
uated from such institution in the pre-
ceeding year, for—
(V) The amount the borrower may pay
in interest, based on a standard repay-
ment plan and the average amount bor-
rrowed from the lender by students who
graduated from such institution in the pre-
ceeding year and who obtained loans of
such type from the lender for the preceding
year;
(aa) borrowers of loans made under
section 1078 of this title;
(bb) borrowers of loans made under
section 1078–2 or 1078–8 of this title,
who pay the interest while in school;
and
(cc) borrowers of loans made under
section 1078–2 or 1078–8 of this title,
who do not pay the interest while in
school.

(ii) Contents of reports
Each report described in clause (i) shall
include—
(I) the amount for each specific in-
stance in which the lender provided such
expenses;
(ii) the name of any agent described in
clause (i) to whom the expenses were
paid or provided;
(iii) the dates of the activity for which
the expenses were paid or provided; and
(iv) a brief description of the activity
for which the expenses were paid or pro-
vided.

(ii) Report to Congress
The Secretary shall summarize the in-
formation received from the lenders under
this subparagraph in a report and transmit
such report annually to the authorizing
committees.

(2) Certification by lenders
Not later than 18 months after August 14,
2008—
(A) in addition to any other disclosure re-
quired under Federal law, each lender of a
loan made, insured, or guaranteed under
part B of subchapter IV that participates in
one or more preferred lender arrangements
shall annually certify the lender’s compli-
ance with the requirements of this chapter
and part C of subchapter I of chapter 34 of
title 32; and
(B) if an audit of a lender is required pur-
suant to section 1078(b)(1)(U)(iii) of this
title, the lender’s compliance with the re-
quirements under this section shall be re-
ported on and attested to annually by the
auditor of such lender.

(Pub. L. 89–329, title I, § 152, as added Pub. L.
§ 1019b. Loan information to be disclosed and
model disclosure form for covered institu-
tions, institution-affiliated organizations,
and lenders participating in preferred lender
arrangements
(a) Duties of the Secretary
(1) Determination of minimum disclosures
(A) In general
Not later than 18 months after August 14,
2008, the Secretary, in coordination with the
Board of Governors of the Federal Reserve
System, shall determine the minimum infor-
mation that lenders, covered institutions,
and institution-affiliated organizations of
such covered institutions participating in
preferred lender arrangements shall make
available regarding education loans de-
scribed in section 1019(3)(A) of this title that
are offered to students and the families of
such students.

(B) Consultation and content of minimum
disclosures
In carrying out subparagraph (A), the Sec-
retary shall—
(i) consult with students, the families of
such students, representatives of covered
institutions (including financial aid ad-
ministrators, admission officers, and busi-
ness officers), representatives of institu-
tion-affiliated organizations, secondary
school guidance counselors, lenders, loan
servicers, and guaranty agencies;
(ii) include, in the minimum information
under subparagraph (A) that is required to
be made available, the information that
the Board of Governors of the Federal Re-
sure System requires to be disclosed
under section 1638(e)(1) of title 15, modified
as necessary to apply to such loans; and
(iii) consider the merits of requiring
each covered institution, and each institu-
tion-affiliated organization of such cov-
ered institution, with a preferred lender
arrangement to provide to prospective bor-
rrowers and the families of such borrowers
the following information for each type of
education loan offered pursuant to such
preferred lender arrangement:
(I) The interest rate and terms and
conditions of the loan for the next award
year, including loan forgiveness and
deferment.
(ii) Information on any charges, such as
origination and Federal default fees,
that are payable on the loan, and whether
those charges will be—
(aa) collected by the lender at or
prior to the disbursement of the loan, in-
cluding whether the charges will be de-
ducted from the proceeds of the loan or
paid separately by the borrower; or
(bb) paid in whole or in part by the
lender.
(iii) The annual and aggregate maxi-
num amounts that may be borrowed.
(iv) The average amount borrowed
from the lender by students who grad-
uated from such institution in the pre-
ceeding year, for—
(V) The amount the borrower may pay
in interest, based on a standard repay-
ment plan and the average amount bor-
rrowed from the lender by students who
graduated from such institution in the pre-
ceeding year and who obtained loans of
such type from the lender for the preceding
year;
(aa) borrowers of loans made under
section 1078 of this title;
(bb) borrowers of loans made under
section 1078–2 or 1078–8 of this title,
who pay the interest while in school;
and
(cc) borrowers of loans made under
section 1078–2 or 1078–8 of this title,
who do not pay the interest while in
school.

(ii) Contents of reports
Each report described in clause (i) shall
include—
(I) the amount for each specific in-
stance in which the lender provided such
expenses;
(ii) the name of any agent described in
clause (i) to whom the expenses were
paid or provided;
(iii) the dates of the activity for which
the expenses were paid or provided; and
(iv) a brief description of the activity
for which the expenses were paid or pro-
vided.

(ii) Report to Congress
The Secretary shall summarize the in-
formation received from the lenders under
this subparagraph in a report and transmit
such report annually to the authorizing
committees.

(2) Certification by lenders
Not later than 18 months after August 14,
2008—
(A) in addition to any other disclosure re-
quired under Federal law, each lender of a
loan made, insured, or guaranteed under
part B of subchapter IV that participates in
one or more preferred lender arrangements
shall annually certify the lender’s compli-
ance with the requirements of this chapter
and part C of subchapter I of chapter 34 of
title 32; and
(B) if an audit of a lender is required pur-
suant to section 1078(b)(1)(U)(iii) of this
title, the lender’s compliance with the re-
quirements under this section shall be re-
ported on and attested to annually by the
auditor of such lender.

(Pub. L. 89–329, title I, § 152, as added Pub. L.
(VI) The consequences for the borrower of defaulting on a loan, including limitations on the discharge of an education loan in bankruptcy.

(VII) Contact information for the lender.

(VIII) Other information suggested by the persons and entities with whom the Secretary has consulted under clause (i).

(2) Required disclosures

After making the determinations under paragraph (1), the Secretary, in coordination with the Board of Governors of the Federal Reserve System and after consultation with the public, shall—

(A)(i) provide that the information determined under paragraph (1) shall be disclosed by covered institutions, and institution-affiliated organizations of such covered institutions, with preferred lender arrangements to prospective borrowers and the families of such borrowers regarding the education loans described in section 1019(3)(A) of this title that are offered pursuant to such preferred lender arrangements; and

(ii) make clear that such covered institutions and institution-affiliated organizations may provide the required information on a form designed by the institution or organization instead of the model disclosure form described in subparagraph (B);

(B) develop a model disclosure form that may be used by covered institutions, institution-affiliated organizations, and preferred lenders that includes all of the information required under subparagraph (A)(i) in a format that—

(i) is easily usable by students, families, institutions, institution-affiliated organizations, lenders, loan servicers, and guaranty agencies; and

(ii) is similar in format to the form developed by the Board of Governors of the Federal Reserve System under paragraphs (1) and (5)(A) of section 1638(e) of title 15, in order to permit students and the families of students to easily compare private education loans and education loans described in section 1019(3)(A) of this title; and

(C) update such model disclosure form periodically, as necessary.

(b) Duties of lenders

Each lender that has a preferred lender arrangement with a covered institution, or an institution-affiliated organization of such covered institution, with respect to education loans described in section 1019(3)(A) of this title shall annually, by a date determined by the Secretary, provide to such covered institution or such institution-affiliated organization, and to the Secretary, the information the Secretary requires pursuant to subsection (a)(2)(A)(i) for each type of education loan described in section 1019(3)(A) of this title that the lender plans to offer pursuant to such preferred lender arrangement to students attending such covered institution, or to the families of such students, for the next award year.

(c) Duties of covered institutions and institution-affiliated organizations

(1) Providing information to students and families

(A) In general

Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement shall provide the following information to students attending such institution, or the families of such students, as applicable:

(i) The information the Secretary requires pursuant to subsection (a)(2)(A)(i), for each type of education loan described in section 1019(3)(A) of this title offered pursuant to a preferred lender arrangement to students of such institution or the families of such students.

(ii) (I) In the case of a covered institution, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(11) of title 15 to the covered institution, for each type of private education loan offered pursuant to such preferred lender arrangement to students of such institution or the families of such students.

(ii)(II) In the case of an institution-affiliated organization, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(11) of title 15, for each type of private education loan offered pursuant to such preferred lender arrangement to students of the institution with which such organization is affiliated or the families of such students.

(B) Timely provision of information

The information described in subparagraph (A) shall be provided in a manner that allows for the students or the families to take such information into account before selecting a lender or applying for an education loan.

(2) Annual report

Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall—

(A) prepare and submit to the Secretary an annual report, by a date determined by the Secretary, that includes, for each lender that has a preferred lender arrangement with such covered institution or organization—

(i) the information described in clauses (i) and (ii) of paragraph (1)(A); and

(ii) a detailed explanation of why such covered institution or institution-affiliated organization entered into a preferred lender arrangement with the lender, including why the terms, conditions, and provisions of each type of education loan provided pursuant to the preferred lender arrangement are beneficial for students at-
tending such institution, or the families of such students, as applicable; and

(B) ensure that the report required under subparagraph (A) is made available to the public and provided to students attending or planning to attend such covered institution and the families of such students.

(3) Code of conduct

(A) In general

Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall comply with the code of conduct requirements of subparagraphs (A) through (C) of section 1094(a)(25) of this title.

(B) Applicable code of conduct

For purposes of subparagraph (A), an institution-affiliated organization of a covered institution shall—

(i) comply with the code of conduct developed and published by such covered institution under subparagraphs (A) and (B) of section 1094(a)(25) of this title;

(ii) if such institution-affiliated organization has a website, publish such code of conduct prominently on the website; and

(iii) administer and enforce such code of conduct by, at a minimum, requiring that all of such organization’s agents with responsibilities with respect to education loans be annually informed of the provisions of such code of conduct.


AMENDMENTS


Effective Date of 2009 Amendment


§ 1019c. Loan information to be disclosed and model disclosure form for institutions participating in the William D. Ford Federal Direct Loan Program

(a) Provision of disclosures to institutions by the Secretary

Not later than 180 days after the development of the model disclosure form under section 1019b(a)(2)(B) of this title, the Secretary shall provide each institution of higher education participating in the William D. Ford Direct Loan Program under part C of subchapter IV with a completed model disclosure form including the same information for Federal Direct Stafford Loans, Federal Direct Unsubsidized Stafford Loans, and Federal Direct PLUS loans made to, or on behalf of, students attending each such institution as is required on such form for loans described in section 1019(3)(A) of this title.

(b) Duties of institutions

(1) In general

Each institution of higher education participating in the William D. Ford Direct Loan Program under part C of subchapter IV shall—

(A) make the information the Secretary provides to the institution under subsection (a) available to students attending or planning to attend the institution, or the families of such students, as applicable; and

(B) if the institution provides information regarding a private education loan to a prospective borrower, concurrently provide such borrower with the information the Secretary provides to the institution under subsection (a).

(2) Choice of forms

In providing the information required under paragraph (1), an institution of higher education may use a comparable form designed by the institution instead of the model disclosure form developed under section 1019b(a)(2)(B) of this title.


References in Text

Section 1638(e) of title 15, referred to in subsec. (a)(2)(B)(ii), was in the original “section 128(e)”, and was translated as meaning section 128(e) of Pub. L. 90–321, which is classified to section 1638(e) of title 15, to reflect the probable intent of Congress.

§ 1019d. Self-certification form for private education loans

(a) In general

The Secretary, in consultation with the Board of Governors of the Federal Reserve System, shall develop the self-certification form for private education loans that shall be used to satisfy the requirements of section 1638(e)(3) of title 15. Such form shall—

(1) be developed in a standardized format;

(2) be made available to the applicant by the relevant institution of higher education, in written or electronic form, upon request of the applicant;

(3) contain only disclosures that—

(A) the applicant may qualify for Federal student financial assistance through a program under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or State or institutional student financial assistance, in place of, or in addition to, a private education loan;

(B) the applicant is encouraged to discuss the availability of Federal, State, and institutional student financial assistance with financial aid officials at the applicant’s institution of higher education;

(C) a private education loan may affect the applicant’s eligibility for free or low-cost Federal, State or institutional student financial assistance; and

(D) the information that the applicant is required to provide on the form is available from officials at the financial aid office of the institution of higher education;

(4) include a place to provide information on—