

§ 1019a. Responsibilities of covered institutions, institution-affiliated organizations, and lenders

(a) Responsibilities of covered institutions and institution-affiliated organizations

(1) Disclosures by covered institutions and institution-affiliated organizations

(A) Preferred lender arrangement disclosures

In addition to the disclosures required by subsections (a)(27) and (h) of section 1094 of this title (if applicable), a covered institution, or an institution-affiliated organization of such covered institution, that participates in a preferred lender arrangement shall disclose—

(i) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss education loans—

(I) the maximum amount of Federal grant and loan aid under subchapter IV available to students, in an easy to understand format;

(II) the information required to be disclosed pursuant to section 1019b(a)(2)(A)(i) of this title, for each type of loan described in section 1019(3)(A) of this title that is offered pursuant to a preferred lender arrangement of the institution or organization to students of the institution or the families of such students; and

(III) a statement that such institution is required to process the documents required to obtain a loan under part B of subchapter IV from any eligible lender the student selects; and

(ii) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss private education loans—

(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, for each type of private education loan offered pursuant to a preferred lender arrangement of the institution to students of the institution or the families of such students; and

(II) in the case of an institution-affiliated organization of a covered institution, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(1) of title 15, for each type of private education loan offered pursuant to a preferred lender arrangement of the organization to students of such institution or the families of such students.

(B) Private education loan disclosures

A covered institution, or an institution-affiliated organization of such covered institution, that provides information regarding a private education loan from a lender to a prospective borrower shall—

(i) provide the prospective borrower with the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 1638(e)(1) of title 15 for such loan;

(ii) inform the prospective borrower that—

(I) the prospective borrower may qualify for loans or other assistance under subchapter IV; and

(II) the terms and conditions of loans made, insured, or guaranteed under subchapter IV may be more favorable than the provisions of private education loans; and

(iii) ensure that information regarding private education loans is presented in such a manner as to be distinct from information regarding loans that are made, insured, or guaranteed under subchapter IV.

(C) Informational materials

The informational materials described in this subparagraph are publications, mailings, or electronic messages or materials that—

(i) are distributed to prospective or current students of a covered institution and families of such students; and

(ii) describe or discuss the financial aid opportunities available to students at an institution of higher education.

(2) Use of institution name

A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall not agree to the lender's use of the name, emblem, mascot, or logo of such institution or organization, or other words, pictures, or symbols readily identified with such institution or organization, in the marketing of private education loans to students attending such institution in any way that implies that the loan is offered or made by such institution or organization instead of the lender.

(3) Use of lender name

A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall ensure that the name of the lender is displayed in all information and documentation related to such loans.

(b) Lender responsibilities

(1) Disclosures by lenders

(A) Disclosures to borrowers

(i) Federal education loans

For each education loan that is made, insured, or guaranteed under part B or D of subchapter IV (other than a loan made under section 1078-3 of this title or a Federal Direct Consolidation Loan), at or prior to the time the lender disburses such loan, the lender shall provide the prospective borrower or borrower, in writing (including through electronic means), with

the disclosures described in subsections (a) and (c) of section 1083 of this title.

(ii) Private education loans

For each of a lender's private education loans, the lender shall comply with the disclosure requirements under section 1638(e) of title 15.

(B) Disclosures to the Secretary

(i) In general

Each lender of a loan made, insured, or guaranteed under part B of subchapter IV shall, on an annual basis, report to the Secretary—

(I) any reasonable expenses paid or provided under section 1085(d)(5)(D) of this title or paragraph (3)(B) or (7) of section 1094(e) of this title to any agent of a covered institution who—

(aa) is employed in the financial aid office of a covered institution; or

(bb) otherwise has responsibilities with respect to education loans or other financial aid of the institution; and

(II) any similar expenses paid or provided to any agent of an institution-affiliated organization who is involved in the practice of recommending, promoting, or endorsing education loans.

(ii) Contents of reports

Each report described in clause (i) shall include—

(I) the amount for each specific instance 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 provided.

(iii) Report to Congress

The Secretary shall summarize the information 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 required 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 compliance with the requirements of this chapter; and

(B) if an audit of a lender is required pursuant to section 1078(b)(1)(U)(iii) of this title, the lender's compliance with the requirements under this section shall be reported on and attested to annually by the auditor of such lender.

(Pub. L. 89-329, title I, §152, as added Pub. L. 110-315, title I, §120, Aug. 14, 2008, 122 Stat. 3119.)

§ 1019b. Loan information to be disclosed and model disclosure form for covered institutions, 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 information that lenders, covered institutions, and institution-affiliated organizations of such covered institutions participating in preferred lender arrangements shall make available regarding education loans described 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 Secretary shall—

(i) consult with students, the families of such students, representatives of covered institutions (including financial aid administrators, admission officers, and business officers), representatives of institution-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 Reserve 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 institution-affiliated organization of such covered institution, with a preferred lender arrangement to provide to prospective borrowers 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, including whether the charges will be deducted 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 maximum amounts that may be borrowed.

(IV) The average amount borrowed from the lender by students who graduated from such institution in the pre-