INSTITUTIONAL LENDING COMPLIANCE: WHAT YOU NEED TO KNOW

MAACS Conference 2026

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PRACTICE AND EXPERIENCE

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ABOUT ERIC MAISTER

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ABOUT SAUL EWING

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FINANCIAL AID TIMELINE

1965

The Higher Education Act (HEA) created a guaranteed loan programs establishing that loans borrowed by students from **private loan companies were now guaranteed** by the federal government if students defaulted

2005

The Higher Education Reconciliation Act allowed professional and graduate students to borrow through the Parent PLUS program

The HEA Reauthorization Act established a pilot program of direct lending to students with the goal of converting the federal government's guaranteed loans to a direct lending program.

1992

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FINANCIAL AID TIMELINE

2008

Ensuring Continued Access to Student Loans Act (ECASLA) **temporarily authorized the U.S. Education Department to buy loans** from private lenders to ensure students had access to capital during the financial downturn

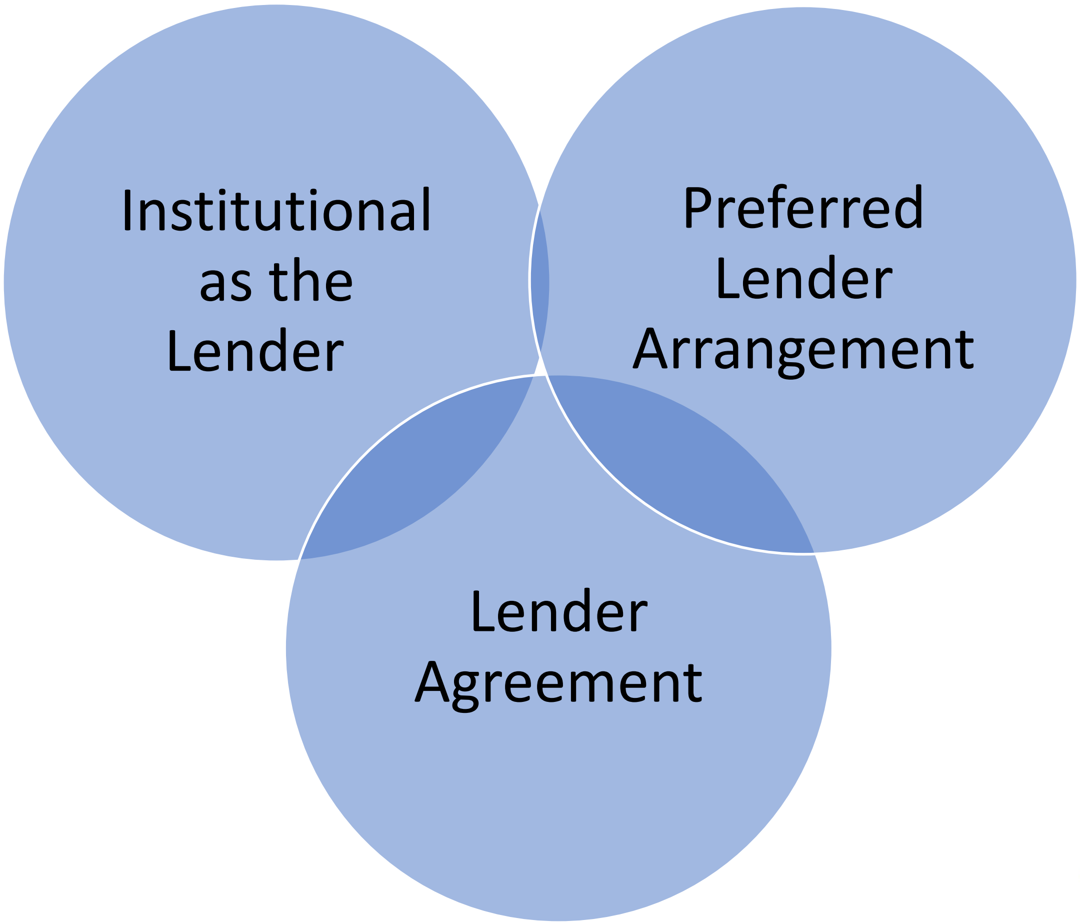
2011

The Health Care and Education Reconciliation Act (HCERA) **repealed the FFEL** programs so **all federal loans would be direct loans.**

2026

One Big Beautiful Bill Act shifted financing demand towards private student loans.

PRIVATE EDUCATION LOAN OPTIONS FOR INSTITUTIONS



PRIVATE EDUCATION LOAN

- A non-Title IV loan provided by a private educational lender expressly for postsecondary educational expenses.
- A private education loan does not include an extension of credit under an open-end consumer credit plan or secured by real property.

PRIVATE EDUCATION LOAN

- A private education loan **does not include**:
  - An extension of credit in which the educational institution is the lender if:
    - The extension of credit is **90 days or less**, or
    - **Interest will not be applied** to the credit balance, and the term is **one year or less**, even if payable in more than 4 payments.

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PRIVATE EDUCATION LENDER

- **Financial institution** (including schools) that **solicits, makes, or extends private education loans**;
  - A federal credit union, as defined in that solicits, makes, or extends private education loans; or
  - Any other person engaged in the business of soliciting, making, or extending private education loans.
- Private education loans are offered by banks, non-profits, nonbanks, credit unions, state-affiliated organizations, and institutions.

PREFERRED LENDER ARRANGEMENT

- Preferred Lender Arrangement:
  - An arrangement or agreement between a lender and an institution in which a lender provides education loans to students and the institution recommends, promotes, or endorses the education loan products of the lender.
  - Does not include:
    - Direct Loans
    - Funded by the institution's own funds
    - Made under a State-funded financial aid program, if the terms and conditions of the loan include a loan forgiveness option for public service

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INSTITUTION-AFFILIATED ORGANIZATION

An **entity** directly or indirectly related to a covered institution that **recommends, promotes, or endorses education loans**.

WHO REGULATES INSTITUTIONAL LOANS?

Regulator	Focus
U.S. Department of Education	Disclosures and reporting requirements
CFPB	Origination and collection
FTC	Marketing and advertising
States	Lending, collection, and marketing
Accreditors	Disclosures and ethical practices

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ENFORCMENT

- Borrower Defense
- Canceling private student loan debt
- Fines
- Private loan forgiveness
- Monitoring
- Permanent injunction
- Employee training

TRUTH IN LENDING ACT

- The Truth in Lending Act and its implementing regulation, Regulation Z, generally impose requirements on lenders for private education loans, including disclosure of terms and interest rates.
  - Timing:
    - Application
    - Approval
    - Final

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TILA DISCLOSURES

- TILA disclosures must, among other things, be **clear and conspicuous**.
- In addition, certain information must be disclosed, including:
  - 📄 Amount financed
  - 💲 Finance charge
  - 🔄 Variable interest rate (if applicable)
  - 📅 Payment schedule
  - 💰 Total payments
  - ⚠ Late fees

12 C.F.R. § 1026.47

PRIVATE EDUCATIONAL LOAN SELF-CERTIFICATION FORM

- A lender must obtain a signed, completed **Private Education Loan Applicant Self-Certification** from the loan applicant before initiating a private education loan.
  - Your school may also, at its option, provide the information needed to complete the form directly to the lender.
  - The self-certification must be printed by the school or lender with black ink on white paper. The typeface, point size, and general presentation of the form may not be changed.

Private Education Loan
Applicant Self-Certification

This space for lender use only

OMB No. 1845-0101
OMB Approved
Exp. Date 8/31/2022

Important: Pursuant to Section 155 of the Higher Education Act of 1965, as amended, (HEA) and to satisfy the requirements of Section 128(e)(3) of the Truth in Lending Act, a lender must obtain a self-certification signed by the applicant before disbursing a private education loan. The school is required on request to provide this form or the required information only for students admitted or enrolled at the school. Throughout this Applicant Self-Certification, "you" and "your" refer to the applicant who is applying for the loan. The applicant and the student may be the same person.

Instructions: Before signing, carefully read the entire form, including the definitions and other information on the following page. Submit the signed form to your lender.

SECTION 1: NOTICES TO APPLICANT

- Free or lower-cost Title IV federal, state, or school student financial aid may be available in place of, or in addition to, a private education loan. To apply for Title IV federal grants, loans and work-study, submit a Free Application for Federal Student Aid (FAFSA) available at www.fafsa.ed.gov, or by calling 1-800-4-FED-AID, or from the school's financial aid office.
- A private education loan may reduce eligibility for free or lower-cost federal, state, or school student financial aid.
- You are <u>strongly</u> encouraged to pursue the availability of free or lower-cost financial aid with the school's financial aid office.
- The financial information required to complete this form can be obtained from the school's financial aid office. If the lender has provided this information, you should contact your school's financial aid office to verify this information and to discuss your financing options.

SECTION 2: COST OF ATTENDANCE AND ESTIMATED FINANCIAL ASSISTANCE

If information is not already entered below, obtain the needed information from the school's financial aid office and enter it on the appropriate line. Sign and date where indicated. See Section 5 for definitions of financial aid terms.

A. Student's cost of attendance for the period of enrollment covered by the loan $__________

B. Estimated financial assistance for the period of enrollment covered by the loan $__________

C. Difference between amounts A and B $__________

<u>WARNING:</u> If you borrow more than the amount on line C, you risk reducing your eligibility for free or lower-cost federal, state, or school financial aid.

SECTION 3: APPLICANT INFORMATION

Enter or correct the information below.

Full Name and Address of School ______________________________

Applicant Name (last, first, MI) ______________________________

Date of Birth (mm/dd/yyyy)_____/_____/__________

Permanent Street Address ______________________________

City, State, Zip Code ______________________________

Area Code / Telephone Number Home (   ) ______________ Other (   ) ______________

E-mail Address__________

Period of Enrollment Covered by the Loan (mm/dd/yyyy) From _____ / _____ / _______ to _____ / _____ / _______

If the student is <u>not</u> the applicant, provide the student's name and date of birth.

Student Name (last, first, MI) ______________________________

Student Date of Birth (mm/dd/yyyy)_____/_____/__________

SECTION 4: APPLICANT SIGNATURE

I certify that I have read and understood the notices in Section 1 and, that to the best of my knowledge, the information provided on this form is true and correct.

Signature of Applicant ______________________________ **Date** (mm/dd/yyyy) ______________

SECTION 5: DEFINITIONS

Cost of attendance is an estimate of tuition and fees, room and board, transportation, and other costs for the period of enrollment covered by the loan, as determined by the school. A student's cost of attendance may be obtained from the school's financial aid office.

Estimated financial assistance is all federal, state, institutional (school), private, and other sources of assistance used in determining eligibility for most Title IV student financial aid, including amounts of financial assistance used to replace the expected family contribution. The student's estimated financial assistance is determined by the school and may be obtained from the school's financial aid office.

A **lender is** a private education lender as defined in Section 140 of the Truth in Lending Act and any other person engaged in the business of securing, making, or extending private education loans on behalf of the lender.

A **period of enrollment** is the academic year, academic term (such as semester, trimester, or quarter), or the number of weeks of instructional time for which the applicant is requesting the loan.

A **private education loan** is a loan provided by a private education lender that is not a Title IV loan and that is issued expressly for postsecondary education expenses, regardless of whether the loan is provided through the school that the student attends or directly to the borrower from the private education lender. A private education loan does not include **(1)** An extension of credit under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling; or **(2)** An extension of credit in which the school is the lender if the term of the extension of credit is 90 days or less or an interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

Title IV student financial aid includes the Federal Pell Grant Program, the Federal Supplemental Educational Opportunity Grant (FSEOG) Program, the Federal Work-Study (FWS) Program, the William D. Ford Federal Direct Loan (Direct Loan) Program, the Federal Perkins Loan Program, and the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program. To apply for Title IV federal grants, loans, and work-study, submit a Free Application for Federal Student Aid (FAFSA), which is available at www.fafsa.gov, by calling 1-800-4-FED-AID, or from the school's financial aid office.

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Paperwork Reduction Notice: According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is 1845-0101. The time required to complete this information collection is estimated to average 0.25 hours (15 minutes) per response, including the time to review instructions, search existing data resources, gather and maintain the data needed and complete and review the information collection. ***If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:*** U.S. Department of Education, Washington, DC 20202-4651

If you have any comments or concerns regarding the status of your individual submission of this form, contact your lender.

End of document

Screens 4-5 of 5

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PREFERRED LENDERS DISCLOSERS

- For each type of private education loan offered under a preferred lender arrangement, a school (or institution-affiliated organization) must disclose:
  - The maximum amount of **Title IV funds available** to students in an easy-to-understand format, and
  - **TILA disclosures** for each type of private education loan offered through a preferred lender arrangement.

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PREFERRED LENDER LIST

- For any year in which the school has a preferred lender arrangement, it must at least annually:
  - Compile, maintain, and make available **a list of lenders** for private education loans that the **school recommends, promotes, or endorses** in accordance with such preferred lender arrangement**.**

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PREFERRED LENDER LIST

- The school's preferred lender list must fully disclose:
  - **Why it participates** in a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and
  - That the students attending the school (or their families) do not have to borrow from a lender on the preferred lender list.

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COMPENSATION FOR SERVING ON AN ADVISORY BOARD

Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to *Title IV* P loans or private education loans of the institution;

Serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors;

Must not receive anything of value from the lender, guarantor, or group of lenders or guarantors; or

Except that the employee may be **reimbursed for reasonable expenses**, as that term is defined in § 668.16(d)(2)(ii), incurred in serving on such advisory board, commission, or group.

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CODE OF CONDUCT

- Schools must enforce a code of conduct that includes bans on the following:
  - **Revenue-sharing arrangements** with any lender,
  - **Directing borrowers to particular lenders** or delaying loan certifications, and
  - Offers of funds for private loans to students **in exchange for providing concessions or promises** to the lender for a specific number of *Title IV* loans or private education loans, a specified loan volume, or a preferred lender arrangement.

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CO-BRANDING

- Prohibits use of **school's name, logo, mascot**, in a way that implies endorsement.
- Safe harbor
  - Marketing does not imply endorsement if there is a clear and conspicuous disclosure that the school does not endorse
- Exception for actual endorsements if there is a clear and conspicuous disclosure that the creditor and not the school is making the loan

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OTHER FEDERAL LAWS

- The Gramm-Leach-Bliley Act (GLBA) requires financial institutions under FTC jurisdiction to have measures in place to keep customer information secure.
- The Equal Credit Opportunity Act (ECOA) makes it unlawful to discriminate against any applicant for credit with respect to any aspect of a credit transaction.
- The Electronic Funds Transfer Act (EFTA) imposes requirements if the loan servicer of the education loan within the scope of coverage obtains recurring electronic payments from borrowers.
- The Fair Debt Collection Practices Act (FDCPA) governs the activities of debt collectors.

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UDAAP

- Generally, the standards the CFPB will use in assessing UDAAPs are:
  - A representation, omission, act, or practice is deceptive when:
    - The **representation, omission, act, or practice** misleads or is likely to mislead the consumer;
    - The consumer's interpretation of the representation, omission, act, or practice is **reasonable under the circumstances**; and
    - The misleading representation, omission, act, or practice is **material**.

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UNFAIR PRACTICES

- An act or practice is unfair when:
  - It causes or is **likely to cause substantial injury** to consumers;
  - The injury is **not reasonably avoidable** by consumers; and
  - The injury is **not outweighed by countervailing benefits** to consumers or to competition.

ABUSIVE ACT OR PRACTICE

- **Materially interferes** with the ability of a consumer to *understand a term or condition* of a consumer financial product or service; or
- Takes unreasonable advantage of :
  - A **lack of understanding** on the part of the consumer of the material **risks, costs, or conditions** of the product or service
    1. The **inability of the consumer to protect its interests** in selecting or using a consumer financial product; or
    2. The **reasonable reliance** by the consumer to act in the interests of the consumer.

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INSTITUTIONAL LENDING: THE SCHOOL'S PERSPECTIVE

Balancing: Student Access, Affordability, and Regulatory Risk

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WHY DO INSTITUTIONS OFFER INSTITUTIONAL LOANS?

- Student Need
  - Bridge funding gaps
  - Help students complete their education
  - Reduce withdrawals due to temporary financial hardship
  - Improve persistence and graduation

WHY INSTITUTIONS OFFER INSTITUTIONAL LOANS?

- Institutional Considerations:
  - Enrollment management
  - Student success
  - Cash flow stabilization
  - Mission-driven access

STRUCTURING AN INSTITUTIONAL LOAN PROGRAM PROGRAM DESIGN

- Written institutional lending policy
- Eligibility criteria
- Standardized underwriting process
- Promissory note
- Repayment terms
- Interest and fees
- Default procedures
- Documentation and recordkeeping

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BEST PRACTICES

INSTITUTIONAL RISKS

DISCUSSION

- Alternatives to institutional loans
- Debt collection practices
- Implementing a compliance program

QUESTIONS?

RESOURCES

- [CFPB Education Loan Examination Procedures]
- [Private Education Loan -Certificate]
- [Private Education Loan Applicant and solicitor Model Form]

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