

Issue Paper 6

Program Integrity and Improvement Issues

Issue: Definition of Adverse Credit for Direct PLUS Loan Eligibility

Statutory cite: §428B(a)(1)(A) of the HEA

Regulatory cite: 34 C.F.R. §685.200(c)(1)(vii)

Summary of Change: Current regulations in 34 CFR 685.200(c)(1)(vii)(B) define “adverse credit history” for purposes of a borrower qualifying for a Direct PLUS Loan. Regulations in 34 CFR 685.200(c)(1)(vii)(D), which will be effective July 1, 2014, provide a non-exhaustive list of extenuating circumstances under which a borrower with an adverse credit history may still qualify for a PLUS Loan. The proposed new regulations would reduce the period of time negative credit information on a credit report is considered from five years from the date of the credit report to two years for debts that are in collection or have been charged off. In addition, under the proposed regulations a borrower with debts that are 90 or more days delinquent, in collection, or that have been charged off and that have a total outstanding balance of \$2,085 will be considered to have an adverse credit history.

The proposed new regulations would also define the terms “charged off” and “in collection.” The proposed regulations would require a borrower who qualifies for a PLUS Loan based on extenuating circumstances to complete PLUS Loan counseling as a condition for receiving the PLUS Loan.

[**Note:** The contextual language includes changes to the PLUS adverse credit final regulations that were published on November 1, 2013, but will not be effective until July 1, 2014. These changes are underlined. The proposed new regulatory language is redlined.]

Change:

§685.200 Borrower eligibility.

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| (b) *Student PLUS borrower.* (1) The student is enrolled, or accepted for enrollment, on at least a half-time basis in a school that participates in the Direct Loan Program.

| (2) The student meets the requirements for an eligible student under 34 CFR part 668.

| (3) The student meets the requirements of paragraphs (a)(1)(iv) and (a)(1)(v) of this section, if applicable.

(4) The student has received a determination of his or her annual loan maximum eligibility under the Federal Direct Stafford/Ford Loan Program and the Federal Direct Unsubsidized Stafford/Ford Loan Program or under the Federal Subsidized and Unsubsidized Stafford Loan Program, as applicable; and

(5) The student meets the requirements that apply to a parent under ~~of~~ paragraph (c)(42)(viii)(A) – (D) of this section.

(c) *Parent PLUS borrower*:-- (1) Definitions. The following definitions apply to this paragraph:

(i) Charged off means a debt that a creditor has written off as a loss, but that is still subject to collection action.

(ii) In collection means a debt that has been placed with a collection agency by a creditor, or that is subject to more intensive efforts by a creditor to recover amounts owed from a borrower who has not responded satisfactorily to the demands routinely made as part of the creditor's billing procedures.

(2) Eligibility. A parent is eligible to receive a Direct PLUS Loan if the parent meets the following requirements:

(i) The parent is borrowing to pay for the educational costs of a dependent undergraduate student who meets the requirements for an eligible student under 34 CFR part 668.

(ii) The parent provides his or her and the student's social security number.

(iii) The parent meets the requirements pertaining to citizenship and residency that apply to the student under 34 CFR 668.33.

(iv) The parent meets the requirements concerning defaults and overpayments that apply to the student in 34 CFR 668.32(g).

(v) The parent complies with the requirements for submission of a Statement of Educational Purpose that apply to the student under 34 CFR part 668, except for the completion of a Statement of Selective Service Registration Status.

(vi) The parent meets the requirements that apply to a student under paragraph (a)(1)(iv) of this section.

(vii) The parent has completed repayment of any title IV, HEA program assistance obtained by fraud, if the parent has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance

(viii)(A) The parent—

(1) Does not have an adverse credit history;

(2) Has an adverse credit history but has obtained an endorser who does not have an adverse credit history; or

(3) Has an adverse credit history but documents to the satisfaction of the Secretary that extenuating circumstances exist and completes PLUS loan counseling offered by the Secretary.

(B) For purposes of this paragraph ~~(e)(1)(vii)(A) of this section~~, an adverse credit history means that ~~as of the date of the credit report, the applicant-- the parent--~~

(1) Has one or more debts with a total combined outstanding balance greater than \$2,085 that ~~is~~ are 90 or more days delinquent as of the date of the credit report, on any debt; or that have ~~ve~~ been placed in collection or charged off during the two years preceding the date of the credit report; or

(2) Has been the subject of a default determination, bankruptcy discharge, foreclosure, repossession, tax lien, wage garnishment, or write-off of a debt under title IV of the Act during the five years preceding the date of the credit report.

(C) For ~~the~~ purposes of this paragraph ~~(e)(1)(vii)(A) of this section~~, the Secretary does not consider the absence of a credit history as an adverse credit history and does not deny a Direct PLUS loan on that basis.

(D) For ~~the~~ purposes of this paragraph ~~(e)(1)(vii)(A) of this section~~, the Secretary may determine that extenuating circumstances exist based on documentation that may includes, but is not limited to:--

(1) -aAn updated credit report for the parent; or

(2) -aA statement from the creditor that the ~~borrower~~parent has repaid or made satisfactory arrangements to repay ~~thea~~ debt that was considered in determining that the parent has an adverse credit history.; -a satisfactory statement from the borrower explaining any delinquencies with outstanding balances of less than \$500.

~~(23)~~ For purposes of paragraph (c)(~~42~~) of this section, a “parent” includes the individuals described in the definition of “parent” in 34 CFR 668.2 and the spouse of a parent who remarried, if that spouse's income and assets would have been taken into account when calculating a dependent student's expected family contribution.

~~(3) Has completed repayment of any title IV, HEA program assistance obtained by fraud, if the parent has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance.~~