



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

MAR 29 2007

THE ASSISTANT SECRETARY

DCL ID: GEN-07-01
FP-07-04

Subject: Borrower Choice of FFEL Lender

Summary: This letter reminds program participants of the statutory and regulatory provisions that provide that student and parent borrowers may choose the lender from which they will borrow a FFEL Program loan.

Dear Colleague:

We have recently received a number of complaints from students, parents, and lenders participating in the Federal Family Education Loan (FFEL) Program, that some participating schools are not allowing borrowers to choose their FFEL lender when processing a FFEL Stafford or FFEL PLUS loan. From the information we have received, we understand that some schools have refused to certify a loan because of the lender the borrower has selected.

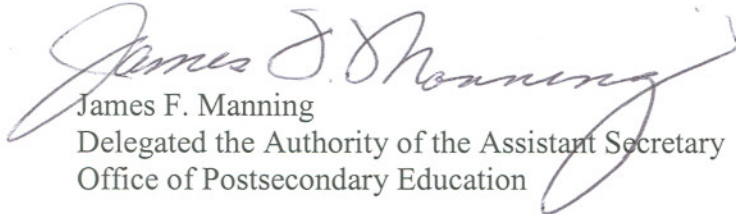
The law and the regulations clearly prohibit institutions from refusing to certify a loan because of the borrower's choice of lender (or guaranty agency). Section 432(m)(1)(B)(ii) of the Higher Education Act of 1965, as amended (HEA), provides that FFEL applications and promissory notes "... require the applicant to clearly indicate a choice of lender;". The Department's regulations at 34 CFR 682.603(e) further provide that the limited authority under which a financial aid administrator may refuse to certify a Stafford or PLUS loan does not include the borrower's "... selection of a particular lender or guaranty agency".

The statutory and regulatory provisions above prohibit a school from refusing to certify a FFEL loan based upon the borrower's choice of lender (or guaranty agency). This prohibition applies to all schools that participate in the FFEL Program, including schools that are also school lenders. A school's failure to comply with these requirements may result in the Department imposing a fine or taking other administrative actions.

As you may be aware, the Department has begun negotiated rulemaking on several matters related to the issue of a borrower's choice of lender. While this process continues, the Department believes that it is important to remind all program participants of the clear existing requirement related to the borrower's choice of lender so that the reported problems that students and parents have encountered do not continue.

We thank you for your cooperation. If you have any questions on the issues discussed in this letter, please contact Pamela Moran by email at pamela.moran@ed.gov or by phone at (202) 502-7732.

Sincerely,


James F. Manning
Delegated the Authority of the Assistant Secretary
Office of Postsecondary Education