

Chapter

1



Laws & Regulations

- HEA of 1965



Take a Look

- See page 2-64 to learn more about Case Management Teams.

Federal Family Education Loan (FFEL) Program Overview

Part B of Title IV of the Higher Education Act of 1965, as amended, created the guaranteed student loan programs. This law has been reauthorized and amended periodically. In 1992, the loan programs were renamed the Federal Family Education Loan (FFEL) Program. This program consists of Federal Stafford Loans, Federal Parent Loans for Undergraduate Students (PLUS), and Federal Consolidation Loans. The FFEL Program is one of several programs often referred to as the “Title IV” programs.

Entities Involved in Administering the FFEL Program

The entities involved in administering the FFEL Program include the U.S. government, schools, lenders, guaranty agencies, secondary markets, servicers, and credit bureaus. Each entity has a specific role in providing or servicing FFEL Program loans.

- ◆ The **U.S. government**, through the U.S. Department of Education (ED), implements, regulates, and oversees the FFEL Program. ED’s Case Management Team approves foreign schools to participate in the FFEL Program.
- ◆ A **school** determines and certifies student eligibility for FFEL loans, provides loan counseling for student loan borrowers, may deliver loan proceeds to students, reports enrollment and other information about FFEL Program borrowers, and complies with U.S. laws and regulations governing the FFEL Program. The school acts as a fiduciary in these matters and is accountable for its administration of the program.
- ◆ A **lender** provides the funds for FFEL Program loans. A lender can be, for example, a bank, a savings and loan association, a credit union, a school, or an insurance company. The lenders own the loans and receive borrower payments. Lenders frequently sell their loans to other parties. When this occurs, the borrower is notified by the lender and the new loan holder.
- ◆ A **guaranty agency** or guarantor provides backing to a lender for the loan funds. The guaranty on these loans replaces the security(collateral) usually required for long-term consumer loans.



Take a Look

- See Appendix D – Guaranty Agency Directory.

A guarantor is a state or private nonprofit agency approved by ED to guarantee FFEL Program loans.

All FFEL guaranty agency procedures and policies must be in compliance with the legal requirements outlined in 34 CFR 682. However, individual guaranty agencies may have additional policies and procedures. Questions regarding these policies and procedures should be directed to that agency. (See Appendix D – Guaranty Agency Directory.)

- ◆ A **secondary market** is an organization that purchases loans from lenders. By purchasing loans, it replenishes a lender's funds, which enables the lender to make additional loans to students and parents.
- ◆ **Servicers** are companies hired by lenders and secondary markets to manage student loans. This may include processing loan applications, answering customer phone calls, processing loan payments, and collecting delinquent accounts.
- ◆ **Credit bureaus** gather and store information on an individual's credit history. Lenders obtain a credit report from a credit bureau when processing FFEL Program loans for parent borrowers. In addition, a lender reports to credit bureaus how much an individual borrowed and whether or not payments are made on time.

It should be noted that a single entity might play more than one role in the student loan process. For example, a lender may also be a servicer, or a guaranty agency may certify a loan application on behalf of a school.



Take a Look

- See Appendix E for more information on contracts with third-party servicers.

In addition to these entities, a foreign school may contract with a third-party servicer to administer all or part of its FFEL Program. More information about third-party servicers can be found in Appendix E.

A school that uses a third-party servicer is jointly and severally liable for the actions of the third-party servicer with which it contracts.

FFEL Program Loans

The following types of loans are available through the FFEL Program:

- ◆ **Subsidized Stafford Loans** are awarded to students who demonstrate financial need. The U.S. government subsidizes the interest, and borrowers are not charged interest while they are enrolled in school at least half time, during a grace period, or during deferment periods. These loans may be awarded to both undergraduate and graduate students.
- ◆ **Unsubsidized Stafford Loans** are awarded to students regardless of financial need. However, the borrowers are responsible for the interest that accrues during all periods. During periods when the borrower is enrolled in school at least half time and during grace periods and deferment periods, the borrower has the option of paying the interest or having the interest capitalized. These loans may be awarded to both undergraduate and graduate students.
- ◆ **Federal PLUS Loans** enable parents to borrow on behalf of their dependent undergraduate children. The child must be enrolled in an eligible program at least half time. Borrowers are responsible for the interest that accrues on Federal PLUS Loans during all periods. Only parents of dependent students can receive Federal PLUS Loans.
- ◆ **Federal Consolidation Loans** enable borrowers to combine one or more of their U.S. education loans into one new loan. ED allows borrowers to consolidate loans in order to facilitate repayment. The loans that are eligible to be consolidated must meet the conditions specified in the regulations.

Annual and Aggregate Loan Limits

The FFEL Program loans have annual and aggregate loan limits. The undergraduate loan limits are based on a borrower's grade level and dependency status.

The annual loan limit for subsidized and unsubsidized loans must be prorated when a borrower is enrolled in a program that is one academic year or more in length but is in a remaining period of study that is shorter than a full academic year.

Annual Loan Limits for Dependent Undergraduate Students

- ◆ A dependent undergraduate student who has not yet successfully completed the first year of an undergraduate program may borrow an annual total of up to \$2,625 in subsidized and unsubsidized Stafford Loans combined per academic year of study.



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- 34 CFR 682.100

Note: A loan corresponding to an enrollment period of less than one academic year must be prorated.

- ◆ A dependent undergraduate student who has successfully completed the first year of study but has not successfully completed the second year of the program may borrow up to \$3,500 in subsidized and unsubsidized Stafford Loans combined per academic year of study.
- ◆ A dependent undergraduate student who has successfully completed the first and second years of study but has not successfully completed the remainder of the program may borrow up to \$5,500 in subsidized and unsubsidized Stafford Loans combined per academic year of study.
- ◆ A dependent undergraduate student who has an associate or baccalaureate degree that is required for admission into a program of at least one academic year may borrow up to \$5,500 in subsidized and unsubsidized Stafford Loans combined per academic year of study.

These loan limits represent the total of all subsidized and unsubsidized Stafford Loans that a dependent undergraduate student may borrow at each level of study. A dependent undergraduate student who borrows both subsidized and unsubsidized Stafford Loans in the same period of enrollment must not exceed the annual loan limits described above.

Annual Loan Limits for Independent Undergraduate Students

Annual loan limits are higher for independent undergraduate students and for dependent undergraduate students whose parents are unable to borrow Federal PLUS Loans due to exceptional circumstances. The following unsubsidized Stafford Loan limits may be added to the borrower's subsidized Stafford Loan limits.

- ◆ Independent undergraduate students (or dependent undergraduate students as described above) who have not yet successfully completed the second year of an undergraduate program may borrow up to an additional \$4,000 in unsubsidized Stafford Loan funds per academic year of study.
- ◆ Independent undergraduate students (or dependent undergraduate students as described above) who have successfully completed the first and second years but who have not successfully completed the remainder of the program may borrow up to an additional \$5,000 in unsubsidized Stafford Loan funds per academic year of study.
- ◆ Independent undergraduate students (or dependent undergraduate students as described above) who have an associate or baccalaureate degree that is required for admission into a program may borrow up to an additional \$5,000 in unsubsidized Stafford Loan funds per academic year of study.

Annual Loan Limit for Graduate and Professional Students

Graduate or professional students may borrow up to \$18,500 per academic year. Up to \$8,500 of this amount may be a subsidized Stafford Loan.

Prorated Annual Loan Limits – Subsidized and Unsubsidized Loans

Normally, a dependent or independent undergraduate student may borrow up to the annual limit applicable to the student's year in school. However, the maximum amount an undergraduate student may borrow must be reduced or prorated if a student's final period of study (in a program longer than one academic year) is shorter than one academic year or if the entire period of study is shorter than one academic year.

Federal PLUS Loans and loans for graduate and professional students are not subject to proration.

Federal PLUS Loan Annual Limit

A Federal PLUS Loan may not exceed the student's cost of attendance minus other financial aid awarded during the period of enrollment. This is the only borrowing limit for Federal PLUS Loans. Federal PLUS Loans cannot be used for graduate studies.

Effect of Dependency Status and Year in School

The annual loan limits take into consideration a student's dependency status and year in school. Chapter 4 of this handbook explains dependency status. A school determines a student's grade level.



Take a Look

- See Chapter 4 for more information on dependency status.

FFEL Program Annual Limits for Subsidized and Unsubsidized Loans		
	Subsidized	Total (Subsidized & Unsubsidized)
Dependent Undergraduates		
First Year	\$2,625	\$2,625
Second Year	\$3,500	\$3,500
Third Year and Beyond	\$5,500	\$5,500
Independent Undergraduates & Others Without Access to PLUS		
First Year	\$2,625	\$ 6,625
Second Year	\$3,500	\$ 7,500
Third Year and Beyond	\$5,500	\$10,500
Graduate & Professional Students		
All Years of Study	\$8,500	\$18,500

Note: All undergraduate annual loan amounts are subject to proration.

FFEL Program Aggregate Outstanding Loan Limits for Subsidized and Unsubsidized Loans		
	Subsidized	Total (Subsidized & Unsubsidized)
Dependent Undergraduates	\$23,000	\$ 23,000
Independent Undergraduates & Others Without Access to PLUS	\$23,000	\$ 46,000
Graduate & Professional Students (includes prior loans for undergraduate study)	\$65,500	\$138,500

Note: These maximum limits include any amounts borrowed under the FFEL Program and the William D. Ford Direct Loan Program. Any Supplemental Loans for Students that a borrower has outstanding will count as unsubsidized loans against the borrower's aggregate loan limit.

Aggregate Loan Limits

The maximum outstanding subsidized and unsubsidized Stafford Loan debt allowed is:

- ◆ \$23,000 for a dependent undergraduate student;
- ◆ \$46,000 for an independent undergraduate student; *and*
- ◆ \$138,500 for a graduate or professional student (including loans for undergraduate study).

There is no aggregate loan limit for Federal PLUS Loans.

Determining a Borrower's Aggregate Loan Amount

A borrower who has reached his or her aggregate limit cannot receive any additional loans until some of the amount owed is repaid. Once an amount is repaid, the borrower may apply for additional subsidized or unsubsidized loans up to the amount repaid.

- ◆ Interest capitalized on subsidized or unsubsidized Stafford Loans is not counted in determining whether a borrower has exceeded the aggregate loan amount.
- ◆ If a student who previously received undergraduate and graduate degrees returns to school to complete a second undergraduate program, the loans that the student received for the graduate program are not included in determining the student's remaining loan eligibility for the second undergraduate program.
- ◆ Although loans received for graduate study are not counted toward a student's undergraduate aggregate loan limit, the combined loan amounts received for undergraduate and graduate programs may not exceed the allowable aggregate loan limits for a graduate or professional student.

Borrower Costs for FFEL Program Loans

According to FFEL Program regulations, a lender may charge a borrower under this program for interest, loan fees, and other charges.

Interest

The interest rate on FFEL Program loans can change for each year of repayment. Under current law, the interest rate on Stafford Loans will not exceed 8.25 percent, and the interest rate on PLUS Loans will not exceed 9 percent. The interest rate is adjusted each year on July 1. Loans made before October 1, 1998, have a different interest rate calculation, and the interest rates may be different. The interest rate for these loans may be verified through the borrower's loan holder.

No interest is charged on subsidized loans while a student is enrolled in school at least half time, during a grace period, or during authorized periods of deferment. Interest begins to accrue (accumulate) when the loan enters repayment.

Interest on unsubsidized loans begins to accrue from the day the loan is disbursed until it is repaid in full, including in-school, grace, and deferment periods. A borrower may pay the interest during these periods, or the interest can be capitalized.

Capitalized Interest

A lender may add accrued (accumulated) interest to the borrower's unpaid principal balance. This increase in the principal balance of the loan is called capitalization. The borrower has the option of paying the interest or having it capitalized.

Loan Fees

A lender may charge borrowers a fee of up to 4 percent of the principal amount of Stafford and PLUS Loans. The fee is deducted proportionately from each disbursement of a loan. A portion of this fee goes to the U.S. government and a portion goes to the guaranty agency to help reduce the cost of the loans.

Other Charges

If authorized by the promissory note, a lender may charge a borrower late fees if the borrower fails to pay all or a portion of an installment due. Collection charges incurred by the lender in collecting installments not paid when due may also be charged to the borrower.



Take a Look

- See Appendix F for a copy of the Borrower's Rights and Responsibilities statement.



Laws & Regulations

- 34 CFR 682.209

Repayment Process

During the repayment period the borrower is responsible for payment of both the principal and the accrued interest. The following information appears on the Borrower's Rights and Responsibilities statement. See Appendix F for a copy of this statement.

Grace Period

A student has six months after graduating, leaving school, or dropping below half-time enrollment before he or she begins repayment of the principal on a Stafford Loan. This is the student's grace period. The grace period immediately follows a period of enrollment and immediately precedes the date that repayment will begin for the first time.

If a student ceases to be enrolled at least half time but then returns to school at least half time before the six-month period is up, the student is considered to be in an in-school period. The initial grace period is restored and will not start again until the student is no longer enrolled at least half time. A student may enter into a grace period more than once. However, once the grace period has been completed, the student enters repayment on the principal amount of the loan. Grace periods are day-specific; that is, the initial grace period begins on the day immediately following the day the borrower is no longer attending school at least half time and ends on the day that repayment of the principal is scheduled to begin.

Federal PLUS Loans do not have a grace period.

Deferments

A deferment is a period during which payments of the principal on an FFEL Program loan are postponed and during which, for subsidized Stafford Loans, interest subsidy payments are made by the U.S. government. Once a borrower enters repayment, the borrower is entitled to a deferment if he or she meets the requirements that have been set for one. The borrower must request a deferment either verbally or on a form provided by the lender or ED. The borrower must also provide documentation to support his or her request for a deferment.

A borrower who requests a deferment should continue making payments on a loan until he or she receives notification that the deferment has been approved. The deferment period begins on the date the qualifying condition begins. A lender may retroactively grant a deferment. The borrower should contact his or her lender to discuss when this may apply.

Eligible deferments are listed in the statement of the Borrower's Rights and Responsibilities. See the Borrower's Rights and Responsibilities statement in Appendix F.



Reference

- 2001-2002 *Student Financial Aid Handbook, Volume 8: Direct Loans and FFEL Program Loans*



Take a Look

- See Appendix F for a copy of the Borrower's Rights and Responsibilities statement.



Laws & Regulations

- 34 CFR 682.205
- 34 CFR 682.209

Forbearance

A borrower who is willing but financially unable to make payments on his or her FFEL Program loan may request a forbearance. Forbearance is the temporary cessation of payments, allowing an extension of time to make payments, or temporarily accepting smaller payments than originally scheduled.

When a forbearance is granted, the borrower is responsible for the payment of interest that accrues during this period. A lender may grant a forbearance when a borrower is experiencing financial hardship and/or illness.

Another kind of forbearance is known as “mandatory forbearance.” A mandatory forbearance must be granted for both principal and interest (if requested) in certain circumstances. These circumstances are described in the statement of the Borrower's Rights and Responsibilities.

Interest During Deferment and Forbearance

In general, interest continues to accrue on loans during deferment periods. Interest also accrues on loans during a period of forbearance. The borrower is responsible for repaying this interest during the deferment (unless eligible for an interest subsidy) or forbearance unless the interest is capitalized (added back to the principal amount of the loan). A lender may agree to capitalize the interest when repayment of the loan principal resumes.

Repayment Plans

Borrowers may choose between a standard, graduated, or income-sensitive repayment plan.

Standard Repayment Plan

The standard repayment plan requires a borrower to pay a fixed amount each month of at least \$50 or the unpaid balance including interest, whichever is less.

Graduated Repayment Plan

Under a graduated repayment plan, a borrower's payments generally will be lower at first and then increase over time. Each payment must at least equal the interest accrued on the loan between scheduled payments.

Income-Sensitive Repayment Plan

The amount of a borrower's payment under this plan is based on the borrower's expected monthly gross income. As a borrower's income rises or falls, so do the payments. Each payment must at least equal the interest accrued on the loan between scheduled payments.

A new borrower after October 7, 1998, who has loans totaling more than \$30,000 may choose an extended repayment plan, with a fixed or graduated amount to be paid over an extended period of time up to 25 years.

Federal PLUS Loan Repayment

The Federal PLUS Loan repayment period begins immediately after the loan has been fully disbursed. The first payment on a Federal PLUS Loan is due within 60 days of the loan's full disbursement, unless a deferment condition applies. There is no prepayment penalty for Federal PLUS Loans. Payment plans for a Federal PLUS Loan include standard, graduated, and income-sensitive.

Delinquency and Default

A student should maintain contact with the lender or servicer of his or her loan and keep his or her information on file up-to-date. When a scheduled payment on an FFEL Program loan is not made on time according to the payment schedule, the loan becomes delinquent. If a borrower is late making a payment, the lender may require the borrower to pay a late charge.

For loans that enter delinquency after October 7, 1998, default occurs when a loan becomes 270 days delinquent for a loan payable in monthly installments and 330 days for a loan payable in less frequent installments. In general, loans that entered delinquency earlier than October 7, 1998, go into default when a loan payable in monthly installments becomes 180 days delinquent and when a loan payable in less frequent installments becomes 240 days delinquent.

Once a borrower defaults on an FFEL Program loan, he or she is ineligible for further U.S. student financial aid funds. The student is also ineligible for a deferment on the defaulted loan. The guaranty agency notifies a credit bureau of the borrower's default, and the default notification appears on the borrower's credit file.

If a borrower's loan is discharged under closed school or false certification provisions, the loan is no longer considered to be in default, and the borrower is eligible for further U.S. aid.

Cohort Default Rate

A cohort default rate is the percentage of a school's student borrowers who enter repayment on FFEL Program loans during a particular fiscal year and default or meet other specified conditions before the end of the next fiscal year. Federal PLUS Loans and Consolidation Loans are not included in a school's cohort default rate.

A school can be subject to sanctions from ED as a result of high cohort default rates. A school may lose eligibility to participate in the FFEL Program. The consequences of default and a school's cohort default rate are discussed further in Chapter 2.



Take a Look

- See Chapter 2 for information about a school's cohort default rate.



Laws & Regulations

- 34 CFR 682.402
- 34 CFR 682.215

Loan Discharge and Cancellation

An FFEL loan may be discharged or canceled under some circumstances. The repayment of an FFEL loan is canceled if a borrower dies or becomes totally and permanently disabled, teaches in a designated school, or has the debt discharged in bankruptcy.

Prior to the Higher Education Amendments of 1998, an FFEL Program loan was not dischargeable in bankruptcy unless:

- ◆ the loan had been in repayment for at least seven years (excluding periods of deferment or forbearance) *or*
- ◆ the bankruptcy court determined that repayment of the loan would cause an undue hardship to the debtor.

For borrowers who file bankruptcy after October 7, 1998, an FFEL Program loan:

- ◆ is no longer dischargeable in bankruptcy no matter how long it has been in repayment *and*
- ◆ is not dischargeable unless the bankruptcy court has determined that repayment of the loan would cause an undue hardship to the debtor.

The borrower's obligation to repay all or a portion of a loan may be canceled if the student is unable to complete his or her program of study because the school closed, if the school falsely certified or originated the loan, or if the school failed to pay a refund due under ED rules.