

**Issue 2**  
**Proposed Regulatory Language**  
**Team II - School-based Loan Issues**

**Origin:** HEOA section 493(e)

**Issue:** PPA: Code of Conduct

**Statutory cites:** HEA section 487(a)(25) and (e)

**Regulatory cites:** New §668.14(b)(27)

**DCL GEN-08-12 cite:** Page 69

**Summary of issue:** The HEOA adds to the Program Participation Agreement (PPA) a requirement that an institution participating in a Title IV loan program must develop, publish, administer, and enforce a code of conduct.

The code of conduct applies to the officers, employees, and agents of the institution and must include the following:

- a ban on revenue-sharing arrangements with any lender. The HEOA defines "revenue-sharing arrangement" as any arrangement between an institution and a lender under which the lender makes Title IV loans to students attending the institution (or to the families of those students), the institution recommends the lender or the loan products of the lender and, in exchange, the lender pays a fee or provides other material benefits, including revenue or

profit-sharing, to the institution or to its officers, employees, or agents;

- a ban on employees of the financial aid office receiving gifts from a lender, guaranty agency or loan servicer. No officer or employee of an institution's financial aid office (or an employee or agent who otherwise has responsibilities with respect to educational loans) may solicit or accept any gift from a lender, guarantor, or servicer of education loans. A "gift" is defined as any gratuity, favor, discount, entertainment, hospitality, loan, or other item having monetary value of more than a *de minimus* amount.

However, a gift does not include (1) standard material, activities or programs on issues relating to a loan, default aversion, or financial literacy, such as a brochure, workshop or training; (2) food, refreshments, training, or informational material provided as part of a training session designed to improve the service of a lender, guarantor, or servicer if the training contributes to the professional development of the institution's officer, employee or agent; (3) favorable terms and benefits on an education loan provided to a student employed by the institution if those terms and benefits are comparable to those provided to all students at the institution; (4) entrance and exit counseling services provided to borrowers as long as the institution's staff are in control of the counseling and the counseling does not promote the services of a specific lender; (5) philanthropic contributions from a lender, guarantor, or

servicer that are unrelated to education loans or any contribution that is not made in exchange for any advantage related to education loans, and; (6) State education grants, scholarships, or financial aid funds administered by or on behalf of a State;

- a ban on contracting arrangements. No officer or employee of an institution who is employed in the financial aid office of the institution (or an employee or agent who otherwise has responsibilities with respect to education loans) may accept from a lender, or an affiliate of any lender, any fee, payment, or other financial benefit as compensation for any type of consulting arrangement or contract to provide services to or on behalf of a lender relating to education loans;

- a prohibition against steering borrowers to particular lenders or delaying loan certifications. For any first-time borrower, an institution may not assign, through the award packaging or other methods, the borrower's loan to a particular lender. In addition, the institution may not refuse to certify, or delay the certification, of any loan based on the borrower's selection of a particular lender or guaranty agency;

- a prohibition on offers of funds for private loans. An institution may not request or accept from any lender any offer of funds for private loans, including funds for an opportunity pool loan, to students in exchange for providing concessions or promises to the lender for a specific number of Title IV loans made, insured, or

guaranteed, a specified loan volume, or a preferred lender arrangement. An "opportunity pool loan" is defined as a private education loan made by a lender to a student (or the student's family) that involves a payment by the institution to the lender for extending credit to the student;

- a ban on staffing assistance. An institution may not request or accept from any lender any assistance with call center staffing or financial aid office staffing. However, a lender may provide professional development training, educational counseling materials (as long as the materials identify the lender that assisted in preparing the materials), or staffing services on a short-term, nonrecurring basis during emergencies or disasters; and

- a ban on advisory board compensation. An employee of an institution's financial aid office (or employee who otherwise has responsibilities with respect to education loans or financial aid) who serves on an advisory board, commission, or group established by a lender or guarantor (or a group of lenders or guarantors) is prohibited from receiving anything of value from the lender, guarantor, or group, except for reimbursement for reasonable expenses incurred by the employee for serving on the board.

**Regulatory language:**

**§ 668.14 Program participation agreement.**

(a) (1) An institution may participate in any Title IV, HEA program, other than the LEAP and NEISP GAP programs,

only if the institution enters into a written program participation agreement with the Secretary, on a form approved by the Secretary. A program participation agreement conditions the initial and continued participation of an eligible institution in any Title IV, HEA program upon compliance with the provisions of this part, the individual program regulations, and any additional conditions specified in the program participation agreement that the Secretary requires the institution to meet.

(2) An institution's program participation agreement applies to each branch campus and other location of the institution that meets the applicable requirements of this part unless otherwise specified by the Secretary.

(b) By entering into a program participation agreement, an institution agrees that—

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**(27) In the case of an institution participating in a Title IV, HEA loan program, the institution--**

**(i) Will develop, publish, administer, and enforce a code of conduct with respect to loans made, insured or guaranteed under the Title IV, HEA loan program in accordance with 34 CFR 601.22; and**

**(ii) Must inform its officers, employees, and agents with responsibilities with respect to loans made, insured or guaranteed under the Title IV, HEA loan program annually of the provisions of the code required under paragraph (b) (27) of this section.**