

Issue Paper 1
Proposed Regulatory Language
Team II—School-based Loan Issues

Origin:	HEOA sections 120 and 1021(b)
Issue:	Required Disclosures for Covered Entities
Statutory cites:	HEA Sections 151 – 155
Regulatory cites:	New Part 601
DCL GEN-08-12 cite:	Pages 39 - 44

Summary of issue: Sections 120 and 1021(b) of the HEOA amended Title I of the HEA by requiring significant new disclosures to borrowers of education loans and related institutional and lender reporting to the Department. The required borrower disclosures apply to both Title IV student loans and private education loans, and are required of institutions of higher education, institution-affiliated organizations, and lenders. The disclosures for private education loans are based on the Truth in Lending Act (TILA), and the Department is directed to work with the Board of Governors of the Federal Reserve System to implement these requirements. This issue paper discusses these requirements as they apply to institutions of higher education and their affiliated organizations. Lender-specific requirements are discussed in Team I’s Issue Paper 15.

Note: The lender-specific responsibilities in Section 152(b), as well as the definitions for the terms “eligible lender,” “lender,” and “private education loan,” will be addressed by Team I—General/Lender Loan Issues. The remaining provisions in Sections 151 – 155 will be addressed by Team II—School-based Loan Issues.

Definitions (Sec. 151)

The HEOA provides definitions for the following terms:

- Agent
- Covered institution
- Education loan
- Eligible lender
- Institution-affiliated organization
- Lender
- Officer
- Preferred lender arrangement
- Private education loan

A “**covered institution**” is an institution of higher education that receives any Federal funding or assistance. An “**institution-affiliated organization**” is any organization directly or indirectly related to a covered institution, including alumni organizations,

foundations, or social organizations, that recommends, promotes, or endorses education loans for students attending the covered institution. Note that a “covered institution” includes institutions that receive any type of Federal funding or assistance, not just Title IV, HEA funding or assistance.

An “**education loan**” is a FFEL Loan, a Direct Loan, or a private education loan. A “**private education loan**” is a non-Title IV loan made to a borrower expressly for postsecondary educational expenses, and that is not an extension of credit under an open-end consumer credit plan, or secured by real property or a dwelling.

A “**preferred lender arrangement**” is an arrangement or agreement between a lender and a covered institution or an institution-affiliated organization, under which the lender provides education loans to the covered institution’s students or their families, and that relates to the covered institution or institution-affiliated organization recommending, promoting, or endorsing the lender’s education loan products. A preferred lender arrangement does include arrangements or agreements with respect to Direct Loan Program loans or loans that originate through the PLUS Loan auction pilot program.

Preferred Lender Arrangement Disclosures (Sec 152(a)(1)(A))

A covered institution or an institution-affiliated organization with a preferred lender arrangement is required to provide on its website and in all informational materials including publications, mailings, electronic messages or materials that are distributed to current or prospective students and that describe or discuss education loans, the following disclosures:

- The maximum amount of Title IV grant and loan aid available to students;
- Certain information on FFEL loans offered pursuant to a preferred lender arrangement, to be determined by the Department of Education in coordination with the Board of Governors of the Federal Reserve System;
- A statement that the institution is required to process documents required to obtain a FFEL loan from any eligible lender the student selects.

Any websites or other information materials including publications, electronic messages or materials that describe or discuss private education loans made pursuant to a preferred lender arrangement must provide the following disclosures:

- For a covered institution, the information required by Section 128(e)(11) of the Truth in Lending Act;
- For an institution-affiliated organization, the information required by Section 128(e)(1) of the Truth in Lending Act.

Private Education Loan Disclosures (Sec. 152(a)(1)(B))

A covered institution, or an institution-affiliated organization that provides information regarding a private education loan from a lender to a prospective borrower, is required to provide the following disclosures:

- The information required by Section 128(e)(1) of the Truth in Lending Act;
- Information on the availability of Title IV loans or other assistance;
- That the terms and conditions of Title IV loans or assistance may be more beneficial than the terms and conditions of private education loans.

The HEOA specifies that the information regarding private education loans must be presented in a manner as to be distinct from information regarding Title IV loans.

The covered institution or institution-affiliated organization must provide these disclosures whether or not the covered institution or institution-affiliated organization has a preferred lender arrangement with the lender.

Use of Institution and Lender Name (Sec. 152(a)(2) and (3))

A covered institution or an institution-affiliated organization may not allow a lender with which it has a preferred lender arrangement to use the name, emblem, mascot, logo, or other identifiable symbol of the covered institution or institution-affiliated organization to market private education loans to students.

A covered institution or an institution-affiliated organization shall ensure that the name of a lender with which it has a preferred lender arrangement is displayed in all information and documentation related to private education loans offered by the lender.

Information to be Disclosed and Model Disclosure Form (Sec. 153(a))

The Department, in coordination with the Board of Governors of the Federal Reserve System, will determine the minimum information regarding FFEL Loans that covered institutions and institution-affiliated organizations participating in a preferred lender arrangement must provide to students and their families.

The Department will develop a model disclosure form that includes this information. Covered institutions and institution-affiliated organizations may use the model disclosure form to provide this information to prospective borrowers and their families, but are not required to use the model disclosure form.

Duties of Covered Institutions and Institution-Affiliated Organizations (Sec. 153(c))

A covered institution and each of its institution-affiliated organizations that has a preferred lender arrangement must provide to students and their families, the following disclosures for education loans provided pursuant to any preferred lender arrangement:

- For a covered institution and each of its institution-affiliated organizations, the information to be determined by the Department in coordination with the Federal Reserve Board, as specified in Sec. 153(a);
- For a covered institution, the information required under section 128(e)(11) of the Truth in Lending Act for private education loans offered pursuant to a preferred lender arrangement.
- For an institution-affiliated organization, the information required under section 128(e)(1) of the Truth in Lending Act for private education loans offered to students of the institution the organization is affiliated with offered pursuant to a preferred lender arrangement.

These disclosures must be provided in a timely manner allowing students and their families to take such information into account before selecting a lender or applying for an education loan.

Annual Report (Sec. 153(c)(2))

A covered institution and an institution-affiliated organization that has a preferred lender arrangement must submit to the Department an annual report that provides the information described in the section above, and a detailed explanation of why the covered institution or institution-affiliated organization entered into a preferred lender arrangement with the lender. The explanation must explain how the terms, conditions, and provisions of each type of education loan provided pursuant to the preferred lender arrangement are beneficial for students attending the covered institution.

Code of Conduct (Sec. 153(c)(3))

A covered institution and an institution-affiliated organization that has a preferred lender arrangement must comply with the code of conduct requirements in Section 487(a)(25)(A) – (C) of the HEA.

An institution-affiliated organization of a covered institution must comply with the code of conduct developed and published by the covered institution; publish the code of conduct prominently on its web site, if it has one; and administer and enforce the code of conduct. At a minimum, the institution-affiliated organization must require that all of the organization's agents with responsibilities with respect to education loans are annually informed of the provisions of the code of conduct.

Disclosure Requirements for Direct Loan Schools (Sec. 154)

The Department will develop a model disclosure form for Direct Loans, based on the model disclosure form described in Sec. 153(a). The Department will provide the Direct Loan model disclosure form to Direct Loan schools, within 180 days of the development of the FFEL model disclosure form. A Direct Loan school must provide the information required on the model disclosure form to students attending or planning to attend the school, or their families. If the Direct Loan school provides information regarding a private education loan to a prospective borrower, it must provide the information from the Direct Loan model disclosure form at the same time.

The Direct Loan school may use the Direct Loan model disclosure form for this purpose, or may use a comparable form designed by the school.

Self-Certification Form for Private Education Loans (Sec. 155)

The Department, in consultation with the Board of Governors of the Federal Reserve System, will develop a self-certification form for private education loans, to meet the requirements of Sec. 128(e)(3) of the Truth in Lending Act. The self-certification form will be developed in a standardized format and must be made available to the applicant at the institution of higher education upon the request of the applicant. The form will contain only the disclosures specified in Sec. 155(a)(3) and include a place for the applicant to provide information on the applicant's—

- Cost of Attendance
- Expected Family Contribution
- Estimated Financial Assistance
- The difference between the applicant's COA and EFA
- The sum of that difference plus EFC.

The self-certification form must disclose to the applicant that the information that the applicant is required to provide on the form is available from officials at the financial aid office of the institution of higher education.

The self-certification form must include a place for the applicant's signature, in written or electronic form.

Issue Paper 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:	TBD; possibly §668.14(b)(27), or Part 601
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.

Issue Paper 3
Proposed Regulatory Language
Team II – School-based Loan Issues

Origin:	HEOA section 1011
Issue:	Disclosures of Reimbursements for Service on Advisory Boards
Statutory cites:	HEA section 485(m)
Regulatory cites:	TBD; possibly §668.16(c)
DCL GEN-08-12 cite:	Page 102

Summary of issue: The HEOA adds a new requirement that an institution participating in any Title IV program report annually to the Secretary, any reasonable expenses paid or provided under section 140(d) of the Truth in Lending Act to any employee who is employed in the financial aid office, or who otherwise has responsibilities with respect to education loans or other financial aid of the institution. The report must include:

- the amount of each specific instance of reasonable expenses paid or provided;
- the name of the financial aid official, other employee, or agent to whom the expenses were paid or provided;
- the dates of the activity for which the expenses were paid or provided; and
- a brief description of the activity for which the expenses were paid or provided.

The Secretary must summarize the information received from institutions in an annual report to Congress.

Issue Paper 4
Proposed Regulatory Language
Team II – School-based Loan Issues

Origin:	HEOA section 493
Issue:	PPA: Private Education Loan Certification
Statutory cites:	HEA section 487(a)(28)
Regulatory cites:	TBD; possibly §668.14(b)(29)
DCL GEN-08-12 cite:	Page 71

Summary of issue: The HEOA adds a new requirement to the Program Participation Agreement (PPA) that an institution participating in any Title IV program must, upon the request of an applicant for a private education loan, provide the applicant the self-certification form for private education loans required under section 128(e)(3) of the Truth in Lending Act (TILA) and the information needed to complete the form, specified in HEA section 155(a)(4), to the extent the institution has that information. The information to be supplied by the institution (if available) to the applicant includes:

- The applicant’s cost of attendance (COA) at the institution;
- The applicant’s expected family contribution (EFC), if the applicant completed the Free Application for Federal Student Aid (FAFSA);
- The applicant’s estimated financial assistance (EFA);
- The difference between the COA and the EFA; and
- The sum of the EFC and the difference between the COA and EFA.

Issue Paper 5
Proposed Regulatory Language
Team II – School-based Loan Issues

Origin:	HEOA section 488(a)
Issue:	Information and Dissemination Activities
Statutory cites:	HEA section 485(a)
Regulatory cites:	§668.42(a)
DCL GEN-08-12 cite:	Page 95

Summary of issue: As part of the required information an institution must make available to prospective and enrolled students, the HEOA added a general requirement that the institution describe the terms and conditions of the loans students receive under the FFEL, Direct Loan and Perkins Loan programs. The HEA and current regulations—in 34 CFR §668.42(a)(1)—require that an institution provide a description of all student financial assistance programs to prospective and enrolled students. The new statutory provision expands the information that institutions must provide to include the terms and conditions of the loans.

For students receiving financial assistance, current regulations—in 34 CFR §668.42(c)(4)—require an institution to provide specific information about any loan received by the student as part of the aid package.

The HEOA also deleted the specific statutory requirement that institutions provide information about the terms and conditions under which FFEL and Perkins Loans could be deferred for service under the Peace Corps or Domestic Volunteer Service acts.

Issue Paper 6
Proposed Regulatory Language
Team II—School-based Loan Issues

Origin:	HEOA section 488(b)
Issue:	Exit Counseling
Statutory cites:	HEA Section 485(b)(1)(A)
Regulatory cites:	§§674.42(b); 682.604(g); and 685.304(b)
DCL GEN-08-12 cite:	Pages 96 - 97

Summary of issue: The HEOA modified the HEA to require each eligible institution, through financial aid offices or otherwise, to conduct exit counseling for borrowers receiving loans made, insured or guaranteed under the FFEL Program (except for Consolidation Loans or Federal PLUS loans made to parent borrowers) or loans made under the Direct Loan Program (other than Federal Direct Consolidation Loans or Federal Direct PLUS loans made to parent borrowers) or made under the Perkins Loan Program prior to the completion of the borrower's course of study or the borrower's departure from the institution. Many of the exit counseling requirements are similar to existing exit counseling requirements required by the Department's regulations at 34 CFR §§ 674.42(b), 682.604(g), and 685.304(b).

The exit counseling must include:

- Information on repayment plans which includes a description of the different features of each plan and samples showing average anticipated monthly payments with the difference in interest paid and total payments shown with each plan;
- Debt management strategies to assist the borrower in repaying the debt;
- Options the borrower has to prepay each loan or pay each loan on a shorter schedule or to change repayment plans;
- Information on loan forgiveness and cancellation provisions and the conditions under which the borrower may obtain full or partial forgiveness or cancellation of principal and interest;
- Information on forbearance provisions and a general description of terms and conditions under which the borrower may defer repayment of principal or interest or be granted forbearance;
- Information on the consequences of default on a loan which includes adverse credit reports and delinquent debt collection procedures under Federal law and litigation;
- Information with respect to Consolidation Loans to discharge FFEL, Direct Loan, and Perkins Loan program loans which includes—
 1. The effects of the consolidation on total interest to be paid, fees, and length of repayment;

2. The effect on a borrower's underlying loan benefits, which includes grace periods, loan forgiveness, cancellation and deferment;
 3. The option the borrower has to prepay the loan or to change repayment plans; and
 4. That borrower benefit programs may vary depending on the lender;
- A general description of the types of tax benefits that might be available to borrowers; and
 - Information on how a borrower can use NSLDS to get information on the status of their loans.

Issue Paper 7
Proposed Regulatory Language
Team II – School-based Loan Issues

Origin:	HEOA section 493(h)
Issue:	PPA: Preferred Lender Lists
Statutory cites:	HEA section 487(h)
Regulatory cites:	TBD; possibly §668.14(b)(28)
DCL GEN-08-12 cite:	Page 70

Summary of issue: The HEOA adds a new requirement to the Program Participation Agreement (PPA) for an institution that enters into a preferred lender arrangement

An institution that enters into a preferred lender arrangement must—as a condition of program participation—compile, maintain, and make available to students and their families a list of the specific lenders for loans made under a Title IV program and for private education loans the institution recommends or promotes in accordance with its lender arrangement. The institution must, at least annually, compile and make the list available in print or other medium.

In compiling, maintaining, and making available the preferred lender list, an institution must:

- disclose detailed information about the terms and conditions of the loans offered by preferred lenders, as required under section 153(a)(2)(A) of the HEA;
- disclose why it entered into an arrangement with each lender, particularly with respect to terms and conditions or provisions favorable to the borrower;
- disclose that students and families of students do not have to borrow from a lender on the preferred lender list;
- ensure that the list contains at least three unaffiliated lenders for FFEL loans and, if the institution has a preferred lender list for private loans, at least two unaffiliated lenders for those loans. The list must specifically indicate whether a lender is or is not an affiliate of each other lender on the list. If a lender is an affiliate of another lender, the institution must describe that affiliation;
- prominently disclose the method and criteria used in selecting the lenders to ensure that the lenders are selected on the basis of the best interests of the borrowers;
- exercise a duty of care and a duty of loyalty in compiling the list without prejudice and for the sole benefit of students and their families; and

- not deny or impede the borrower's choice of a lender or unnecessarily delay certifying a Title IV loan for a borrower who chooses a lender not on the list.

Issue Paper 8
Proposed Regulatory Language
Team II – School-based Loan Issues

Origin:	HEOA section 436
Issue:	Cohort Default Rate Calculation, Institutional Eligibility, and Default Prevention Plans
Statutory cites:	Sections 435(a) and (m) of the HEA
Regulatory cites:	§§668.183, 668.187, 668.189, and 668.195
DCL GEN-08-12 cite:	Page 131

Summary of issue: *Cohort Default Rate Calculation.* The HEOA increases the period used to calculate the cohort default rate from 2 to 3 years. Under the new calculation, the cohort default rate is the percentage of borrowers who default on their FFEL or Direct Loans before the end of the *second fiscal year* (instead of the first fiscal year) following the fiscal year in which those borrowers entered repayment. The new calculation is effective for cohort default rates calculated for fiscal year 2009 and subsequent years. In addition, the HEOA provides for a transition period during which sanctions will be continue to be imposed based on rates calculated using the 2-year methodology, until rates based on the 3-year rate have been calculated for 3 consecutive years.

Institutional Eligibility: Beginning with cohort default rates calculated for fiscal year 2012, the HEOA increases the threshold default percentage from 25 percent to 30 percent. An institution may lose its eligibility to participate in the Pell, FFEL, and Direct Loan programs if its cohort default rate is equal to or greater than the threshold percentage for 3 successive years.

The HEOA changes the provisions for default rate appeals. If the institution files a timely appeal and the Secretary determines that the institution demonstrates exceptional mitigating circumstances, the Secretary may not subject the institution to provisional certification based solely on its default rate.

In addition, effective October 1, 2011, the HEOA increases the *participation rate index* for appeal purposes from 0.0375 to 0.0625. An institution's participation rate index is calculated by:

(a) Dividing the total number of borrowers in a 12-month period by the total number of regular students enrolled on at least a half-time basis in the 12-month period, and

(b) Multiplying the result in (a) by the institution's cohort default rate.

An institution may avoid sanctions based on three consecutive years of cohort default rates that are 30% or higher if its participation rate index for any of the three years is 0.0625 or lower.

Default Prevention Plans: The HEOA requires an institution whose cohort default rate is greater than or equal to the 30% threshold for any fiscal year to establish a default prevention task force to prepare a default prevention plan to:

- Identify the factors causing the institution's rate to exceed the threshold;
- Establish measurable objectives and the steps to be taken to improve the institution's default rate; and
- Specify actions the institution can take to improve student loan repayment, including appropriate counseling regarding loan repayment options.

The institution must submit its default prevention plan to the Department. The Department is required to review the plan and provide technical assistance to the institution to promote improved student loan repayment.

If the institution's cohort default rate exceeds the threshold percentage for two consecutive fiscal years, its default prevention plan must be reviewed and revised by the task force and resubmitted to the Department. The Department is required to review the revised plan and may require the institution to amend the plan to include actions with measurable objectives that the Department determines will promote student loan repayment.

Issue Paper 9
Proposed Regulatory Language
Team II—School-based Loan Issues

Origin:	HEOA section 488(g)
Issue:	Entrance Counseling
Statutory cites:	HEA Section 485(l)
Regulatory cites:	§§682.604(f) and 685.304(a)
DCL GEN-08-12 cite:	Page 102

Summary of issue: The entrance counseling that institutions is required to provide to first time borrowers of FFEL Program or Direct Loan Program loans at or prior to disbursement is modified under new subsection (l) of section 485 of the HEA to ensure that the borrower receives detailed information on the terms and conditions of the loan and the borrower's responsibilities with respect to the loan. Institutions are encouraged to use interactive programs to test the borrower's understanding of the terms and conditions of their loans. The entrance counseling may be conducted during an in-person session, or provided in a separate notice to a borrower who acknowledges receipt and understanding by signing and returning an acknowledgement to the institution or by providing an online borrower acknowledgement of receipt.

The entrance counseling must include the following information:

- To the extent practicable, what the effect of accepting the loan to be disbursed will have on the eligibility of the borrower for other forms of student aid;
- An explanation of the use of the master promissory note;
- Information on how interest accrues and is capitalized during periods when the interest is not paid by the borrower or the Secretary;
- For Unsubsidized Stafford Loans or PLUS Loans made under the FFEL or Direct Loan programs, the option of the borrower to pay the interest while in school;
- The definition of half-time enrollment at the institution, during regular terms and summer school, and the consequences of not maintaining half-time enrollment;
- An explanation of the importance of contacting the appropriate offices at the institution if the borrower withdraws prior to completing the program of study so the institution can provide exit counseling, including information regarding the borrower's repayment options and loan consolidation;
- Examples of monthly repayment amounts based on a range of level of indebtedness of borrowers of loans under section 428 or 428H of the HEA and, as appropriate, graduate borrowers of loans under section 428, 428B or 428H of the HEA, or the average cumulative indebtedness of other borrowers in the same programs as the borrower at the same institution;

- The obligation of the borrower to repay the full amount of the loan, regardless of whether the borrower completes the program in which the borrower is enrolled within the regular time for completion;
- The likely consequences of default on the loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;
- Information on the NSLDS and how the borrower may access their records; and
- The name and contact information of the individual a borrower can contact with questions regarding the borrower's rights and responsibilities for the terms and conditions of the loan.

Issue Paper 10
Proposed Regulatory Language
Team II – School-based Loan Issues

Origin: HEOA section 451

Issue: Direct Loan Borrower Disclosures

Statutory cites: HEA section 455(p)

Regulatory cites: §685.300(b)

DCL GEN-08-12 cite: Page 138

Summary of issue: The HEOA amends section 455 of the HEA to require schools participating in the Direct Loan Program to provide Direct Loan borrowers with the same disclosures lenders in the FFEL Program must provide to FFEL borrowers under §433 of the HEA.

The Department is also required to ensure that its contractors working on the Direct Loan Program also comply with these requirements.

Issue Paper 11
Proposed Regulatory Language
Team II: School-based Loan Issues

Origin: HEOA section 463

Issue: Perkins Loans Mandatory Assignment Program

Statutory cite: HEA section 463(a)(4)(e)(5), 463(a)(9)

Regulatory cite: §674.8

DCL GEN-08-12 cite: Page 134

Summary of Issue: The HEOA repealed the Department’s authority to require mandatory assignment of Perkins Loans based on Section 463(a)(9) which allowed the Department to include reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution. This statutory change nullifies the mandatory assignment regulations contained in Section 674.8 and published in a final rule on November 1, 2007. The Department continues to have the authority to require assignment as provided in HEA Section 463(a)(4) and 463(a)(5) if an institution has knowingly failed to maintain an acceptable collection record with regard to the loan or chooses to stop servicing and collecting its Perkins Loans. If the Department mandates assignment, it must apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary’s collection costs, among other institutions in accordance with section 462.

Issue Paper 12
Proposed Regulatory Language
Team II—School-based Loan Issues

Origin:	HEOA section 465
Issue:	Expansion of Teacher, Head Start, and Law Enforcement Cancellation Categories
Statutory cite:	HEA section 465(a)
Regulatory cite:	§§674.53, 674.57, 674.58
DCL GEN-08-06 cite:	Page 135

Summary of Issue: The HEOA expanded the existing teacher, Head Start, and law enforcement cancellation categories. These cancellations categories have been expanded to include:

- A teacher in a designated low-income elementary or secondary school who is employed by, or working in a school operated by, an educational service agency,
- Full-time staff members in a pre-kindergarten or childcare program that is licensed or regulated by the State;
- Full-time attorneys employed in Federal Public Defender Organizations or Community Defender Organizations, established in accordance with Section 3006A(g)(2) of Title 18, U.S.C.

Current borrowers with outstanding balances on loans already in repayment and for all new borrowers with eligible service performed on or after August 14, 2008, in these expanded cancellation categories, will qualify a borrower for cancellation, regardless of whether information on the expansion of the cancellation category appears on the borrower's promissory note.

Issue Paper 13
Proposed Regulatory Language
Team II: School-based Loan Issues

Origin: HEOA section 465

Issue: Addition of New Public Service Cancellation Categories

Statutory cite: HEA section 465(a)

Regulatory cite: 674.56

DCL GEN-08-12 cite: Page 136

Summary of Issue: The HEOA adds public service cancellation categories for borrowers who are:

- Full-time fire fighters with a local, State, or Federal fire department or fire district;
- Full-time faculty members at a Tribal College or University;
- Librarians with a master's degree in library science who are employed in an elementary or secondary school that qualifies for Title I funding, or in a public library that serves a geographic area that includes one or more Title I schools; or
- Full-time speech-language pathologists with a master's degree who are working exclusively with Title I eligible schools.

Current borrowers with outstanding balances on loans already in repayment and for all new borrowers with eligible service performed on or after August 14, 2008, in these new cancellation categories, will qualify for cancellation, regardless of whether the cancellation category appears on the borrower's promissory note.

Issue Paper 14

Proposed Regulatory Language Team II: School-based Loan Issues

Origin:	HEOA section 465
Issue:	Military Service Cancellation
Statutory cite:	HEA section 465(a)(3)(A)
Regulatory cite:	§674.59
DCL GEN-08-12 cite:	Page 136

Summary of Issue: The HEOA eliminates the 50 percent limitation on military service cancellations. Borrowers who are serving in areas of hostility may now receive military service cancellations of up to 100 percent of the loan in increments of 15 percent for the first and second years of service; 20 percent for the third and fourth years of service; and 30 percent for the fifth year of service. The cancellation provision applies to NDSL and Perkins Loans and the effective date is August 14, 2008.