

**Q & A from NASFAA's
The Final Rules, Fall 2007: Title IV Student Loan Programs Webinar Series
Part I**

Question	Answer
Federal Perkins Loan Program	
1. The handouts for the Loan Webinar on 11/19/2007 do not include section 674 of the regulations. Are you planning to post it?	Additional handouts have been posted for the Loan Webinar held on November 19, 2007 to include the marked version of NASFAA's compiled regulations for sections 668, 674, 682, and 685 of the regulations. In NASFAA's marked version of the revised regulations, you will see a line through sections of the regulations that have changed or been deleted. Added text is in red. All revisions are effective July 1, 2008, unless otherwise indicated in the Federal Register.
Simplification of Deferment Process	
2. If several loans were made by different lenders but all of those loans are currently held by one servicer, does the borrower still have to request a deferment from each of the lenders separately, or since all of the loans are held by one servicer, will the single deferment request be applied across the board to all loans held by that servicer?	The regulatory provisions under 674.38, 682.210, and 685.204 are permissive in that they allow, but do not require, one lender/servicer to grant a deferment based on another lender's/servicer's actions. As long as the servicer in this scenario has received at least one written or verbal deferment request from the borrower, the servicer may opt to apply that deferment request "across the board" to all loans it holds/services for the borrower as long as the deferment is for the same reason and time period and there is no discrepant information otherwise.
3. Are the new deferment simplification provisions in 674.38, 682.210, and 685.204 pertaining to a lender's ability to grant a deferment based on information from another lender applicable only to deferments on loans to "new borrowers" on or after July 1, 1993, as defined in regulations?	The regulations as currently written place the responsibility on the borrower to request a deferment on each loan he or she wants to have deferred with each lender or loan servicer. In the scenario where one servicer holds several of the borrower's loans, the borrower must specifically request deferment on each loan held by that servicer. ED is, however, reviewing the feasibility of allowing the practice suggested in the question scenario, so please stay tuned for future developments in this regard.
4. Is a PLUS Loan borrowed by a graduate student, rather than by a parent, dischargeable with submission of a death certificate?	Yes. Per sections 682.402(b) and 685.212(a), a graduate PLUS carries the same death discharge provisions as a parent PLUS.

Question	Answer
Alternative Lenders	
5. Are alternative lenders legally required to notify schools when they provide loans to students?	No. Currently, alternative lenders are not required to notify schools about loans provided to students. Under current practice, there is no uniform method by which aid administrators even learn about private educational loans borrowed after the fact. However, proposed legislation would require lenders to notify schools for all loans provided to students which exceed \$1,000.(See NASFAA Today's News' Article dated 12/10/07)
PLUS Borrowers	
6. Does a student/parent have to file a FAFSA before we can offer a PLUS?	All GRAD PLUS borrowers must complete a FAFSA. A parent borrower must complete a FAFSA only if required by their child's school. If the school does not require the parent and dependent applicant to complete the FAFSA the school is responsible for making sure both the parent and student meet the general eligibility criteria.
Grad/Professional PLUS Borrowers	
7. Can the guaranty agency instead of the school notify the student of: interest rates for both Stafford and PLUS, periods when interest accrues on Stafford and PLUS, and points when Stafford and PLUS enters repayment?	No. These are school-based requirements and functions and lenders may not perform these tasks.
8. Please clarify exit counseling requirements for Grad PLUS borrowers.	Exit counseling is required for borrowers who have both a Grad PLUS and a Stafford Loan. However, if the borrower only has a Grad PLUS, exit counseling is not required.
9. If the student completes initial Stafford counseling, must the student complete initial Grad PLUS counseling also?	Yes, the student must still complete initial counseling. Only a student who has a prior Grad PLUS is exempt from initial counseling.
10. Must the school develop separate initial counseling materials for both Stafford loans and Grad PLUS?	No, schools are not required to develop separate initial counseling materials for student PLUS borrowers with prior Stafford Loans and student PLUS borrowers without prior Stafford Loans. The regulations only specify minimum initial counseling requirements. Schools must provide certain information to PLUS borrowers who have received prior Stafford loans, and must provide certain information to PLUS borrowers who have not received prior Stafford Loans. The regulations do not prohibit schools from exceeding the minimum initial counseling requirements. If a school finds that providing comprehensive initial counseling to all student PLUS borrowers is more cost effective than providing the limited counseling required by the regulations, a school may provide the comprehensive counseling to all student PLUS borrowers.

Question	Answer
11. Is Grad PLUS counseling required to be in-person or can schools perform this task electronically?	Initial counseling must be conducted either in person, by audiovisual presentation or by interactive electronic means. If initial counseling is conducted through interactive electronic means, the school must take reasonable steps to ensure that each borrower receives the counseling materials, and participates in and completes the initial counseling.
12. For experimental sites, will we be required to complete entrance/exit counseling for Grad/Professional borrowers? Currently, we are exempt for undergraduate borrowers.	Department staff is currently reviewing this issue.
13. Can the school hold the student's degree or academic transcript if the student does not complete exit counseling for Grad PLUS or Stafford Loans?	The institution can withhold the student's official transcripts, but can not deny an individual access to or unofficial copies of his or her educational records.
Maximum Length of Loan Period	
14. What is the effective date for loan periods that extend past 12 months?	Unfortunately, this change does not have an early implementation option.
15. Can a school that uses standard terms (semesters, quarters, or trimesters) extend the period of the loan beyond 12 months if the school knows that the student will complete his/her program with one additional term? Ex: Student is enrolled for Winter 09, Spring 09, Summer 09, and final term of enrollment is Fall 09?	Yes. The elimination of the 12-month loan period maximum for annual loan limits in the FFEL and Direct Loan programs applies to all types of programs (standard, nonstandard, and nonterm) at all types of schools; however, the rules for treatment of annual loan limits and academic year progression in standard term programs using scheduled academic years (SAYs) and borrower-based academic years (BBAYs) still apply. For instance, a school using a SAY policy to certify a Stafford loan for a loan period of 15 months can still only certify a single annual loan limit for that 15-month loan period unless the student advances a grade level during that same period (in which case the school may certify only the difference in annual loan limits per the grade level change). Therefore, the school that posed the specific example question may prefer as a matter of good practice to separate out the final period remaining in an undergraduate student's program so the school can certify two loans with two annual loan limits—one for the Winter/Spring/Summer 09 loan period and one for the Fall 09 loan period. This way, certifying a prorated loan amount for the student's final period of enrollment (Fall 09), would allow that student to receive more than a single annual loan limit for the same 15-month period.

Question	Answer
Interest Rates	
16. Is the interest rate a fixed rate or a variable rate?	The interest rate for undergraduate, subsidized FFEL and Federal Direct Loans is a fixed rate. However, the fixed rate will be reduced each award year through June 30, 2012. Thereafter, the interest rate will be fixed at 6.8 percent.
17. Regarding interest rates for undergraduate FFEL and Direct subsidized Stafford loans, does that mean loans originated or guaranteed as of July 1 or first disbursed July 1?	The interest rate is for loans first disbursed on or after July 1, 2008.
Identity Theft Discharge	
18. Do the new provisions for identity theft discharges apply to Federal Perkins Loan?	The guidance is specifically for the FFEL and Federal Direct Loan programs.
Preferred Lender Lists	
19. What is the definition of “unaffiliated”?	Many schools currently exercise the option to provide a list of preferred or recommended lenders to prospective borrowers. Effective July 1, 2008, schools that wish to continue to exercise this option must ensure that their preferred lender lists include at a minimum, 3 unaffiliated lenders. In this context, unaffiliated means no common control, ownership, directors, trustees, or general partnership relations exist that would connect one lender on the school’s list to another. It is also important to note that the Department expects a school to collect and retain a statement certifying to this fact, upon which the school can rely, from each of the lenders they propose to include on their list.
20. How is comparative information about borrower benefits defined?	Some examples of comparative data include interest rates, fees, incentives, and special benefits. To assist schools with this effort, the Department is developing a model format that a school may opt to use to present this information. The Department will be sharing a draft of the model format with representatives of school, lending and guaranty agency communities as well as students and parents to solicit their thoughts and suggestions. The draft model format will then be revised and submitted for clearance to OMB as required by the Paperwork Reduction Act of 1995. The Department anticipates that this process will result in a final model form for distribution to schools in late Spring 2008.

Question	Answer
21. Are schools in the School-As-Lender (SAL) program required to develop a preferred lender list?	No, as in the past institutions that participate in the school as lender program have the option to provide borrowers with a preferred lender list. They are not required to do so. However, NASFAA is of the opinion that it would be a good practice for the schools participating in the school as lender program to provide borrowers with a preferred lender list.
22. If the school chooses NOT to have a preferred lender list, does the school still have to provide all of the required disclosures? In addition, can a school choose not to have a preferred lender list?	Schools still have the discretion to choose not to provide a preferred lender list. It is NASFAA's understanding that a school that opts not to provide a preferred lender list to its borrowers does not have to provide the disclosures associated with the preferred lender list provisions. However, it is important to note that the school must still provide all other disclosures outlined in the regulations for the FFEL program.
Inducements	
23. What is the FTC?	FTC stands for the Federal Trade Commission. Prior to the publication of the November 1, 2007 final regulations, the FTC "holder rule" applied to for-profit institutions only. The final regulations expand the FTC "holder rule" to FFEL loans for all schools. This means that any lender holding the borrower's loans is subject to all claims and defenses that the borrower could assert against the school with respect to the loan.
24. Relative to the inducement provisions, if a lender provides printed materials to a school that deals with financial aid, is this co-branding considered a benefit that is no longer allowed?	It is NASFAA's understanding that lenders and guarantors may provide financial aid literacy information and materials as well as services comparable to those provided by the Direct Loan Servicer for Direct loan schools. Such activities would not be considered a violation of the inducement provisions.
25. Do the new final rules prohibit in any way a school from participating with a bank which also participates in the student loan programs to offer a cash card for banking services; especially if an RFP process was used to select the lender for banking services at the school?	All payments, premiums, points, or other benefits to a school, school-affiliated organization, or individual for loan applications, loan volume, or placement on a preferred lender list are prohibited inducements. So if the school received a discount on banking fees from a lender that is on the school's preferred lender list then that would be perceived as an inducement.
26. If a high school is sponsoring a financial aid parent night at the local college, are lenders permitted to supply marketing and financial aid materials?	Yes, it is NASFAA's understanding a lender's support and/or participation in student financial aid literacy outreach with activities at schools sponsored events would not be perceived as an inducement.

Question	Answer
27. What is considered to be a reasonable cost?	<p>“Reasonable costs” are the normal per person cost for a given event. The Secretary expects conference managers as well as sponsoring lenders and guaranty agencies to adhere to the “prudent person test” under which the cost per person for the sponsored event does not exceed the cost that would be incurred by a prudent person under the circumstances at the time the decision was made to incur the cost. Note that the burden of proof will be on conference managers and sponsors to show that the costs are consistent with the normal per person cost of such events.</p>