

## § 1078-2. Federal PLUS loans

### (a) Authority to borrow

#### (1) Authority and eligibility

Prior to July 1, 2010, a graduate or professional student or the parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, if—

(A) the graduate or professional student or the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary;

(B) in the case of a graduate or professional student or parent who has been convicted of, or has pled *nolo contendere* or guilty to, a crime involving fraud in obtaining funds under this subchapter and part C of subchapter I of chapter 34 of title 42, such graduate or professional student or parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 obtained by fraud; and

(C) the graduate or professional student or the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

#### (2) Terms, conditions, and benefits

Except as provided in subsections (c), (d), and (e) of this section, loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

#### (3) Special rules

##### (A) Parent borrowers

Whenever necessary to carry out the provisions of this section, the terms “student” and “borrower” as used in this part shall include a parent borrower under this section.

##### (B)(i) Extenuating circumstances

An eligible lender may determine that extenuating circumstances exist under the regulations promulgated pursuant to paragraph (1)(A) if, during the period beginning January 1, 2007, and ending December 31, 2009, an applicant for a loan under this section—

(I) is or has been delinquent for 180 days or fewer on mortgage loan payments or on medical bill payments during such period; and

(II) does not otherwise have an adverse credit history, as determined by the lender in accordance with the regulations promulgated pursuant to paragraph (1)(A), as such regulations were in effect on the day before May 7, 2008.

##### (ii) Definition of mortgage loan

In this subparagraph, the term “mortgage loan” means an extension of credit to a borrower that is secured by the primary residence of the borrower.

##### (iii) Rule of construction

Nothing in this subparagraph shall be construed to limit an eligible lender’s authority

under the regulations promulgated pursuant to paragraph (1)(A) to determine that extenuating circumstances exist.

#### (b) Limitation based on need

Any loan under this section may be counted as part of the expected family contribution in the determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42, but no loan may be made to any graduate or professional student or any parent under this section for any academic year in excess of (A) the student’s estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 1078(a)(2)(A) of this title. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

#### (c) PLUS loan disbursement

All loans made under this section shall be disbursed in accordance with the requirements of section 1078-7 of this title and shall be disbursed by—

(1) an electronic transfer of funds from the lender to the eligible institution; or

(2) a check copayable to the eligible institution and the graduate or professional student or parent borrower.

#### (d) Payment of principal and interest

##### (1) Commencement of repayment

Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral—

(A)(i) during any period during which the parent borrower or the graduate or professional student borrower meets the conditions required for a deferral under section 1077(a)(2)(C) or 1078(b)(1)(M) of this title; and

(ii) upon the request of the parent borrower, during any period during which the student on whose behalf the loan was borrowed by the parent borrower meets the conditions required for a deferral under section 1077(a)(2)(C)(i)(I) or 1078(b)(1)(M)(i)(I) of this title; and

(B)(i) in the case of a parent borrower, upon the request of the parent borrower, during the 6-month period beginning on the later of—

(I) the day after the date the student on whose behalf the loan was borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(II) if the parent borrower is also a student, the day after the date such parent borrower ceases to carry at least one-half such a workload; and

(ii) in the case of a graduate or professional student borrower, during the 6-month period beginning on the day after the date such student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

##### (2) Capitalization of interest

###### (A) In general

Interest on loans made under this section for which payments of principal are deferred

pursuant to paragraph (1) shall, if agreed upon by the borrower and the lender—

- (i) be paid monthly or quarterly; or
- (ii) be added to the principal amount of the loan not more frequently than quarterly by the lender.

**(B) Insurable limits**

Capitalization of interest under this paragraph shall not be deemed to exceed the annual insurable limit on account of the borrower.

**(3) Subsidies prohibited**

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

**(4) Applicable rates of interest**

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

**(5) Amortization**

The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

- (A) the amount of the periodic payment will be adjusted annually, or
- (B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

**(e) Refinancing**

**(1) Refinancing to secure combined payment**

An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under this section as in effect prior to October 17, 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

**(2) Refinancing to secure variable interest rate**

An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under this section as in effect prior to October 17, 1986, in order to permit the borrower to obtain the interest rate provided under section 1077a(c)(4) of this title. A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed \$100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

**(3) Refinancing by discharge of previous loan**

A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 1077a(c)(4) of this title;

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (d)(5)(B) of this section);

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

**(4) Certification in lieu of promissory note presentation**

Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

**(f) Verification of immigration status and social security number**

A parent who wishes to borrow funds under this section shall be subject to verification of the parent's—

(1) immigration status in the same manner as immigration status is verified for students under section 1091(g) of this title; and

(2) social security number in the same manner as social security numbers are verified for students under section 1091(p) of this title.

(Pub. L. 89-329, title IV, §428B, as added Pub. L. 99-498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1386; amended Pub. L. 100-50, §10(o), (p)(2), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 102-325, title IV, §418, July 23, 1992, 106 Stat. 531; Pub. L. 103-66, title IV, §4109(a), Aug. 10, 1993, 107 Stat. 369; Pub. L. 105-178, title VIII, §8301(a)(2), June 9, 1998, 112 Stat. 497; Pub. L. 105-244, title IV, §§416(a)(2), 419, Oct. 7, 1998, 112 Stat. 1680, 1694; Pub. L. 109-171, title VIII, §§8005(c), 8014(g),

Feb. 8, 2006, 120 Stat. 158, 171; Pub. L. 110-227, §§3(a), 4, May 7, 2008, 122 Stat. 742, 743; Pub. L. 110-315, title IV, § 424(a), Aug. 14, 2008, 122 Stat. 3232; Pub. L. 111-39, title IV, § 402(f)(2), July 1, 2009, 123 Stat. 1943; Pub. L. 111-152, title II, § 2205, Mar. 30, 2010, 124 Stat. 1075.)

#### PRIOR PROVISIONS

A prior section 1078-2, Pub. L. 89-329, title IV, § 428B, as added Pub. L. 96-374, title IV, § 419, Oct. 3, 1980, 94 Stat. 1424; amended Pub. L. 97-35, title V, §§532(b)(3), 534(a)(2), (c)(1), (2), Aug. 13, 1981, 95 Stat. 452, 454; Pub. L. 98-79, § 12, Aug. 15, 1983, 97 Stat. 484, related to auxiliary loans to assist students, prior to the general revision of this part by Pub. L. 99-498.

#### AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-152 substituted “Prior to July 1, 2010, a graduate” for “A graduate” in introductory provisions.

2009—Subsec. (e)(3)(B). Pub. L. 111-39, § 402(f)(2)(A), substituted “subsection (d)(5)(B)” for “subsection (c)(5)(B)”.

Subsec. (e)(5). Pub. L. 111-39, § 402(f)(2)(B), struck out par. (5) which related to notification to borrowers of availability of refinancing options for certain loans made before Oct. 17, 1986.

2008—Subsec. (a)(3). Pub. L. 110-227, § 4, amended par. (3) generally. Prior to amendment, text read as follows: “Whenever necessary to carry out the provisions of this section, the terms ‘student’ and ‘borrower’ as used in this part shall include a parent borrower under this section.”

Subsec. (a)(3)(B)(i)(II). Pub. L. 110-315, § 424(a)(1), added subcl. (II) and struck out former subcl. (II) which read as follows: “is not and has not been more than 89 days delinquent on the repayment of any other debt during such period.”

Subsec. (d)(1), (2). Pub. L. 110-315, § 424(a)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which related to commencement of repayment and capitalization of interest.

Pub. L. 110-227, § 3(a), amended pars. (1) and (2) generally. Prior to amendment, text related to commencement of repayment and capitalization of interest.

2006—Subsec. (a)(1). Pub. L. 109-171, § 8005(c)(1)(A), in introductory provisions, substituted “A graduate or professional student or the parents” for “Parents”.

Subsec. (a)(1)(A). Pub. L. 109-171, § 8005(c)(1)(B), substituted “the graduate or professional student or the parents” for “the parents”.

Subsec. (a)(1)(B). Pub. L. 109-171, § 8014(g)(1), (3), added subpar. (B). Former subpar. (B) redesignated (C).

Pub. L. 109-171, § 8005(c)(1)(C), substituted “the graduate or professional student or the parents” for “the parents”.

Subsec. (a)(1)(C). Pub. L. 109-171, § 8014(g)(2), redesignated subpar. (B) as (C).

Subsec. (b). Pub. L. 109-171, § 8005(c)(2), substituted “any graduate or professional student or any parent” for “any parent”.

Subsec. (c)(2). Pub. L. 109-171, § 8005(c)(3), substituted “graduate or professional student or parent” for “parent”.

Subsec. (d)(1). Pub. L. 109-171, § 8005(c)(4), substituted “the graduate or professional student or the parent” for “the parent”.

1998—Subsec. (a). Pub. L. 105-244, § 419(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Parents of a dependent student, who do not have an adverse credit history as determined pursuant to regulations of the Secretary, shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, and unless otherwise specified in subsections (c), (d), and (e) of this section, such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms ‘student’ and ‘borrower’

as used in this part shall include a parent borrower under this section.”

Subsec. (d)(4). Pub. L. 105-244, § 416(a)(2), substituted “section 1077a” for “section 1077a(c)”.

Pub. L. 105-178 which directed substitution of “section 1077a of this title for loans made under this section” for “section 1077a(c) of this title” in “section 428B(d)(4) (20 U.S.C. 1078-2(d)(4))” could not be executed because it did not indicate what act was to be amended.

Subsec. (f). Pub. L. 105-244, § 419(2), added subsec. (f).

1993—Subsec. (c). Pub. L. 103-66 inserted “shall be disbursed in accordance with the requirements of section 1078-7 of this title and” after “under this section”.

1992—Pub. L. 102-325, § 418(a), substituted “Federal PLUS” for “PLUS” in section catchline.

Subsec. (a). Pub. L. 102-325, § 418(b)(1), substituted “subsections (c), (d), and (e)” for “subsections (c) and (d)” and inserted “, who do not have an adverse credit history as determined pursuant to regulations of the Secretary,” after “a dependent student”.

Subsec. (b). Pub. L. 102-325, § 418(b)(2), struck out subsec. (b) designation and heading, redesignated par. (3) as subsec. (b), and struck out pars. (1) and (2) which set the annual limit on the amount parents may borrow for one student in any academic year at \$4,000 and set the aggregate insured principal amount for insured loans at not to exceed \$20,000.

Subsec. (c). Pub. L. 102-325, § 418(b)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102-325, § 418(c), (d), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

“(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 1077(a)(2)(C) or 1078(b)(1)(M) of this title; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section.

“(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.”

Pub. L. 102-325, § 418(b)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102-325, § 418(b)(3), redesignated subsec. (d) as (e).

1987—Subsec. (a). Pub. L. 100-50, § 10(o)(2)(A), struck out “, but such a parent borrower shall not be eligible for any deferment pursuant to section 1077(a)(2)(C) or 1078(b)(1)(M) of this title except for the deferments allowed (with respect to the student) under clauses (i), (viii), and (ix) of such sections” after “borrower under this section”.

Subsec. (b)(3). Pub. L. 100-50, § 10(p)(2), amended first sentence generally, substituting “for any academic year in excess of (A) the student’s estimated cost of attendance, minus (B) other financial aid” for “which would cause the combined loans of the parent and the student for any academic year to exceed the student’s estimated cost of attendance minus such student’s estimated financial assistance”.

Subsec. (c)(1). Pub. L. 100-50, § 10(o)(2)(B), struck out “pursuant to sections 1077(a)(2)(C)(i), (viii), and (ix) and 1078(b)(1)(M)(i), (viii), and (ix) of this title” after “subject to deferral” and inserted in lieu cls. (A) and (B).

Subsec. (c)(2). Pub. L. 100-50, § 10(o)(1), (2)(C), (q), in introductory provisions, struck out “and interest” after first reference to “principal”, and substituted “pursuant to paragraph (1) of this subsection” for

“under sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title”, and, in subpar. (A), inserted “monthly or” before “quarterly”.

Subsec. (d)(1). Pub. L. 100-50, §10(r)(1)(A), inserted “at any time” after “eligible lender may” in first sentence, substituted “the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3)” for “the borrower complies with the requirements of paragraph (2)” in second sentence, and inserted “(if required by them)” after “shall be reported” in third sentence.

Subsec. (d)(2). Pub. L. 100-50, §10(r)(1)(B), inserted “under this section before July 1, 1987, or” before “under this section” and substituted “to reissue a loan or loans” for “to reissue a loan” and “reissuing such loan or loans” for “reissuing such loan”.

Subsec. (d)(5). Pub. L. 100-50, §10(r)(1)(C), substituted “October 1, 1987” for “January 1, 1987” and, in subpar. (B), inserted “and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples” before semicolon at end.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-315 effective for loans for which the first disbursement is made on or after July 1, 2008, see section 424(c) of Pub. L. 110-315, set out as a note under section 1078 of this title.

Amendment by section 3(a) of Pub. L. 110-227 effective for loans first disbursed on or after July 1, 2008, see section 3(c) of Pub. L. 110-227, set out as a note under section 1078 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(a)(2) of Pub. L. 105-244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078-3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105-244, set out as a note under section 1077a of this title.

Amendment by section 419 of Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title IV, §4109(c), Aug. 10, 1993, 107 Stat. 370, provided that: “The amendments made by this section [amending this section and section 1078-7 of this title] shall be effective with respect to loans for which the first disbursement is made on or after October 1, 1993.”

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective July 23, 1992, except that changes made in subsec. (b), relating to annual and aggregate loan limits, are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, changes made in subsec. (a) with respect to use of credit histories are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, and subsec. (c), as added by Pub.

L. 102-325, relating to disbursement of Federal PLUS Loans, is applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432 of Pub. L. 102-325, set out as a note under section 1078 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

#### AMENDMENT OF NOTE OR OTHER WRITTEN EVIDENCE OF LOAN BY ELIGIBLE LENDER AT REQUEST OF BORROWER; CIRCUMSTANCES; DENIAL OF REQUEST

Pub. L. 100-50, §10(r)(2), June 3, 1987, 101 Stat. 344, provided that: “An eligible lender who has refinanced a loan or loans under section 428A(d) [former 20 U.S.C. 1078-1(d)] or 428B(d) [20 U.S.C. 1078-2(d)] between the date of enactment of the Higher Education Amendments of 1986 [Oct. 17, 1986] and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) [20 U.S.C. 1077a(c)(4)] as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C).”

### § 1078-3. Federal consolidation loans

#### (a) Agreements with eligible lenders

##### (1) Agreement required for insurance coverage

For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) of this section with the following eligible lenders:

(A) the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087-3 of this title;

(B) State agencies described in subparagraphs (D) and (F) of section 1085(d)(1) of this title; and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

##### (2) Insurance coverage of consolidation loans

Except as provided in section 1079(e) of this title, no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2) of this section. Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 1078(c) of this title, but no payment shall be made with respect to such loans under section 1078(f) of this title to any such agency.

##### (3) Definition of eligible borrower

(A) For the purpose of this section, the term “eligible borrower” means a borrower who—