

“(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and  
“(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

“(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.”

Subsec. (c)(2). Pub. L. 105–244, § 451(c)(1)(A), (B), substituted “Selection criteria” for “Transition selection criteria” in heading and “The Secretary” for “For academic year 1994–1995, the Secretary” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (B) as (A).

Pub. L. 105–244, § 451(c)(1)(C), struck out subpar. (A) which read as follows: “made loans under part D of this subchapter in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 1087bb(g) of this title for the most recent fiscal year for which data are available;”.

Subsec. (c)(2)(B) to (D). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (C), (D), and (F) as (B) to (D), respectively. Former subpar. (B) redesignated (A).

Subsec. (c)(2)(E). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (G) as (E).

Pub. L. 105–244, § 451(c)(1)(D), struck out subpar. (E) which read as follows: “in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part G of this subchapter;”.

Subsec. (c)(2)(F) to (H). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (G) and (H) as (E) and (F), respectively. Former subpar. (F) redesignated (D).

Subsec. (c)(3). Pub. L. 105–244, § 451(c)(2), struck out “after transition” after “approval” in heading and substituted “The Secretary” for “For academic year 1995–1996 and subsequent academic years, the Secretary” in text.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to selection of institutions for participation and origination for former provisions relating to selection by Secretary.

Subsec. (b)(2)(B). Pub. L. 103–208 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.” See Codification note above.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to selection by the Secretary for former provisions relating to agreements with institutions of higher education.

#### 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 1998 AMENDMENT

Amendment by 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

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

## § 1087d. Agreements with institutions

### (a) Participation agreements

An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 1091 of this title;

(B) estimate the need of each such student as required by part E of this subchapter for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 1078–8 of this title (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 1078–2 of this title (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student’s determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to such student;

(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title; and

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b) of this section, concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming

from its failure to perform its functions pursuant to the agreement;

(4) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(5) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(6) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

### **(b) Origination**

An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a) of this section;

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), and (6) of subsection (a) of this section, as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

### **(c) Withdrawal and termination procedures**

The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

(Pub. L. 89-329, title IV, § 454, as added Pub. L. 99-498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 100-50, § 12, June 3, 1987, 101 Stat. 348; Pub. L. 102-325, title IV, § 451, July 23, 1992, 106 Stat. 571; Pub. L. 103-66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 345; Pub. L. 111-152, title II, § 2210(a), Mar. 30, 2010, 124 Stat. 1078.)

#### AMENDMENTS

2010—Subsec. (a)(4) to (7). Pub. L. 111-152, § 2210(a)(1), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4), which read as follows: “provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this subchapter at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B of this subchapter for the same period of enrollment;”.

Subsec. (b)(2). Pub. L. 111-152, § 2210(a)(2), substituted “(5), and (6)” for “(5), (6), and (7)”.

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to agreements with institutions, consisting of subsecs. (a) to (c), for former provisions relating to requirements of agreements, consisting of pars. (1) to (7).

1992—Pub. L. 102-325 amended section generally, substituting provisions relating to requirements of agreements for former provisions relating to terms of loans under pilot program.

1987—Subsec. (a)(4). Pub. L. 100-50 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent.”

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-152, title II, § 2210(b), Mar. 30, 2010, 124 Stat. 1078, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010.”

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 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.

## **§ 1087e. Terms and conditions of loans**

### **(a) In general**

#### **(1) Parallel terms, conditions, benefits, and amounts**

Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers, and first disbursed on June 30, 2010, under sections 1078, 1078-2, 1078-3, and 1078-8 of this title.

#### **(2) Designation of loans**

Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 1078 of this title shall be known as “Federal Direct Stafford Loans”;

(B) section 1078-2 of this title shall be known as “Federal Direct PLUS Loans”;

(C) section 1078-3 of this title shall be known as “Federal Direct Consolidation Loans”; and

(D) section 1078-8 of this title shall be known as “Federal Direct Unsubsidized Stafford Loans”.

#### **(3) Termination of authority to make interest subsidized loans to graduate and professional students**

##### **(A) In general**

Subject to subparagraph (B) and notwithstanding any provision of this part or part B, for any period of instruction beginning on or after July 1, 2012—

(i) a graduate or professional student shall not be eligible to receive a Federal Direct Stafford loan under this part; and

(ii) the maximum annual amount of Federal Direct Unsubsidized Stafford loans such a student may borrow in any academic year (as defined in section 1088(a)(2)