

PART 601—INSTITUTION AND LENDER REQUIREMENTS RELATING TO
EDUCATION LOANS

Subpart C—Responsibilities of Covered Institutions and Institution-Affiliated
Organizations

§601.21 Code of conduct.

(a)(1) A covered institution that participates in a preferred lender arrangement must comply with the code of conduct requirements described in this section.

(2) The covered institution must—

(i) Develop a code of conduct with respect to FFEL Program loans and private education loans with which the institution's agents must comply. The code of conduct must—

(A) Prohibit a conflict of interest with the responsibilities of an agent of an institution with respect to FFEL Program loans and private education loans; and

(B) At a minimum, include the provisions specified in paragraph (c) of this section;

(ii) Publish such code of conduct prominently on the institution's Web site; and

(iii) Administer and enforce such code by, at a minimum, requiring that all of the institution's agents with responsibilities with respect to FFEL Program loans or private education loans be annually informed of the provisions of the code of conduct.

(b) Any institution-affiliated organization of a covered institution that participates in a preferred lender arrangement must—

(1) Comply with the code of conduct developed and published by such covered institution under paragraph (a)(1) of this section;

(2) If such institution-affiliated organization has a Web site, publish such code of conduct prominently on the Web site; and

(3) Administer and enforce such code of conduct by, at a minimum, requiring that all of such institution-affiliated organization's agents with responsibilities with respect to FFEL Program loans or private education loans be annually informed of the provisions of such code of conduct.

(c) A covered institution's code of conduct must prohibit—

(1) *Revenue-sharing arrangements with any lender.* The institution must not enter into any revenue-sharing arrangement with any lender. For purposes of this paragraph, the term *revenue-sharing arrangement* means an arrangement between a covered institution and a lender under which—

(i) A lender provides or issues a FFEL Program loan or private education loan to students attending the institution or to the families of such students; and

(ii) 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, an agent;

(2)(i) *Employees of the financial aid office receiving gifts from a lender, a guarantor, or a loan servicer.* Agents who are employed in the financial aid office of the institution or who otherwise have responsibilities with respect to FFEL Program loans or private education loans, must not solicit or accept any gift from a lender, guarantor, or servicer of FFEL Program loans or private education loans;

(ii) For purposes of paragraph (c) of this section, the term *gift* means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred;

(iii) The term *gift* does not include any of the following:

(A) Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.

(B) Food, refreshments, training, or informational material furnished to an agent as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of FFEL Program loans or private education loans to the institution, if such training contributes to the professional development of the agent.

(C) Favorable terms, conditions, and borrower benefits on a FFEL Program loan or private education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

(D) Entrance and exit counseling services provided to borrowers to meet the institution's responsibilities for entrance and exit counseling as required by §§682.604(f) and 682.604(g), as long as the institution's staff are in control of the counseling (whether in person or via electronic capabilities) and such counseling does not promote the products or services of any specific lender.

(E) Philanthropic contributions to an institution from a lender, servicer, or guarantor of FFEL Program loans or private education loans that are unrelated to FFEL Program loans or private education loans or any contribution from any lender, servicer, or guarantor, that is not made in exchange for any advantage related to FFEL Program loans or private education loans.

(F) State education grants, scholarships, or financial aid funds administered by or on behalf of a State; and

(iv) For purposes of paragraph (c) of this section, a gift to a family member of an agent, or to any other individual based on that individual's relationship with the agent, is considered a gift to the agent if—

(A) The gift is given with the knowledge and acquiescence of the agent; and

(B) The agent has reason to believe the gift was given because of the official position of the agent;

(3) *Consulting or other contracting arrangements.* An agent who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to FFEL Program loans or private education loans must not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as

compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to FFEL Program loans or private education loans. Nothing in paragraph (c)(3) of this section will be construed as prohibiting—

(i) An agent who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to FFEL Program loans or private education loans from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;

(ii) An agent who is not employed in the institution's financial aid office but who has responsibility with respect to FFEL Program loans or private education loans from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of FFEL Program loans or private education loans, if the institution has a written conflict of interest policy that clearly sets forth that agents must recuse themselves from participating in any decision of the board regarding FFEL Program loans or private education loans at the institution; or

(iii) An officer, employee, or contractor of a lender, guarantor, or servicer of FFEL Program loans or private education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from any decision regarding FFEL Program loans or private education loans at the institution;

(4) *Directing borrowers to particular lenders or delaying loan certifications.* The institution must not—

(i) For any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or

(ii) Refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency;

(5)(i) *Offers of funds for private loans.* The institution must not request or accept from any lender any offer of funds to be used for private education loans, including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with—

(A) A specified number of FFEL Program loans or private education loans;

(B) A specified loan volume of such loans; or

(C) A preferred lender arrangement for such loans.

(ii) For purposes of paragraph (c) of this section, the term *opportunity pool loan* means a private education loan made by a lender to a student attending the institution or the family member of such a student that involves a payment, directly or indirectly, by such institution of points, premiums, additional interest, or financial support to such lender for the purpose of such lender extending credit to the student or the family;

(6) *Staffing assistance.* The institution must not request or accept from any lender any assistance with call center staffing or financial aid office staffing, except that nothing in this paragraph will be construed to prohibit the institution from requesting or accepting assistance from a lender related to—

(i) Professional development training for financial aid administrators;

(ii) Providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials; or

(iii) Staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including State-declared or Federally declared natural disasters, Federally declared national disasters, and other localized disasters and emergencies identified by the Secretary; and

(7) *Advisory board compensation.* Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to FFEL Program loans or private education loans or other student financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, must not receive anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses, as that term is defined in §668.16(d)(2)(ii), incurred in serving on such advisory board, commission, or group.