TITLE 20 - EDUCATION
CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE
SUBCHAPTER IV - STUDENT ASSISTANCE
Part B - Federal Family Education Loan Program

§ 1078–7. Requirements for disbursement of student loans

(a) Multiple disbursement required

(1) Two disbursements required
The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) Minimum interval required
The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(3) Special rule
An institution whose cohort default rate (as determined under section 1085 (m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months. Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on February 8, 2006.

(4) Amendment to special rule
Beginning on October 1, 2011, the special rule under paragraph (3) shall be applied by substituting “15 percent” for “10 percent”.

(b) Disbursement and endorsement requirements

(1) First year students
The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period. An institution whose cohort default rate (as determined under section 1085 (m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph. Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on February 8, 2006.

(2) Other students
The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(3) Amendment to cohort default rate exemption
Beginning on October 1, 2011, the exemption to the requirements of paragraph (1) in the second sentence of such paragraph shall be applied by substituting “15 percent” for “10 percent”.

(c) Method of multiple disbursement
Disbursements under subsection (a) of this section—
(1) shall be made in accordance with a schedule provided by the institution (under section 1078 (a)(2)(A)(i)(II) of this title) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 1078 and 1078–1\(^1\) of this title, may be disbursed pursuant to the escrow provisions of section 1078 (i) of this title; and

(3) notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed by the lender in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) Withholding of second disbursement

(1) Withdrawing students

A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower’s loan and treated as a prepayment thereon.

(2) Students receiving over-awards

If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 2753 (b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower’s loan and treated as a prepayment thereon.

(e) Exclusion of consolidation and foreign study loans

The provisions of this section shall not apply in the case of a loan made under section 1078–3 of this title, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085 (m) of this title) of less than 5 percent.

(f) Beginning of period of enrollment

For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) Sales prior to disbursement prohibited

An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

Footnotes

\(^{1}\) See References in Text note below.
References in Text

Section 422(d) of the Higher Education Amendments of 1998, referred to in subsecs. (a)(3) and (b)(1), is section 422(d) of Pub. L. 105–244, set out as an Effective and Termination Dates of 1998 Amendment note below.


Codification

Text of subsec. (a)(3) and second sentence of subsec. (b)(1), which was temporarily added by Pub. L. 105–244, § 422(a), (b), and then omitted, was restored pursuant to amendment by Pub. L. 109–171, § 8010(1), (2). See 1998 and 2006 Amendment notes and Effective and Termination Dates of 1998 Amendment note below.

Amendments


Subsec. (c)(3). Pub. L. 111–39, § 402(f)(4)(B), added par. (3) and struck out former par. (3) which read as follows: “notwithstanding subsection (a)(2) of this section, may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.”


Subsec. (e). Pub. L. 109–171, § 8010(3), struck out “, made to a student to cover the cost of attendance at an eligible institution outside the United States” after “section 1078–3 of this title”.

1998—Subsec. (a)(3). Pub. L. 105–244, § 422(a), (d), temporarily added par. (3) which read as follows: “An institution whose cohort default rate (as determined under section 1085 (m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months.” See Codification note and 2006 Amendment note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (b)(1). Pub. L. 105–244, § 422(b), (d), temporarily inserted at end “An institution whose cohort default rate (as determined under section 1085 (m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph.” See Codification note and 2006 Amendment note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (e). Pub. L. 105–244, § 422(c), substituted “, made to a student” for “or made to a student” and inserted before the period at end “, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085 (m) of this title) of less than 5 percent”.

1993—Subsec. (c)(3). Pub. L. 103–208 directed the substitution of “disbursed by the lender” for “disbursed” and was executed by making the substitution the first place “disbursed” appeared, to reflect the probable intent of Congress.


Subsec. (d)(2). Pub. L. 102–325, § 421(b), inserted “, except that overawards permitted pursuant to section 2753 (b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph” before period at end of first sentence.

Subsec. (g). Pub. L. 102–325, § 421(c), added subsec. (g).

1990—Subsec. (b)(1). Pub. L. 101–508 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The first installment of the proceeds of any loan made under section 1078–1 of this title that is made to a student borrower who has not successfully completed the first year of a program of undergraduate education shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until—

“(A) 30 days after the borrower begins a course of study; and

“(B) the institution certifies that the borrower continues to be enrolled and in attendance at the end of such 30-day period, and is maintaining satisfactory progress;

but may be disbursed to the eligible institution prior to the end of such 30-day period.”

Effective Date of 2009 Amendment


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 and Termination Dates of 1998 Amendment


Pub. L. 105–244, title IV, § 422(d), Oct. 7, 1998, 112 Stat. 1696, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.”

Effective Date of 1993 Amendments

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.

Amendment by Pub. L. 103–66 effective with respect to loans for which the first disbursement is made on or after Oct. 1, 1993, see section 4109(c) of Pub. L. 103–66, set out as a note under section 1078–2 of this title.

Effective Date of 1990 Amendment

Section 3003(b) of Pub. L. 101–508 provided that: “The amendment made by this section [amending this section] shall be effective for loans made on or after the date of enactment of this Act [Nov. 5, 1990] to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.”

Effective Date

Section applicable with respect to loans made to cover cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 1077 of this title.