



Prepared by the EDFUND Government Relations and Regulatory Compliance Unit

Overview of the Ensuring Continued Access to Student Loans Act of 2008 – Public Law 110-227

Status: Ensuring Continued Access to Student Loans Act of 2008 was approved by the Senate on April 23, 2008 and by the House on April 24, 2008. The President signed the bill into law on May 7, 2008.

Implementation: Unless otherwise indicated, the effective date is the date of enactment. Some provisions will require guidance from the US Department of Education (USED) for implementation. It is recommended that readers monitor USED guidance in the form of Dear Colleague Letters and electronic bulletins for provisions impacting operational issues.

Last updated July 8, 2008

This document provides a summary of the Ensuring Continued Access to Student Loans Act of 2008 and is intended for informational purposes only. Readers should refer to the detail of the Act and US Department of Education guidance in determining applicability of relevant issues.

Subject	Summary	Effective Date/ Trigger Event	Comments/Discussion																				
Loan Limits: Dependent Undergraduate Student																							
Annual Unsubsidized Stafford Loan Limits HEA Sec. 428H(d)(3)	<p>Raises annual Stafford loan limits for dependent undergraduate students by adding \$2,000 in additional unsubsidized eligibility. Does not apply to dependent undergraduate students whose parents are unable to borrower a PLUS loan.</p> <table border="1" data-bbox="384 532 1005 792"> <thead> <tr> <th></th> <th>Subsidized/ Unsubsidized Base amount</th> <th>Additional Unsub prior to 7/1/08</th> <th>Additional Unsub on/after 7/1/08</th> </tr> </thead> <tbody> <tr> <td>1st yr</td> <td>\$3,500</td> <td>\$0</td> <td>\$2,000</td> </tr> <tr> <td>2nd yr</td> <td>\$4,500</td> <td>\$0</td> <td>\$2,000</td> </tr> <tr> <td>3rd yr</td> <td>\$5,500</td> <td>\$0</td> <td>\$2,000</td> </tr> <tr> <td>4th yr</td> <td>\$5,500</td> <td>\$0</td> <td>\$2,000</td> </tr> </tbody> </table>		Subsidized/ Unsubsidized Base amount	Additional Unsub prior to 7/1/08	Additional Unsub on/after 7/1/08	1 st yr	\$3,500	\$0	\$2,000	2 nd yr	\$4,500	\$0	\$2,000	3 rd yr	\$5,500	\$0	\$2,000	4 th yr	\$5,500	\$0	\$2,000	<p>Loans first disbursed on/after 07/01/08</p>	<p>Currently, this amount is set at the base subsidized/unsubsidized Stafford limit.</p> <p>Q. Will schools need to make appropriate changes to aid packages already certified due to the increased eligibility for loan funds?</p> <p>A. Yes. Schools will be able to certify the additional unsubsidized funds as a new loan to be disbursed on or after 7/1/08.</p> <p><i>Dear Colleague Letter GEN-08-08, FP-08-07</i> <i>Dependent undergraduate students whose parents are unable to borrow a PLUS loan are not eligible for both the new \$2,000 annual loan limit and the increased \$6,000 or \$7,000 additional Unsubsidized Stafford Loan annual loan limit.</i></p> <p><i>Unsubsidized Stafford Loan limit remains at \$7,000 for</i></p> <ul style="list-style-type: none"> • <i>Preparatory coursework for enrollment in a graduate program</i> • <i>Teacher certification program</i> • <i>Professional program</i> <p><i>Annual loan limit for a dependent undergraduate student in preparatory coursework necessary for enrollment in an undergraduate program remains at \$2,625.</i></p> <p><i>If the institution has already packaged students for the 2008-09 academic year using the prior loan limits the institution may</i></p> <ul style="list-style-type: none"> • <i>Re-package with the increased loan amounts</i> • <i>Provide notification to the student of increased loan eligibility</i>
	Subsidized/ Unsubsidized Base amount	Additional Unsub prior to 7/1/08	Additional Unsub on/after 7/1/08																				
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Aggregate Stafford loan limits HEA Sec. 428H(d)(3)	Increases the aggregate amount dependent students may borrow under the Stafford loan program. <table border="1" data-bbox="384 293 1005 456"> <thead> <tr> <th data-bbox="384 293 590 391">Aggregate Loan Limits</th> <th data-bbox="590 293 768 391">Subsidized Limit</th> <th colspan="2" data-bbox="768 293 1005 391">Unsub Limit (including subsidized limit)</th> </tr> </thead> <tbody> <tr> <td data-bbox="384 391 590 456">Undergraduate dependent</td> <td data-bbox="590 391 768 456">\$23,000</td> <td colspan="2" data-bbox="768 391 1005 456">\$31,000</td> </tr> </tbody> </table>	Aggregate Loan Limits	Subsidized Limit	Unsub Limit (including subsidized limit)		Undergraduate dependent	\$23,000	\$31,000		Loans first disbursed on/after 07/01/08	<i>Dear Colleague Letter GEN-08-08, FP-08-07</i> <i>The portion of subsidized Stafford Loans included in the increased aggregate limit (\$23,000) remains unchanged.</i>												
Aggregate Loan Limits	Subsidized Limit	Unsub Limit (including subsidized limit)																					
Undergraduate dependent	\$23,000	\$31,000																					
Loan Limits: Independent Undergraduate																							
Annual Unsubsidized Stafford Loan Limits HEA Sec. 428H(d)(4)	Independent students or students whose parents cannot obtain federal parent PLUS loans. <table border="1" data-bbox="384 651 1005 919"> <thead> <tr> <th data-bbox="384 651 491 781"></th> <th data-bbox="491 651 680 781">Subsidized/ Unsubsidized Base amount</th> <th data-bbox="680 651 837 781">Additional Unsub prior to 7/1/08</th> <th data-bbox="837 651 1005 781">Additional Unsub on/or after 7/1/08</th> </tr> </thead> <tbody> <tr> <td data-bbox="384 781 491 813">1st yr</td> <td data-bbox="491 781 680 813">\$3,500</td> <td data-bbox="680 781 837 813">\$4,000</td> <td data-bbox="837 781 1005 813">\$6,000</td> </tr> <tr> <td data-bbox="384 813 491 846">2nd yr</td> <td data-bbox="491 813 680 846">\$4,500</td> <td data-bbox="680 813 837 846">\$4,000</td> <td data-bbox="837 813 1005 846">\$6,000</td> </tr> <tr> <td data-bbox="384 846 491 878">3rd yr</td> <td data-bbox="491 846 680 878">\$5,500</td> <td data-bbox="680 846 837 878">\$5,000</td> <td data-bbox="837 846 1005 878">\$7,000</td> </tr> <tr> <td data-bbox="384 878 491 911">4th yr</td> <td data-bbox="491 878 680 911">\$5,500</td> <td data-bbox="680 878 837 911">\$5,000</td> <td data-bbox="837 878 1005 911">\$7,000</td> </tr> </tbody> </table> <i>Dear Colleague Letter GEN-08-08, FP-08-07</i> <i>Annual loan limit for an independent undergraduate student in preparatory coursework necessary for enrollment in an undergraduate program is increased to \$6,000.</i>		Subsidized/ Unsubsidized Base amount	Additional Unsub prior to 7/1/08	Additional Unsub on/or after 7/1/08	1 st yr	\$3,500	\$4,000	\$6,000	2 nd yr	\$4,500	\$4,000	\$6,000	3 rd yr	\$5,500	\$5,000	\$7,000	4 th yr	\$5,500	\$5,000	\$7,000	Loans first disbursed on/after 07/01/08	Q. Will schools need to make appropriate changes to aid packages already certified due to the increased eligibility for loan funds? A. Yes. Schools will be able to certify the additional unsubsidized funds as a new loan to be disbursed on or after 7/1/08. <i>Dear Colleague Letter GEN-08-08, FP-08-07</i> <i>Dependent undergraduate students whose parents are unable to borrow a PLUS loan are not eligible for both the new \$2,000 annual loan limit and the increased \$6,000 or \$7,000 additional Unsubsidized Stafford Loan annual loan limit.</i> <i>If the institution has already packaged students for the 2008-09 academic year using the prior loan limits the institution may:</i> <ul style="list-style-type: none"> • Re-package with the increased loan amounts • Provide notification to the student of increased loan eligibility
	Subsidized/ Unsubsidized Base amount	Additional Unsub prior to 7/1/08	Additional Unsub on/or after 7/1/08																				
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Aggregate Stafford Loan Limits HEA Sec. 428H(d)(4)	Increases the aggregate amount independent students or dependent students whose parents cannot borrow under PLUS may borrow under the Stafford loan program.	Loans first disbursed on/after 07/01/08	<i>Dear Colleague Letter GEN-08-08, FP-08-07</i> <i>The portion of subsidized Stafford Loans included in the increased aggregate limit (\$23,000) remains unchanged.</i>																				

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Aggregate Loan Limits	Subsidized Limit	Unsub limit (including Subsidized limit)									
Undergraduate independent	\$23,000	\$57,500									
Loan Limits: Graduate & Professional Students											
Annual Unsubsidized Stafford Loan Limits HEA Sec. 428H(d)	No change to the annual amount graduate and professional students may borrow (\$12,000).										
Aggregate Unsubsidized Stafford Loan Limits HEA Sec. 428H(d)	<p>No change to the aggregate amount graduate and professional students may borrow (\$138,500) including the amount borrowed as an undergraduate student.</p> <p>The Secretary has the authority to determine that a higher amount may be warranted for certain professions.</p>				One example of the Secretary exercising her authority to increase aggregate loan limits was the recent change to \$224,000 for some health professions as announced in DCL GEN 08-04.						
PLUS Loan Repayment											
Grace Period HEA Sec. 428B(d)	<p>The parent will have two repayment options:</p> <ul style="list-style-type: none"> • Enter repayment within 60 days after the loan is fully disbursed. • Enter repayment the day after 6 months following the date the dependent student ceases to be enrolled at least half-time as determined by the school (postpones entering repayment). 			Loans first disbursed on/after 07/01/08	This provision has raised issues within the financial aid community which the Department is currently examining. This document will be updated as Department guidance becomes available.						
PLUS Capitalized Interest											
Capitalization of Interest HEA Sec. 428B(d)(2)(A)	<p>Interest capitalized if</p> <ul style="list-style-type: none"> • Accrued prior to repayment, shall be added to the principal on loans that enter repayment within 60 days of the final disbursement • Accrued during deferment shall be <ul style="list-style-type: none"> ▪ Paid monthly or ▪ Paid quarterly or ▪ If not paid added to principal not more often than quarterly 			Loans first disbursed on/after 07/01/08	<p><i>Dear Colleague Letter GEN-08-08, FP-08-07</i></p> <p><i>Interest will be capitalized at</i></p> <ul style="list-style-type: none"> • <i>60 days for parent borrowers who do not elect to delay repayment</i> • <i>60 days for all graduate and professional student borrowers</i> • <i>The quarter for parent borrowers who opt to delay repayment on a PLUS loan until six months after the dependent student ceases at least half-time</i> 						

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			<p><i>enrollment</i></p> <p><i>Lenders must notify all borrowers of the capitalization and provide them the opportunity to pay the capitalized amount of accrued interest.</i></p>
PLUS Eligibility Criteria			
<p>Extenuating Circumstances in Credit Requirements</p> <p>HEA Sec. 428B(a)(3)(B)</p>	<p>Adds “extenuating circumstances” definition to temporarily allow, but not require, lenders to approve loans with the following adverse credit history conditions:</p> <ul style="list-style-type: none"> • Up to and including 180 day delinquency on mortgage loan payments • Up to and including 180 day delinquency on medical payments <p>Approval is only allowed if the borrower is not more than 89 days delinquent on the repayment of any other debt.</p> <p>Mortgage loans defined as extension of credit secured by the primary residence of the borrower.</p>	<p><i>Loan underwriting decisions made on/after 05/07/08 for delinquencies beginning 01/01/07 and ending 12/31/09</i></p>	<p>“Extenuating circumstances” also apply to graduate and professional PLUS loan borrowers.</p> <p>“Extenuating circumstances” can apply to second mortgages as well as third mortgages on primary residence; “extenuating circumstance” is not restricted to delinquency on first mortgage alone.</p> <p>A credit report does not indicate if a mortgage loan is for the primary residence; medical bills are hard to identify due to HIPPA privacy concerns unless in a collection status. As a result, any review for these considerations will be a manual process and will require further documentation from the borrower.</p> <p><i>Dear Colleague Letter GEN-08-08, FP-08-07</i> <i>Lender must retain a record of its basis for determining that an extenuating circumstance exist and may use this to support a borrower’s eligibility for PLUS loans.</i></p> <p><i>Lenders are encouraged to re-examine whether these extenuating circumstances exist.</i></p>
Lender of Last Resort			
<p>Designation on school-wide basis</p> <p>HEA Sec. 428(j)(1)</p>	<p>Allows the Secretary of Education to designate schools as eligible on an institution-wide basis, rather than on a student-by-student basis.</p> <p>Clarifies that it will cover</p> <ul style="list-style-type: none"> • Stafford loans • PLUS loans <p>It specifically excludes consolidation loans.</p>	<p><i>05/07/08</i></p> <p><i>Expires on 06/30/09</i></p>	<p>The Federal Default Fee may not be subsidized by the guarantor or a lender.</p> <p>Origination fees may not be subsidized by a lender.</p> <p>Additional guidance has been provided by the Department to lenders and guarantors in Dear Colleague Letters GEN-08-03, FP-08-03 and GEN-08-05, FP-08-05.</p>

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	<p>No loans can be made with more favorable terms than the maximum terms applicable for the type of loan including</p> <ul style="list-style-type: none"> • Interest rates • Origination fees • Default fees • Other terms and conditions <p>The Secretary does not need to verify that all students and parents of a school are not able to obtain loans from another source.</p> <p>The Secretary may require a school to demonstrate that they have been unable to</p> <ul style="list-style-type: none"> • Secure lenders • Show a certain number or percentage of students have been rejected by eligible lenders <p>Thresholds and any other standards to be determined by the Secretary in consultation with the Secretary of the Treasury.</p>		<p><i>Dear Colleague Letter GEN-08-08, FP-08-07</i></p> <p><i>To qualify for an Institution-Wide designation for LLR loans schools must:</i></p> <ul style="list-style-type: none"> • <i>Demonstrate its 3 efforts, with the state's GA, to secure lenders to make conventional FFEL loans</i> • <i>If the institution determines that at least 80% of the borrowers are unable to borrow then all the borrowers are eligible for LLR loans.</i> • <i>The institution must be able to show that it made three attempts to find participating lenders who will make conventional loans.</i> • <i>The Department may determine there are lenders willing to make conventional FFEL loans to the institutions students.</i> • <i>The Department is required to share that information with the institution and the state GA.</i> • <i>The institution provides the state GA with the documentation showing their eligibility to participate in the LLR program.</i> • <i>The GA forwards their opinion to the Department for the final determination of eligibility.</i>
Inducements	<p>The Secretary shall review, and revise as needed, guarantor inducement regulations and report to the Senate and House Committees on results of this review.</p> <p>Each guarantor or lender in this program is subject to the prohibited inducement provisions and shall not advertise, market or promote lender of last resort loans (except guarantor communication to schools regarding the program).</p>	<p><i>Within 180 days of 05/07/08</i></p>	
Reporting	<p>The Secretary is required to</p> <ul style="list-style-type: none"> • Disseminate information to the public on the program • Report to the Congressional Education Committees on the program beginning 07/01/08 and ending 06/30/10 	<p><i>Quarterly beginning 07/01/08 and ending 06/30/10</i></p>	
Secretary's Authority to	<p>Clarifies that existing law gives the Secretary authority to advance federal funds to guaranty agencies in the</p>	<p><i>05/07/08</i></p>	

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Advance Federal Funds HEA Sec. 421(b)	event that they do not have sufficient capital to originate new loans and appropriates such sums necessary for carrying out the requirements of lender of last resort.		
Availability of Loan Capital			
Temporary Authority to Purchase Student Loans HEA Sec. 459A	<p>Provides the Secretary temporary authority to purchase FFELP loans (other than consolidation loans) originated on or after 10/01/03, if it is determined there is inadequate availability of loan capital.</p> <p>Forward purchase agreements are acceptable.</p> <p>The Secretary, in consultation with the Secretary of the Treasury, must determine that the sale is in the best interest of the United States and that proceeds will be used by the lender in a way to ensure continued participation in FFELP.</p> <p>Any purchase cannot result in a net cost to the Federal Government.</p> <p>Loans, once purchased, will be treated as Direct Loans.</p> <p>The Secretary may contract with a lender for servicing of the loans purchased, provided that the servicing costs are comparable to that of Direct Lending.</p> <p>Purchased loans cannot result in a net cost to the Federal government.</p> <p>The Secretary of Education, the Secretary of the Treasury and OMB shall publish a joint notice in the Federal Register with the terms and conditions of the purchase.</p>	<p>Loans first disbursed on/after 10/01/03 and before 07/01/09</p> <p><i>New Trigger Loan period includes or begins on/after 07/01/08 and is first disbursed on/after 05/01/08 and before 07/01/09 (DCL GEN-08-08 and FP-08-07)</i></p>	<p>Additional information has been provided by the Secretary to lenders and guarantors in a recent letter, sent as an Electronic Announcement, dated May 21, 2008.</p> <p><i>Dear Colleague Letter GEN-08-08, FP-08-07 Purchase will apply only to Stafford and PLUS loans made for the 2008-09 academic year.</i></p> <p><i>The disbursement period is before July 1, 2009. Loans eligible to be sold to ED are those disbursed between 5/1/08 and 06/30/09. The 7/1/08 date is the trigger date for lenders -- the first day they can actually begin to take action to sell the loans. As of July 1, 2008 lenders can now begin to sell loans to ED that meet all of the requirements.</i></p> <p><i>The Department will purchase loans at a price equal to the sum of:</i></p> <ul style="list-style-type: none"> • <i>Outstanding principal balance on date of sale</i> • <i>Accrued interest due as of the date of the sale</i> • <i>1% origination fee paid by the lender</i> • <i>\$75.00 per loan</i> <p><i>The Department will also offer to purchase a participation interest in eligible loans.</i></p> <ul style="list-style-type: none"> • <i>Hold participation interest until no later than 09/30/09 Participation interest may be redeemed on or before 09/30/09 at a price providing a yield to the Department equal to commercial paper rate plus 50 basis points</i> • <i>FFEL lender may use funds obtained from private sources or sell to the Department under the purchase option</i>

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			<i>These options are meant to provide temporary credit relief and do not constitute a permanent change in the government's role in the FFEL Program.</i>
ACG and SMART Grants			
Program Elements HEA Sec. 401A	<p>Makes the following changes to both programs</p> <ul style="list-style-type: none"> Deleted requirement that recipient be a U.S. citizen Deleted full-time enrollment requirement – now student may receive grant if enrolled at least half-time Requires payments to be on the same basis as the Federal Pell Grant program Award is based on the student' grade level instead of academic year <p>Makes the following changes to the ACG Program only</p> <ul style="list-style-type: none"> Adds eligibility for students enrolled in 1-2 year certificate programs if enrolled at a two-year or four-year degree granting institution Provides an exception for students whose previous enrollment in an undergraduate program was part of a secondary school program Allows State officials to designate high school programs as rigorous without ED's approval <p>Makes the following changes to the National SMART Grant Program only</p> <ul style="list-style-type: none"> Adds eligibility for certain schools where students are not allowed to declare majors Added eligibility for a fifth year grant to undergraduates in programs that requires five years to complete 	01/01/09	<p><i>Dear Colleague Letter GEN-08-08, FP-08-07</i> <i>Less than full-time awards will have proportionally reduced maximum awards determined the same way as in the Federal Pell Grant Program.</i></p> <p><i>National SMART Grant Program</i> <i>Students attending institutions that offer a single liberal arts curriculum may receive a grant if the</i></p> <ul style="list-style-type: none"> <i>Institution certifies the course work as equal to the requirements for an eligible major and</i> <i>Student achieves a specific grade point average</i> <p><i>ACG and National SMART Grant programs are effective 01/01/09 but the Department may be revisiting these changes in the next few weeks. Additional information about the implementation of these changes may be available in the near future.</i></p>
Master Calendar and Negotiated Rulemaking			
Master Calendar and Negotiated Rulemaking	Master Calendar and negotiated rulemaking shall not apply to the amendments made by this Act, or to the regulations regarding these amendments. The only exceptions are the changes made to the ACG and SMART Grant programs.		Timeline for Negotiated Rulemaking and the Master Calendar <ul style="list-style-type: none"> Negotiated Rulemaking generally takes place in the first 3 to 4 months of a year. Once Negotiated Rulemaking is complete a Notice of

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			<p>Purposed Rulemaking (NPRM) is published in the Federal Register around the middle of a year.</p> <ul style="list-style-type: none"> • The NPRM provides the financial aid community an opportunity to respond to the purposed regulations. • By November 1 of the year Final Rules will be published in the Federal Register. <p>Implementation of the Final Rules is due by July 1 of the following year.</p>

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