

Issue Paper 6

Program Integrity and Improvement Issues

Issue: Definition of Adverse Credit for Direct PLUS Loan Eligibility

Statutory cite: §428B(a)(1)(A) of the HEA

Regulatory cite: 34 C.F.R. §685.200(c)(1)(vii)

Summary of Changes:

Below, please find changes to the Definition of Adverse Credit for Direct PLUS Loan Eligibility suggested by the consumer, student, and legal aid negotiators. These changes take into consideration the evolving understanding of affordability within consumer lending and recognize the very real burden borne by families whose PLUS loan borrowing leads to default.

However, the changes also ensure that families who can afford a PLUS loan aren't unnecessarily rejected from the program because of medical debts, which have been shown to be unrelated to credit risk.¹ We tightened the look-back period from five years to three to account for the Great Recession and so as not to make assessments on the basis of old data, and created a carve-out for *de minimis* outstanding debts of less than \$500.

Finally, we created a requirement for data reporting that would help ensure that, years from now, negotiators can more easily access the information they need to make sound, fact-based policy decisions.

We believe that these measures make the PLUS program more flexible, more modern, and more responsive to the need to provide access to higher education while making sure that access is affordable for families.

Code of Federal Regulations, Title 34 - Education § 685.200 Borrower eligibility.

(c) Parent PLUS borrower. (1) A parent is eligible to receive a Direct PLUS Loan if the parent meets the following requirements:

¹ Mark Rukavina, Medical Debt and Its Relevance When Assessing Creditworthiness, 46 SUFFOLK L. REV. 967 (2013).

- (i) The parent is borrowing to pay for the educational costs of a dependent undergraduate student who meets the requirements for an eligible student under 34 CFR part 668.
- (ii) The parent provides his or her and the student's social security number.
- (iii) The parent meets the requirements pertaining to citizenship and residency that apply to the student under 34 CFR 668.33.
- (iv) The parent meets the requirements concerning defaults and overpayments that apply to the student in 34 CFR 668.32(g).
- (v) The parent complies with the requirements for submission of a Statement of Educational Purpose that apply to the student under 34 CFR part 668, except for the completion of a Statement of Selective Service Registration Status.
- (vi) The parent meets the requirements that apply to a student under paragraph (a)(1)(iv) of this section.
- (vii)(A) The parent—
 - (1) Does not have an adverse credit history and is able to demonstrate sufficient income capable of supporting the loan amount; or
 - (2) Has an adverse credit history but has obtained an endorser who does not have an adverse credit history; or
 - (3) Has an adverse credit history but documents to the satisfaction of the Secretary that extenuating circumstances exist or is able to demonstrate sufficient income capable of supporting the loan amount.
- (B) For purposes of paragraph (c)(1)(vii)(A) of this section, an adverse credit history means that as of the date of the credit report, the applicant—
 - (1) Is 90 or more days delinquent on any debt with an outstanding balance of more than \$500 except those debts related to medical expenses or pending insurance claims. For the purposes of this section, the Secretary does not consider debts related to medical expenses or pending insurance claims as an adverse credit history;or
 - (2) Has been the subject of a default determination, bankruptcy discharge, foreclosure, repossession, tax lien, wage garnishment, or write-off of a debt under title IV of the Act during the ~~five~~ three years preceding the date of the credit report.
- (C) For the purposes of (c)(1)(vii)(A) of this section, the Secretary does not consider the absence of a credit history as an adverse credit history and does not deny a Direct PLUS loan on that basis.

(2) For purposes of paragraph (c)(1) of this section, a “parent” includes the individuals described in the definition of “parent” in 34 CFR 668.2 and the spouse of a parent who

remarried, if that spouse's income and assets would have been taken into account when calculating a dependent student's expected family contribution.

(3) Has completed repayment of any title IV, HEA program assistance obtained by fraud, if the parent has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining title IV, HEA program assistance.

[...]

(g) Data collection on the Direct PLUS Loan Program. The Secretary shall collect and make publicly available via the Integrated Postsecondary Education Data System –

(i) the number of Parent Plus Loan applicants for each academic year;

(ii) the number of Grad Plus Loan applicants for each academic year;

(iii) the race, gender, and socio-economic demographics of Parent Plus Loan applicants for each academic year;

(iv) the race, gender, and socio-economic demographics of Grad Plus Loan applicants for each academic year;

(v) the number of Parent Plus Loan applicants whose applications are initially declined each academic year;

(vi) the number of Grad Plus applicants whose applications are initially declined each academic year;

(vii) the reasons for Parent Plus Loan declines for each academic year;

(viii) the reasons for Grad Plus Loan declines for each academic year;

(ix) the default rate for the Parent Plus Loan program by school and institution type for each academic year;

(x) the default rate for the Grad Plus Loan program by school and institution type for each academic year;

(xi) the value of outstanding loans in the Parent Plus Loan program by school and institution type for each academic year; and

(xii) the value of outstanding loans in the Grad Plus Loan program by school and institution type for each academic year.