

Higher Education Opportunity Act of 2008 and Truth in Lending

The **Higher Education Opportunity Act of 2008** mandated a number of significant changes to provide a significant amount of additional information to families who choose to utilize private educational loans. The regulations change the disclosure requirements for the **Truth In Lending Act ("TILA")** for non Title IV education loans made expressly for post-secondary education expenses. (Loans made under Title IV of the HEOA include **Federal Stafford, Federal Perkins, Federal PLUS** and Federal **Grad PLUS Loans**).

The impetus for these regulations originated in the problems that many borrowers faced in repaying these loans.

These regulations will go into effect on February 14, 2010. The regulations require lenders to produce the following disclosures to borrowers:

- **Application and Solicitation Disclosure (ASD)** - the lender must provide a general range of rates and fees so that borrowers can make informed decisions when choosing a private loan lender.
 - The "ASD" provides general information about interest rates, fees, default or late payment costs and repayment terms. In addition, it includes an example of the total cost of a loan based on the maximum interest rate offered by a lender, a defined loan amount and calculations for each payment option.
 - The ASD must also include eligibility requirements for the loan AND information on alternatives to private education loans. The ASD is intended to be a tool for the applicant to use in comparing loan offers.
 - Lenders are required to mail the ASD within 3 days after a phone application is taken and they pull a credit report on the applicant.

- **Loan Approval Disclosure (LAD)** - When an applicant is conditionally approved for a loan, the lender must send this disclosure with borrower-specific rates and fees.
 - The "LAD" must be provided BEFORE the consummation of the loan on or with any notice to the applicant that the creditor has approved the consumer's application for a loan.
 - The LAD provides information SPECIFIC to the loan being approved by the lender, including detailed information on the interest rate, itemization of fees associated with the loan application (including fees associated with late payments and defaults)
 - Lenders must also provide a statement on the alternatives to private education loans through the federal student financial assistance programs. Lenders must give an applicant 30 calendar days after the date on which the applicant receives the AD to decide to accept the offered private loan.
 - Borrowers have 30 calendar days to accept the loan terms offered. The borrower can accept the terms of the loan by mail, phone or electronically.

- **Final Disclosure** - This is sent to the borrower after the loan terms are accepted and the school has certified the student's eligibility for the loan. The Final Disclosure gives the borrower a three business day right to cancel period.
 - If the applicant accepts a loan within the 30 day calendar acceptance period provided in the AD, the lender must provide a "FD" that includes UPDATED information on the applicable interest rate, repayment terms, fees and default or late payment costs. The lender may not disburse any private education loan funds until the cancelation period has ended.

In addition to these disclosures, a lender must obtain a signed and completed Private Education Loan Applicant Self-Certification form from the borrower. This form has been created by the Department of Education. The self certification form includes information about the availability of federal student loans, the student's cost of attendance, estimated amount of financial assistance, and the difference between the student's cost of attendance and estimated financial aid.

Repayment Information:

Please bear in mind that you will have to repay any private loan IN ADDITION to payments you are making on your federal loan debt. You cannot consolidate private loans with your federal loans and just make one payment.

In addition, there are no loan forgiveness programs for private educational loans.