

Higher Education Opportunity Act

Summary of Key Provisions



HEOA – Date of Enactment Aug. 14, 2008

- The following is a summary of USA Funds[®]' Policy Department's current interpretation of the HEOA.
- Additional guidance to come later.
 - ED publication of a Dear Colleague letter.
 - Negotiated rulemaking.
 - Other published guidance.

HEOA – Guarantor Provisions

- Prohibited Inducements

- Adds the offering of stock or other securities and tuition payment or reimbursement as prohibited activities if they are done to secure loan volume.
- Codifies technical assistance comparable to that provided by ED as being acceptable.
- Specifically allows guarantors to perform exit counseling services on behalf of schools.
- All other provisions provided for in current regulation still apply to the extent those were not changed by statute.

HEOA – Guarantor Provisions

- Loan Rehabilitation
 - Limits borrowers to loan rehabilitation once per loan.
 - Requires deletion of lender's default trade line.
 - Requires guarantors to make financial literacy materials available to rehabilitated borrowers.
- Financial Literacy
 - Codifies a guarantor's responsibility for the development and dissemination of financial literacy materials.
- Borrower Disclosure
 - Requires guarantors to disclose to borrowers that loan information will be reported to the NSLDS and that others may view that information.

HEOA – School Provisions

- Code of Conduct

- Each school must develop a code of conduct and annually inform all staff of the requirements of that code.
- The code must specifically prohibit:
 - Revenue sharing agreements.
 - Receipt of gifts above a nominal value.
 - Pre-packaging first-time borrowers with a specific lender.
 - Opportunity pool loans.
 - Staffing assistance from lenders.
 - Contracting arrangements with lenders and guarantors.

HEOA – School Provisions

- Code of Conduct (Some Exceptions Allowed)
 - Gifts
 - ✓ Standard materials and programs that are loan-related.
 - ✓ Professional development training and materials.
 - ✓ Favorable loan terms, if provided to all students.
 - ✓ Entrance and exit counseling services, if the school controls the process and the counseling does not promote the products or services of the lender.
 - ✓ Philanthropic gifts, if not given to secure loan volume.
 - ✓ State grants or scholarships that are administered by that state.

HEOA – School Provisions

- Code of Conduct (Exceptions)
 - Contracting arrangements that are allowed include:
 - An officer or employee not employed in the financial aid office (or who does not have financial aid responsibility) can be paid for board service of a guarantor, lender or servicer.
 - School employees not employed in the financial aid office, but who have responsibility with respect to education loans, can serve on board if the employees recuse themselves from decisions affecting loans at the institution.
 - Staffing services on a short-term, non-recurring basis during an emergency, if approved by the Secretary.

HEOA – School Provisions

- Advisory Board Participation
 - Allows school personnel to serve on lender and guarantor advisory boards if no compensation is given.
 - Allows reimbursement of reasonable expenses to school employee.
 - Schools and lenders (and most likely guarantors) must disclose the reimbursement of expenses on an annual basis to the Secretary.

HEOA – School Provisions

- Cohort Default Rates
 - Changes to a three-year window in FY 2009.
 - Changes threshold rate from 10 percent to 15 percent for delayed delivery and multiple disbursement (for single term loans) requirements beginning Oct. 1, 2011.
 - Changes threshold rate for loss of eligibility due to high cohort default rates from 25 percent to 30 percent beginning in fiscal 2012.
 - Requires schools with cohort default rates \geq 30 percent to develop a task force to improve the default rate. Plans must be submitted to the Secretary.
 - Requires schools with a cohort default rates \geq 30 percent for two consecutive years to revise plan. Schools also may file exceptional mitigating circumstances appeal.

HEOA – School Provisions

- Exit Counseling
 - Expands requirements for counseling to include:
 - Features of repayment options and impact on total payments made and interest.
 - ED publication describing programs to assist borrowers with financial hardship.
 - Options to prepay a loan, request different terms or change plans.
 - Effects of loan consolidation.
 - Tax benefits that may be available.
 - NSLDS and how student can access.
 - Encourage use of interactive counseling including tests/quizzes.

HEOA – School Provisions

- Entrance Counseling
 - Codifies entrance counseling requirements for the first time.
 - Requires acknowledgement for paper or online.
 - Stipulates occurrence at or prior to disbursement.
 - Encourages use of interactive counseling and tests/quizzes.
 - New information to be included:
 - Effects of accepting loan on other aid.
 - How interest accrues and is capitalized.
 - Option to pay interest while in school.
 - School's definition of half-time enrollment for regular and summer terms.

HEOA – School Provisions

- Entrance Counseling
 - New information to be included:
 - Consequences of not maintaining half-time enrollment.
 - Importance of contacting school if intending to withdraw.
 - Must repay loan even if student does not complete program in regular time allotted.
 - Information on federal delinquent debt collection practices.
 - NSLDS and how student can access.
 - Name of contact information student can use if questions arise regarding rights, responsibilities, and terms and conditions.

HEOA – School Provisions

- **New Disclosure Requirements**

- Any plans to improve academic programs.
- The terms and conditions of loans the students receive.
- Policies and sanctions related to copyright infringement.
- Data regarding student body diversity.
- Placement/employment statistics.
- Types of four-year programs in which its graduates enrolled.
- Fire safety report for on-campus housing.
- Retention rates.
- Vaccination policies.
- The law enforcement authority of campus security personnel.
- The working relationship campus security has with other law enforcement at state and local levels.

HEOA – School Provisions

- **New Disclosure Requirements**

- Policies that encourage accurate and prompt reporting of all crimes.
- Additional reporting of four new crimes.
- Emergency response policies, including annual tests.
- Transfer of credit policies/articulation agreements.
- Missing person procedures.
- Notices concerning penalties for drug violations.
- Upon request of the victim, or next of kin, must provide results of any disciplinary proceedings against the perpetrator.

HEOA – School Provisions

- Drug and Alcohol Abuse Prevention
 - Requires schools to conduct a biennial review of its programs to determine the number of drug and alcohol-related violations and fatalities that occur on the school's campus, or as part of any of the institution's activities, and that are reported to campus officials.
 - The biennial review must also determine the number and type of sanctions that have been imposed by the institution as a result of drug- or alcohol-related violations or fatalities that have occurred on campus or during institutional activities.

HEOA – School Provisions

- 90/10 Rule Changes (Applicable to Proprietary Schools)
 - Moves these provisions to the Participation Agreement section.
 - Schools must use cash basis of accounting except for loans made on or after July 1, 2008, and prior to July 1, 2012.
 - Can consider as revenue only those funds generated from tuition, fees and institutional charges in programs eligible for Title IV aid; activities conducted by the school that are necessary for education and training of the student if those activities are conducted on campus, performed by the institution's faculty, and are required for all students in a program of study; funds paid by a student for an education or training that is not Title IV eligible, if the program is approved or licensed by the state, is accredited or provides an industry-recognized credential.
 - Non-Title IV revenues can include non-federal grant funds, funds for job training or low-income persons, college savings plan funds and institutional scholarships.

HEOA – School Provisions

- 90/10 Rule Changes (Applicable to Proprietary Schools)
 - Scholarships provided by the school can be counted as revenue if they are in the form of monetary or tuition discounts based on academics or financial need disbursed from an established restricted account, and only to the extent that funds in that account represent designated funds from an outside source.
 - Allows ECASLA-increased unsubsidized funds to be counted as revenue from non-Title IV sources from July 1, 2008, and prior to July 1, 2011.
 - Excludes from revenue FWS, unless those funds were used to pay institutional charges; LEAP funds received; matching funds; Title IV funds that are refunded or returned; and the amount charged for books, supplies and equipment, unless those are included in institutional charges.

HEOA – School Provisions

- 90/10 Rule – Sanctions and Disclosures
 - If a proprietary school fails to meet the 90/10 requirement in one year, the institution's eligibility becomes provisional for the next two years.
 - If a proprietary school fails to meet the 90/10 requirement for two consecutive years, the school loses eligibility to participate in Title IV for a minimum of two institutional fiscal years.
 - ED is required to publicly disclose the identity of any proprietary school that fails to meet 90/10 requirements and the extent to which the school failed to meet the requirements.
 - ED will annually report to the authorizing committee the revenues received from both Title IV and from other sources by July 1, 2009.

HEOA – School Provisions

- Preferred Lender Lists
 - Follows current regulations, but adds:
 - If the school has a preferred lender list for private loans, the list must contain at least two unaffiliated private loan lenders.
 - Must provide more detail on the affiliation of any lenders on the list.
 - Must provide more detail on the reasons why a lender was selected to be on the preferred lender list.
 - Exercise a duty of care and loyalty to borrowers in selecting lenders.
 - Requires school to notify prospective borrowers of the maximum federal grant and loan aid available under Title IV, and this information must be published on the school's Web site and in all financial aid materials.

HEOA – School Provisions

- Private Loans Disclosures by Schools Participating in Preferred Lender Arrangements
 - A school must disclose on its Web site, and in all informational materials that describe or discuss education loans:
 - The maximum amount of Title IV grant and loan aid available to students.
 - A statement that the school is required to process a FFELP loan from any lender that the student selects.
 - Other information that the Secretary will require (to be provided not more than 18 months after enactment of the HEOA).

HEOA – School Provisions

- Additional Disclosures and Requirements by Schools Regarding Private Loans
 - A school must inform prospective borrowers that:
 - The student may qualify for loans or other assistance available under Title IV.
 - The terms and conditions of loans made under Title IV may be more favorable than those of private loans.
 - A school must ensure that information regarding private loans is presented in a manner that distinguishes those loans from loans made under Title IV.
 - Schools are subject to a private loan code of conduct similar to that for Title IV.
 - New self-certification form must be made available by the school to each recipient of a private loan at the applicant's request.

HEOA – School Provisions

- New Private Loan Disclosures for Lenders
 - Requires disclosures to the borrower at three different points:
 - At the offering point.
 - At the approval point.
 - At consummation.
 - Disclosures similar to Title IV loans, terms and conditions.
 - Private loan lenders under a preferred lender list must disclose to the school the types of private loans it will make in the next award year.
 - Borrower has the right to cancel the loan within three days of the consummation date.

HEOA – Lender Provisions

- Other Private Loan Information

- A model form will be developed for all required disclosures.
- Private loan applicants are required to complete and sign a self-certification form.
- Schools are expected to provide certain information — COA, EFA, and EFC — to the borrower for completion of form.
- Truth in Lending Act expands the time frame to bring a civil suit until one year after the date the first payment of principal is due.
- It is unlawful to impose any fee for early repayment on a private loan.

HEOA – School Provisions

- Transparency In College Tuition

- HEOA calls for creation of a new College Navigator Web site:
 - Publishes the average annual COA for a first-time, full-time undergraduate student enrolled at the school.
 - Publishes the average yearly net price charged to first-time, full-time undergraduate students.
 - Net price = COA – [the quotient of need and merit-based grant aid provided to students receiving that aid divided by the total number of recipients of that aid].
 - Publishes the average annual tuition and fees for first-time, full-time undergraduate students.
 - Uses this data to create and establish lists on the Web site.

HEOA – School Provisions

- College Affordability and Transparency Lists
 - Beginning July 1, 2011, ED will make publicly available:
 - The 5 percent of schools with the highest annual tuition and fees.
 - The 5 percent of schools with the highest net price.
 - The 5 percent of schools with the highest percentage increase in tuition and fees for a three-year period.
 - The 5 percent of schools with the highest percentage increase in net price for a three-year period.
 - The 10 percent of schools with the lowest annual tuition and fees.
 - The 10 percent of schools with the lowest net price.
 - Lists will be updated annually, and published based on the category of Institution, as defined by ED.

HEOA – School Provisions

- Schools on the lists of the highest three-year increases will be required to provide a report to ED that includes:
 - A description of the major areas in the school's budget with the greatest cost increases.
 - An explanation for those cost increases.
 - A description of the steps the school will take toward the goal of reducing those costs.
 - If a school is on one of these lists for two or more consecutive years, a description of the progress made in reducing costs.
 - A description of any cost increases not in the exclusive control of the school, an explanation of the extent of those costs and what external agency or instrumentality of state government is responsible for determining the cost increases.
 - All other data the school considers relevant to the report.

HEOA – School Provisions

- Allows for exemption from being on the high cost list if:
 - The dollar amount of the school's increase in tuition and fees, or net price, as applicable, is less than \$600 for the three-year period.
- College Navigator Site will make available a list of consumer information regarding each school's operations, beginning within one year of enactment of the HEOA.

HEOA – School Provisions

- College Textbook Costs

- Schools must, to the maximum extent practicable:
 - Disclose, on the school's Internet course schedule, the International Standard Book Number and retail price information of required and recommended textbooks and supplemental materials.
 - If the ISBN is not available, the school must disclose the author, title, publisher and copyright date for the above.
 - Make available, upon request, to an affiliated college bookstore the school's course schedule for the next period, and for each of those courses provide the information listed above, plus the number of students enrolled in the course and the maximum enrollment for the course.

HEOA – School Provisions

- College Textbook Costs

- Schools are encouraged to disseminate information to students regarding:
 - Available institutional programs for renting or purchasing textbooks.
 - Available institutional guaranteed textbook buy-back programs.
 - Available institutional alternative content delivery programs.
 - Other cost saving strategies.

HEOA – School Provisions

- School As Lender Program Audit
 - As part of the annual audit requirement, an institutional lender or lender serving as a trustee for the institution, must undergo tests:
 - To ensure the institution or lender is using all proceeds for need-based grant programs.
 - To ensure the institution or lender is not using more than a reasonable portion of the proceeds for direct administrative expenses.
 - To ensure that the proceeds are used to supplement, not supplant, federal and non-federal funds that would otherwise be used for need-based grant programs.
 - These changes are effective on the date of enactment.

HEOA – School Provisions

- Pell Grant Provisions (effective July 1, 2009)
 - Increases incrementally the annual authorized maximum Pell Grant award from \$6,000 in 2009-2010 to \$8,000 by 2014-2015.
 - Sets minimum award at 10 percent of that amount.
 - Allows students to receive two Pell Grant awards per award year to permit accelerated degrees for associate and bachelor degree programs.
 - Removes from eligibility for Pell Grants any individual who is subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or non-forcible sexual offense.
 - Limits Pell Grant eligibility to a total of 18 semesters or the equivalent.
 - Provides for an EFC of zero for a student whose parent or guardian died as a result of military service in Iraq or Afghanistan after 9/11, if the student was under the age of 24 when the parent or guardian died.

HEOA – School Provisions

- Other Provisions Affecting Schools
 - Definition of Institution of Higher Education – Adds to the eligibility definition a school that admits home-schooled students and students who will be dually or concurrently enrolled at the institution and a secondary school. Allows proprietary schools to offer bachelor degrees in liberal arts.
 - Excludes all veterans benefits and national service education awards from estimated financial assistance calculations, effective July 1, 2010.
 - Allows financial aid administrators to use professional judgment to certify unsubsidized Stafford loans to dependent students whose parents do not provide support and refuse to complete FAFSAs.
 - Allows financial aid administrators to use professional judgment to reduce Title IV aid for students enrolled in distance education programs, if the program results in a substantially reduced COA to the students.

HEOA – School Provisions

- Other Provisions Affecting Schools
 - Ability to Benefit – Now allows a school to determine student meets ATB requirements with satisfactory completion of six credit hours. Note: Student does not become eligible for aid until completion.
 - Teach-Out Plans – A school under an limitation, suspension or termination proceeding must provide the plan to its accrediting body.
 - Makes technical correction from ECASLA legislation for unsubsidized Stafford loan eligibility. Independent students, or dependent students whose parents are unable to borrow PLUS loans, who are enrolled in graduate preparatory coursework or teacher certification programs are eligible for \$7,000 in additional annual unsubsidized Stafford loan eligibility. Likewise, students enrolled in undergraduate preparatory coursework are eligible for \$6,000 in additional unsubsidized Stafford loan eligibility.

HEOA – School Provisions

- Other Provisions Affecting Schools

- Students With Drug Convictions – A student’s eligibility for aid may be reinstated before the end of ineligibility period if the student successfully passes two unannounced drug tests conducted by an approved drug rehabilitation program.
- Students with Intellectual Disabilities – To receive grant or work assistance, the student must:
 - Be enrolled in a comprehensive transition and postsecondary program for students with intellectual disabilities.
 - Be making satisfactory progress.
 - Not owe a refund on a grant or be in default.
 - File a Statement of Educational Purpose.
 - Be an eligible citizen, national, or eligible non-citizen.
 - Have repaid any Title IV funds obtained previously where the student was convicted of a crime involving those funds.

HEOA – Military/Veteran’s Support Provisions

- Provisions Effective on Date of Enactment
 - Requires readmission by schools of uniformed service personnel.
 - The interest rate on FFELP loans for active-duty service members is reduced to 6 percent beginning with date called to service.
 - Disability discharges – If Department of Veterans Affairs determines a service member is unemployable due to a service-connected condition, borrower is eligible for total and permanent disability discharge.
- Provisions Effective for Enrollment on/after July 1, 2009
 - In-School Tuition Rates – Public institutions must charge in-state tuition rates to active-duty service members, spouses, and dependents. Active duty is defined as a period of more than 30 days. Also contains a continuation clause for family members if the permanent duty station changes to a different state.

HEOA – Lender Provisions Applicable to Schools

- PLUS Loan Deferral and Grace Period
 - Grad PLUS – Student can defer while enrolled at least half time and for a six-month grace period that follows.
 - Parent PLUS – Parent can defer while the parent is enrolled at least half-time.
 - Parent PLUS – If parent requests, can defer while the dependent student is enrolled at least half time.
 - Parent PLUS – If parent requests, can defer for six-month period following date of dropping to less than half-time attendance.
 - Interest that accrues on PLUS loans during deferral or grace period can be capitalized no more frequently than quarterly.

HEOA – Lender Provisions Affecting Schools

- **Income-Based Repayment**
 - For borrowers with partial financial hardship.
 - Not available for parent PLUS loans or consolidation loans that repaid parent PLUS loans.
 - Effective July 1, 2009.
- **In-School Deferment Confirmation**
 - Permissible use of NSLDS by lenders to confirm eligibility for in-school deferment, if school requests it.

HEOA – Other Key Provisions

- Loan Forgiveness/Repayment Programs
 - Service in Areas of National Need – For borrowers employed full-time in one of the newly defined areas under statute. Limited to \$2,000/year, and \$10,000 maximum. Defaulted borrowers, parent PLUS borrowers and borrowers of consolidation loans that paid off parent PLUS loans are not eligible.
 - Loan Repayment for Civil Legal Assistance Attorneys – For borrowers who agree to serve as legal assistance attorneys for a period of at least three years. Limited to \$6,000/year, and \$40,000 maximum lifetime benefit. Borrowers not meeting commitments must repay prior payments received. Defaulted borrowers, parent PLUS borrowers and borrowers of consolidation loans that paid off parent PLUS loans are not eligible.

HEAO – Resources

- E-mail questions to askpolicy@usafunds.org.
- USA Funds *Education Access Report*.
 - To subscribe visit www.usafunds.org/apps/eareport/default.aspx.
- USA Funds Web site.
 - From www.usafunds.org/financial_aid select “Reauthorization.”
- USA Funds University Fall Financial Aid Workshops and Webcasts.
 - Sessions begin Oct. 7.
 - Learn more and register at usafunds.elogiclearning.com.

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