

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2720  
FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP)

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**AUTHORITY:** Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

**SOURCE:** Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 5 Ill. Reg. 8698, effective August 17, 1981; emergency rule and emergency repealer at 6 Ill. Reg. 7558, 7573, effective June 9, 1982, for a maximum of 150 days; new rules adopted at 6 Ill. Reg. 13799, effective October 25, 1982; old rules repealed at 6 Ill. Reg. 15254, effective December 3, 1982; emergency amendment at 7 Ill. Reg. 9942, effective August 8, 1983, for a maximum of 150 days; codified at 7 Ill. Reg. 13309; amended at 8 Ill. Reg. 876, effective January 9, 1984; amended at 8 Ill. Reg. 7286, effective May 18, 1984; amended at 8 Ill. Reg. 17006, effective September 5, 1984; amended at 9 Ill. Reg. 20796, effective January 1, 1986; amended at 11 Ill. Reg. 3181, effective January 29, 1987; emergency amendment at 11 Ill. Reg. 13669, effective August 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14103, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 18370, effective October 23, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20989, effective January 1, 1988; amended at 12 Ill. Reg. 6971, effective April 1, 1988; amended at 12 Ill. Reg. 11520, effective July 1, 1988; emergency amendment at 12 Ill. Reg. 15221, effective September 15, 1988, for a maximum of 150 days; emergency expired February 12, 1989; amended at 13 Ill. Reg. 2872, effective February 16, 1989; amended at 13 Ill. Reg. 8630, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1720 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2720 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17855; emergency amendment at 14 Ill. Reg. 4266, effective March 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10553, effective July 1, 1990; amended at 14 Ill. Reg. 10941, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 18769, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 4060, effective February 28, 1992; amended at 16 Ill. Reg. 11224, effective July 1, 1992; emergency amendment at 17 Ill. Reg. 2055, effective February 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10506, effective July 1, 1993; amended at 18 Ill. Reg. 10254, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 15636, effective October 15, 1994, for a maximum of 150 days; emergency expired March 13, 1995; amended at 19 Ill. Reg. 6215, effective April 15, 1995; amended at 19 Ill. Reg. 8320, effective July 1, 1995; amended at 20 Ill. Reg. 9147, effective July 1, 1996; amended at 21 Ill. Reg. 11038, effective July 18, 1997; amended at 22 Ill. Reg. 11051, effective July 1, 1998; amended at 23 Ill. Reg. 7537, effective July 1, 1999; amended at 24 Ill. Reg. 9101, effective July 1, 2000; amended at 25 Ill. Reg. 8369, effective July 1, 2001; amended at 26 Ill. Reg. 9998, effective July 1, 2002; amended at 27 Ill. Reg. 10326, effective July 1, 2003; amended at 28 Ill. Reg. 9135, effective July 1, 2004; amended at 29 Ill. Reg. 9897, effective July

1, 2005; amended at 31 Ill. Reg. 9496, effective July 1, 2007; amended at 32 Ill. Reg. 10290, effective July 1, 2008; amended at 33 Ill. Reg. 9758, effective July 1, 2009; amended at 34 Ill. Reg. 8565, effective July 1, 2010.

SUBPART A: FEDERAL LOAN PROGRAMS:  
THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM,  
FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM,  
AND FEDERAL CONSOLIDATION LOAN PROGRAM

**Section 2720.5 Summary and Purpose**

- a) The Federal Family Education Loan Program (FFELP) is authorized by Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.), and is administered by the United States Department of Education (ED), guaranty agencies, educational institutions and lenders.
- b) This Part establishes rules which govern ISAC-guaranteed loan programs. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.
- c) Federal regulations govern the responsibilities of the Illinois Student Assistance Commission (ISAC), educational institutions and lenders. This Subpart implements ISAC's discretionary authority as a guaranty agency.

(Source: Amended at 24 Ill. Reg. 9101, effective July 1, 2000)

**Section 2720.6 Definitions (Repealed)**

(Source: Repealed at 21 Ill. Reg. 11038, effective July 18, 1997)

**Section 2720.10 Eligibility for ISAC Loan Guarantees**

- a) Applicants may apply for a loan guarantee by submitting a common ED-approved application form or through a comparable electronic process in accordance with federal law. (See 15 USCA 7001 et seq.)
- b) Borrower eligibility requirements for guaranteed loans are established by federal regulations (34 CFR 682.201).
- c) The student must be enrolled, or accepted for enrollment, at an approved postsecondary institution which has certified the applicant as eligible for a

guaranteed loan.

- d) An applicant shall not be disqualified for a loan guarantee by ISAC if the lender, the institution, the student, and the borrower meet the eligibility requirements of Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.), of federal regulations and of this Subpart.
- e) No loan guarantee shall be issued if such loan would exceed the annual or aggregate amount permitted such borrower, as specified by federal regulations (34 CFR 682.204).
- f) The institution shall compute a recommended loan amount for each applicant in accordance with Section 425(a)(1) of the Higher Education Act, as amended. No guaranteed loan may exceed the institution's recommended amount.
  - 1) When certifying loan eligibility for an academic year which will span academic levels, the institution's recommended loan amount shall not exceed the maximum permitted for the applicant's academic level at the time of certification.
  - 2) Should a student borrow in excess of the permitted loan maximums, the student becomes ineligible for federal financial assistance for that academic year. (See Section 484 of the Higher Education Act of 1965, as amended (20 USCA 1091) and 34 CFR 668.32(g)(2).)

(Source: Amended at 28 Ill. Reg. 9135, effective July 1, 2004)

### **Section 2720.20 Lender Eligibility**

- a) Lender Agreement
  - 1) All approved lenders must execute an ISAC Lender Agreement prior to participating in the Federal Family Education Loan Program through ISAC. Lenders wishing to serve as lenders-of-last-resort are required to sign an Addendum that includes the provisions of section 428(j) of the Higher Education Act of 1965, as amended (20 USC 1078-10).
  - 2) Lenders must have received ED approval prior to executing a Lender Agreement.
  - 3) The Lender Agreement shall include provisions requiring lenders to:

- A)      comply with statutes, federal regulations and State rules; and
  - B)      provide such information as ISAC may request relating to borrower demographics, collection records and other documents ISAC may need to comply with federal regulations. (See Sections 2720.60(a) and 2720.70(c).)
- 4)      Lenders and ISAC shall electronically transmit and receive loan guarantee data. ISAC shall provide the lender with program documentation and reasonable technical assistance related to electronic data exchanges. ISAC and the lender shall agree that the information and data shall be confidential and shall not be used, disclosed, sold or shared for any purpose other than that which is directly related to the administration of ISAC's guaranteed loan programs.
- 5)      Termination of the Lender Agreement may be made by either the lender or ISAC with 30 days' written notice. Termination shall not affect any obligations incurred prior to the time such termination becomes effective.
- b)      Eligible lenders shall employ an adequate number of qualified persons to administer their responsibilities under ISAC's rules. In determining whether a lender employs an adequate number of qualified persons, ISAC considers the number of students aided, the number of applications evaluated and the amount of funds administered.
- c)      In addition to the provision of subsection (a), the Lender Agreement for insurance companies approved as lenders shall require:
- 1)      advertising and promotional materials consistent with Section 149 of the Illinois Insurance Code [215 ILCS 5/149] and 50 Ill. Adm. Code 909; and
  - 2)      compliance with Sections 421 through 434 of the Illinois Insurance Code [215 ILCS 5/421 through 434], which prohibit unfair methods of competition and unfair and deceptive acts and practices.
- d)      A loan guarantee shall be cancelled if the lender fails to comply with federal regulations, statutes, ISAC rules or procedures, provided such failure impairs ISAC's ability to recover the expense of reimbursing the lender for the defaulted loan.
- e)      ISAC conducts compliance reviews to determine if approved lenders are

complying with federal regulations, statutes and rules.

- f) Lenders wishing to participate in ISAC-guaranteed loan programs shall submit an application which shall include, but not be limited to: servicing/secondary market agreements; previous compliance and audit reviews conducted by other guarantors and the Department of Education; documentation relating to the percentage of student loans as compared to other installment loan portfolios; and other information relating to student loans requested by ISAC to show the lender's qualifications for participation. Program participation will be determined by an examination of those materials and compliance with federal laws and regulations and State rules and statutes.
- g) Lenders wishing to participate in a blanket guaranty program for ISAC-guaranteed loans must execute a Blanket Certificate of Loan Guaranty agreement.

(Source: Amended at 33 Ill. Reg. 9758, effective July 1, 2009)

#### **Section 2720.25 Educational Lender Eligibility**

- a) Educational lenders must meet the eligibility requirements of institutions as outlined in Section 2720.30, Institutional Eligibility, and must meet the eligibility requirements established for lenders as outlined in Section 2720.20, Lender Eligibility. Also, educational lenders must comply with all federal regulations related to the origination, disbursement and servicing of a loan. (See, e.g., 34 CFR 682.601 and 682.602.)
- b) Institutions may be approved as lenders if approved by ED and if the following requirements are met.
  - 1) The specific materials to be provided by an institution in seeking approval as an eligible lender are:
    - A) An audited, certified and preferably unqualified annual financial statement prepared by a firm of certified public accountants (CPA). The statement must cover a period of no less than 12 months and be no more than 12 months old at the time of submission. The CPA firm must express an acceptable opinion on the statement, and the statement shall consist of no less than a balance sheet, a statement of profit and loss, and all attendant notes thereto;
    - B) An institutional catalog;

- C) A statement of the institution's default/delinquency experience as a lender in the Federal Perkins Loan Program, FFELP, or Federal Insured Student Loan (FISL) Program (20 USC 1071 et seq.);
  - D) A statement explaining the source of the institution's lending capital; and
  - E) Any other materials that might be requested by ISAC to show the institution's potential qualifications as a lender.
- 2) In addition to the above materials, a school that is organized on a for-profit basis will be requested to submit a:
- A) copy of its student contract;
  - B) description of its admission/sales staff and their functions;
  - C) statement of the institution's drop-out/completion rates;
  - D) sample of the institution's advertising materials; and
  - E) description or copies of student complaints filed with the institution in the last two years. In addition to these materials, ISAC will secure a Dun and Bradstreet Report on the institution, a statement from the Better Business Bureau with regard to any consumer complaints, and a statement from the institution's accrediting association.
- 3) The applications for eligible educational lender status in the programs and the supporting documentation shall be reviewed by ISAC staff. The applicant institution shall be informed of its annual lending limit, as well as any additions to the lender agreement that ISAC determines are prudent in individual instances to protect the default record of ISAC. If the institution is approved as an educational lender, it will execute an Educational Lender Agreement that will include:
- A) the institution's agreement to comply with statutes, federal regulations and State rules;
  - B) a statement of agreement including, or referring to, the list of required activities of educational lenders as outlined in 34 CFR

682.601 and 682.602;

- C) a statement of agreement including, or referring to, the federal regulations with respect to loan disbursements and refund application;
  - D) a statement of agreement including, or referring to, the federal regulations definition of "due diligence"; and
  - E) an expiration date of such lending contract that shall not be later than the end of the first full fiscal year following the negotiation of the contract, at which time its renewal shall be considered by ISAC.
- c) A loan guarantee shall be canceled if the educational lender fails to comply with federal regulations, statutes, ISAC rules or procedures, provided such failure impairs ISAC's ability to recover the expense of reimbursing the educational lender for the defaulted loan.
- d) ISAC conducts compliance reviews to determine if approved educational lenders are complying with federal regulations, statutes and rules.
- e) Educational lenders that do not maintain the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)

### **Section 2720.30 Institutional Eligibility**

- a) Institutional eligibility requirements are specified in federal regulations. Eligible postsecondary institutions include universities, colleges, graduate schools, schools of nursing, business, trade, technical and vocational schools. Correspondence institutions/programs are not eligible.
- b) Institutions must have executed a Program Participation Agreement with ED in order to participate in ISAC-guaranteed loan programs. (See 34 CFR 668.14.)
- c) An institution may not engage in loan origination activities. This prohibition shall not apply if the institution has an ED-approved Origination Agreement on file



with ISAC and the institution has been approved as an educational lender. (See Section 2720.25 of this Part and 34 CFR 682.601 and 682.602.)

- d) Approved institutions shall provide ISAC with the current enrollment status of students whom the institution has certified as eligible borrowers in accordance with federal regulations. (See 34 CFR 682.610(c).)
- e) Applicant and approved institutions must demonstrate administrative capability and financial responsibility, as defined by federal regulations, in order to begin and to continue participation in ISAC-guaranteed loan programs. (See, e.g., 34 CFR 668.14, 668.15 and 668.16.)
- f) Institutions wishing to participate in ISAC-guaranteed loan programs shall submit an application that shall include, but not be limited to: documentation from the U.S. Department of Education (ED) and the state in which it operates demonstrating authorization to offer educational programs; previous audit and compliance reviews conducted by other guarantors and ED; proof of accreditation; audited financial statements; student catalogs; promotional materials; documentation relating to student withdrawal rates; and other similar information requested by ISAC to show the institution's qualifications for participation. Participation will be decided by an examination of application materials and a determination of compliance with federal laws and regulations and State statutes and rules. Institutions may appeal an administrative decision denying participation or limiting eligibility in accordance with ISAC appeal procedures. (See 23 Ill. Adm. Code 2700.70.) Institutions denied participation shall be eligible to reapply one year from the date of the initial ISAC letter denying eligibility.
- g) Institutions not maintaining the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)
- h) A foreign postsecondary institution, located outside the United States, is eligible to participate in ISAC-guaranteed loan programs provided it produces evidence to ISAC of current eligibility with ED (e.g., Program Participation Agreement, Institutional Eligibility Notice, etc.) or documentation of such eligibility is available directly from ED. (See 34 CFR 668.15(h).)

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)

**Section 2720.35 Holder Eligibility**

- a) All approved holders must execute an ISAC Holder Agreement prior to participating in the Federal Family Education Loan Program through ISAC.
- b) Holders must have received ED approval prior to executing a Holder Agreement.
- c) The Holder Agreement shall include provisions requiring holders to:
  - 1) comply with statutes, federal regulations and State rules; and
  - 2) provide such information as ISAC may request relating to borrower demographics, collection records and other documents ISAC may need to comply with federal regulations. (See Sections 2720.60(a) and 2720.70(c).)
- d) Holders and ISAC shall electronically transmit and receive loan guarantee data. ISAC shall provide the holder with program documentation and reasonable technical assistance related to electronic data exchanges. ISAC and the holder shall agree that the information and data shall be confidential and shall not be used, disclosed, sold or shared for any purpose other than that which is directly related to the administration of ISAC's guaranteed loan programs.
- e) Termination of the Holder Agreement may be made by either the holder or ISAC with 30 days' advance written notice. Termination shall not affect any obligations incurred prior to the time such termination becomes effective.
- f) Eligible holders shall employ an adequate number of qualified persons to administer the holders' responsibilities under ISAC's rules and federal regulations. In determining whether a holder employs an adequate number of qualified persons, ISAC considers the number of students aided, the number of applications evaluated and the amount of funds administered.
- g) In addition to the provisions of subsection (c), the Holder Agreement for insurance companies approved as holders shall require:
  - 1) advertising and promotional materials consistent with Section 149 of the Illinois Insurance Code [215 ILCS 5/149] and 50 Ill. Adm. Code 909; and
  - 2) compliance with Article XXVI of the Illinois Insurance Code [215 ILCS 5/Art. XXVI].

- h) A loan guarantee shall be canceled if the holder fails to comply with statutes, federal regulations and State rules, provided such failure impairs ISAC's ability to recover the expense of reimbursing the holder for the defaulted loan.
- i) ISAC conducts compliance reviews to determine if approved holders are complying with federal regulations, statutes and rules.
- j) Holders wishing to participate in ISAC-guaranteed loan programs shall submit an application which shall include, but not be limited to: servicing/secondary market agreements; previous compliance and audit reviews conducted by other guarantors and ED; documentation relating to the percentage of student loans as compared to other installment loan portfolios; default rates; policy and procedures manuals; promotional materials; a statement relating to previous and anticipated loan volume; and other similar information relating to student loans requested by ISAC to show the holders' qualifications for participation. Program participation will be determined by an examination of those materials and compliance with federal laws and regulations and State rules and statutes.

(Source: Amended at 24 Ill. Reg. 9101, effective July 1, 2000)

#### **Section 2720.40 Procedures for Obtaining a Guaranteed Loan**

- a) Borrowers who are eligible for a loan guarantee in accordance with Section 2720.10 are issued a notice of guarantee/disclosure statement. All promissory notes must be in a form approved by ED. No alteration or substitution may be used.
- b) All loans are made at the lender's discretion. When a lender rejects a borrower's request for a FFELP loan, the lender shall issue a notice of non-acceptance to the borrower.
- c) Lender-of-last-resort requirements:
  - 1) An applicant who is eligible for a federal subsidized or unsubsidized Stafford Loan or Federal PLUS Loan pursuant to Section 2720.10 of this Part and who has been unable to obtain loans from another ISAC-approved lender for the same period of enrollment can request participation in ISAC's Lender-of-Last-Resort Program.
  - 2) The applicant must be a resident of Illinois or must attend an eligible institution in Illinois or, for a Parent PLUS Loan, be the parent of a student

- attending an eligible institution and a resident of Illinois.
- 3) ISAC, within 60 days, will issue a guarantee for a loan under the Lender-of-Last-Resort Program or will advise applicants that they do not meet the eligibility requirements of Section 2720.10.
  - 4) ISAC will act as the lender-of-last-resort if it cannot arrange a loan for the applicant with a lender participating in ISAC's Lender-of-Last-Resort Program.
- d) The availability of an ISAC-guaranteed loan shall not be conditioned upon the purchase of credit life, life, accident, health or other forms of insurance.
  - e) The promissory note must be signed in ink, or must bear a valid electronic signature, in accordance with federal law (see 15 USC 7001 et seq.). Signature stamps shall not be used by the borrower.
  - f) At the lender's discretion and in accordance with federal regulations, endorsers may be used for Federal PLUS Loans.
  - g) Lenders shall obtain the names and addresses of at least two references from each loan applicant. Lenders shall submit the reference data to ISAC when requesting ISAC reimbursement pursuant to Section 2720.70.
  - h) When certifying a borrower eligible for a loan guarantee, the institution shall provide a loan disbursement schedule consistent with section 428G of the Higher Education Act of 1965, as amended (20 USC 1078-7). Should the institution or its agent fail to provide a disbursement schedule that is consistent with federal law, ISAC shall assign the loan a disbursement schedule that is consistent with section 428G of the Higher Education Act of 1965, as amended (20 USC 1078-7).

(Source: Amended at 33 Ill. Reg. 9758, effective July 1, 2009)

#### **Section 2720.41 One-Lender Requirement**

- a) All of a borrower's outstanding ISAC-guaranteed loans must be made by the same lender, subject to the following conditions:
  - 1) ISAC will issue a loan guarantee to a commercial lender provided that lender agrees to make all types of Federal Family Education Loan Program (FFELP) Loans to the borrower that the borrower requests and is eligible to receive, and:

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- A) the loan is the borrower's first ISAC-guaranteed loan;
  - B) the loan is a subsequent loan and the commercial lender has issued all of the borrower's previous ISAC-guaranteed loans; or
  - C) the loan is a subsequent loan and the commercial lender holds or has purchased all outstanding ISAC-guaranteed loans for that borrower from previous commercial lenders, in accordance with Section 2720.42 of this Part.
- 2) ISAC will issue a loan guarantee to an educational lender provided that:
- A) the lender agrees to make all types of FFELP Loans to the borrower that the borrower requests and is eligible to receive;
  - B) the lender is an educational institution at which the borrower is currently enrolled; and
  - C) the borrower has previously made a good faith effort to obtain a loan from a commercial lender pursuant to federal regulations. (See 34 CFR 682.602.)
- b) The requirements of this Section shall not apply if:
- 1) the outstanding loans are held by a lender that has been declared insolvent by a regulatory agency, has terminated its agreement with ISAC or has withdrawn from participation in FFELP;
  - 2) ISAC is informed by the borrower, the institution or its agent that the borrower has provided authorization to have subsequent loans issued by a different lender;
  - 3) the borrower is requesting a subsequent loan and the lender has made a previous ISAC-guaranteed loan to that borrower for that loan program with a guarantee date prior to July 1, 1993; or
  - 4) the borrower's outstanding loans were made in accordance with Section 2720.40(c) of this Part, by a lender-of-last-resort.

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)

**Section 2720.42 One-Holder Requirement**

- a) All of a borrower's outstanding ISAC-guaranteed loans must be sold by a lender to the same holder.
  - 1) If the lender has sold any of a borrower's previous ISAC-guaranteed subsidized or unsubsidized Federal Stafford Loans or Federal SLS Loans to an approved holder, the lender shall sell all subsequent loans to the same holder by no later than 90 days from the borrower's last date of attendance or 180 days following the last disbursement, whichever occurs later; or in the event of untimely notification to the lender of a student's change in enrollment status, no later than 45 days after the lender became aware that the student ceased to be enrolled on at least a half-time basis.
  - 2) Subsidized Federal Stafford Loans, unsubsidized Federal Stafford Loans and Federal SLS Loans which were made under the same promissory note for loan periods within the same academic year must be sold simultaneously.
  - 3) If the lender has sold the borrower's previous ISAC-guaranteed Federal PLUS Loans to an approved holder, the lender shall sell each subsequent Federal PLUS Loan for that borrower to the same holder by no later than 90 days from the last date of attendance or 180 days following the last disbursement, whichever occurs later; or in the case of a late disbursement, the subsequent loan must be sold within 45 days following disbursement.
  - 4) Upon notification by the holder of the oldest previous loan, the holder of any subsequent loan must sell that loan to the previous holder, unless the borrower requests in writing that the previous holder sell to the subsequent holder.
- b) Failure to sell the subsequent loan by the deadline shall result in the loss of guarantee.
  - 1) A guarantee may be reinstated if, within 90 days after identifying a loan in violation of subsection (a)(1), (a)(2), (a)(3) or (a)(4) above, the holder or lender initiates the sale of the loan to the eligible holder who purchased the applicant's previous loan(s).

- 2) Initiation of the sale procedure within 90 days, and conclusion of the sale before the day the loan enters default status, will retroactively reinstate the guarantee to the day the guarantee was lost due to a violation of subsection (a)(1), (a)(2), (a)(3) or (a)(4) above, provided no other violation of federal regulation or State rule exists.
  - 3) Failure to initiate the sale of the loan within 90 days after identifying the violation will result in a permanent loss of guarantee for that loan. Failure to ultimately sell the loan to the holder will also result in a permanent loss of guarantee for that loan.
- c) The requirements of this Section shall not apply if:
- 1) the outstanding loans are held by a holder which has been either declared insolvent by a regulatory agency, has terminated its agreement with ISAC or has withdrawn from participation in FFELP.
  - 2) ISAC is informed that the borrower has provided authorization to have subsequent loans held by a different holder.

(Source: Amended at 27 Ill. Reg. 10326, effective July 1, 2003)

### **Section 2720.50 Procedures for Disbursement, Disclosure, Delivery and Repayment**

- a) Disbursement, disclosure, delivery and repayment procedures are specified in federal regulations. (See 34 CFR 682.205, 34 CFR 682.206, 34 CFR 682.207, 34 CFR 682.209, and 34 CFR 682.604.) Furthermore, the lender shall provide required disclosures to federal Stafford, PLUS, and Consolidation loan borrowers, according to federal regulations. (See 34 CFR 682.205, 34 CFR 682.208(e)(1), 34 CFR 682.210(a)(3)(ii); 34 CFR 682.211(e).)
- b) Prior to disbursement, the borrower shall execute a common ED-approved promissory note for the principal and interest on the loan. The lender shall retain an original or true and exact copy of the promissory note. (See 34 CFR 682.414.)
- c) The lender shall transmit to ED any and all statements and reports necessary to obtain federal interest payments on the borrower's behalf. The lender shall not collect or attempt to collect from the borrower or ISAC any portion of the interest on the loan that is payable by ED.

- d) Except for loans pursuant to Section 2720.55, or loans made under a Blanket Certificate of Loan Guaranty agreement, the lender shall not disburse the proceeds of any loan on the borrower's behalf unless and until the lender shall have received from ISAC evidence of a guaranty. The lender shall inform ISAC of all disbursement dates.
  
- e) Federal Stafford and Federal PLUS Loan proceeds shall be transmitted directly to the institution.
  - 1) Federal Stafford Loan checks shall be payable to the student borrower unless the institution requires all Stafford loan checks to be co-payable to the borrower and the institution. Federal PLUS Loan checks shall be co-payable to the institution and the borrower. Federal Stafford or Federal PLUS Loan funds disbursed either via EFT or by Master Check to the institution shall include information identifying the names, Social Security Numbers and the loan amounts of the borrowers who are receiving a portion of the disbursement, and, in the case of a Parent PLUS Loan, the names and the Social Security Numbers of the students on whose behalf the parents are borrowing.
  
  - 2) Loan proceeds must be disbursed to the institution and delivered to the borrower no later than 180 days after the end of the loan period or 180 days after the date on which the student ceased to be enrolled at least half-time, whichever is earlier. If the loan proceeds are not delivered pursuant to this subsection (e)(2), the school must request that the loan be canceled and must return any loan proceeds. (See 34 CFR 668.164(g).)
  
  - 3) If the student has withdrawn from enrollment and federal regulations require the institution to submit a refund to the lender, either electronically or in the form of a check payable to the lender on behalf of the borrower, the institution shall provide simultaneous written notice to the borrower of the refund.
    - A) If the institution fails to issue a timely refund, as defined by federal regulations (see 34 CFR 682.607(c) and 668.22(j)), the institution shall pay penalty interest.
  
    - B) The penalty interest shall equal the total amount of interest and special allowance generated by the principal value of the refund amount. The penalty interest shall be computed from the date the refund was due until the date the refund was issued.



- C)      The penalty interest shall be paid to the lender or subsequent holder.
  
- f)      The borrower shall have the right to prepay without penalty the whole or any part of a loan guaranteed under this Part.
  
- g)      The lender or holder shall notify the borrower of the repayment options available, as specified in 34 CFR 682.209. The lender or holder shall send a repayment schedule to a FFELP borrower no less than 30 days nor more than 150 days before the first payment on the loan is due from the borrower.
  
- h)      The lender or holder shall notify ISAC of payment in full or prepayment in full by the borrower.
  
- i)      In accordance with federal regulations, the lender or holder may extend the maturity date of any note.
  
- j)      Lenders or holders may exercise administrative forbearances, which do not require the agreement of the borrower, as authorized by section 428(c)(3)(C) of the Higher Education Act of 1965, as amended (20 USC 1078(c)(3)(C)), and by federal regulations. (See 34 CFR 682.211.)
  
- k)      Borrowers are entitled to deferments, which extend the maturity date of any note, under conditions established by federal regulations. (See 34 CFR 682.210.)
  
- l)      ISAC provides lenders or holders with the ED-approved common forms necessary for servicing their guaranteed loan portfolio (e.g., deferment forms, mandatory forbearance forms).
  
- m)      No note shall be sold or transferred by the lender except to an ISAC-approved lender, an ISAC-approved holder, or ISAC.

(Source: Amended at 34 Ill. Reg. 8565, effective July 1, 2010)

**Section 2720.55 Federal Consolidation Loan Program**

- a)      ISAC shall guarantee Federal Consolidation Loans pursuant to Section 428C of the Higher Education Act of 1965, as amended (20 USCA 1078-3).
  
- b)      Lenders may make Federal Consolidation Loans provided participation in the Federal Consolidation Loan Program is authorized by the Lender Agreement.

(See Section 2720.20(a).)

- 1) ISAC shall initially authorize a lender to issue no more than \$5,000,000 in guaranteed Federal Consolidation Loans.
- 2) A lender may receive additional lending authority provided an ISAC compliance review indicates the lender is complying with federal regulations, statutes and rules. (See Section 2720.20(f).)
- c) All applications and promissory notes shall be in a form approved by ED. Lenders shall report to ISAC when a Federal Consolidation Loan is made.
- d) Lenders or holders shall request default aversion assistance and reimbursement on Federal Consolidation Loans in accordance with Sections 2720.60 and 2720.70.
- e) Lenders or holders shall pay the U.S. Department of Education all fees required by Section 428C(f) of the Higher Education Act, as amended, for Federal Consolidation Loans made on or after October 1, 1993.

(Source: Amended at 23 Ill. Reg. 7537, effective July 1, 1999)

**Section 2720.60 Default Aversion Assistance**

- a) ISAC functions in a supplementary role to assist the lender or holder in its collection of a loan that is at least 60 days delinquent. After requesting default aversion assistance, the lender or holder shall continue with normal collection activity.
- b) The request for default aversion assistance must be sent to ISAC in accordance with the time frames specified in federal regulations and the Higher Education Act of 1965, as amended.
- c) For 10 or more requests submitted in one month, the default aversion assistance request and subsequent default aversion transactions must be submitted electronically, in a format approved by ISAC, from which collection action can begin or cease immediately.
- d) If a borrower's address is unknown, the lender shall attempt to locate the borrower pursuant to federal regulations. (See CFR 682.411.) If it has not already done so, the lender shall file for assistance in accordance with the time frames specified in federal regulations and the Higher Education Act of 1965, as amended.

(Source: Amended at 25 Ill. Reg. 8369, effective July 1, 2001)

**Section 2720.70 Reimbursement Procedures**

- a) The lender or holder shall request reimbursement from ISAC within 60 days from the date the lender or holder receives a completed request for loan cancellation or discharge due to death, total and permanent disability, attendance at a school that closes, false certification by a school of a borrower's eligibility for a loan, unpaid refunds, areas of national need, civil legal assistance attorneys, or teacher loan forgiveness, in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.216, 682.402 and 682.409.)
- b) Requests for default reimbursement must be submitted to ISAC within the time frames specified in, and the lender or holder shall be reimbursed in accordance with, federal regulations and the Higher Education Act of 1965, as amended. In the case of a default on a Federal PLUS Loan, the borrower, co-maker and endorser must meet the default criteria contained in federal regulations.
- c) The lender or holder must request ISAC reimbursement for a bankruptcy claim in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.402(f).) The request for reimbursement must be submitted within 30 days after the lender's or holder's receipt of notice that collection on the debt is stayed, or 15 days upon notice of an adversary proceeding for undue hardship. A copy of the restraining order and the appropriate papers must be included. In the case of a bankruptcy involving a Federal PLUS Loan, the borrower, co-maker and endorser must meet the bankruptcy criteria contained in federal regulations.
- d) Prior to reimbursement, the lender or holder must certify compliance with federal due diligence requirements and subsection (h) of this Section.
- e) Prior to reimbursement, the lender or holder must have remitted the federal default fee established by Section 2720.80.
- f) The lender or holder shall forward to ISAC any payments made by or on behalf of the borrower after default reimbursement and shall advise ISAC of any subsequent information received concerning the borrower. Prior to reimbursement, all original notes or true and exact copies of original notes must be properly endorsed and submitted to ISAC. If the notes have been lost or erroneously stamped "Paid in Full," the lender or holder shall execute a Hold Harmless Agreement with ISAC.

- g) No fee or charge to the borrower, other than the maximum interest rate prescribed by ED and the collection charges outlined in federal regulations (see 34 CFR 682.202(f) and (g)), including the federal default fee, and the federal loan origination fee, shall be contracted for or received by the lender.
- h) The lender or holder shall make a proper collection effort in accordance with acceptable practices of prudent lending institutions including, but not limited to, the collection activities required by federal regulations. (See, e.g., 34 CFR 682.402, 682.411 and 682.412.)
- i) ISAC shall collect the outstanding amount on the reimbursed guaranteed loan. If the borrower refuses to retire the debt, ISAC shall follow the requirements of federal regulations, including, but not limited to, offsets of federal income tax refunds and other payments made by the federal government to the borrower. (See 34 CFR 682.410(b)(6).)
- j) Should a borrower refuse to retire the debt, ISAC shall direct the State Comptroller to offset any payment from the State Treasurer to the borrower. The funds offset shall be remitted to ISAC and credited against the debt.
  - 1) All offsets shall be processed in accordance with 74 Ill. Adm. Code 285.
  - 2) ISAC shall not direct an offset if the borrower has maintained a satisfactory repayment record. (See 23 Ill. Adm. Code 2700.40(a)(1).)
  - 3) ISAC shall notify the Office of the Comptroller that a borrower is eligible to be offset. ISAC may provide additional notice of subsequent offsets for the same debt. The Comptroller shall notify the borrower that the Comptroller is required to hold all eligible payments until the loan is paid in full. Should the borrower dispute the debt, a protest must be filed with the Office of the Comptroller within 30 days after and including the date of the notice. If the requested relief is granted, the funds offset shall be returned to the borrower.
  - 4) Funds eligible to be offset include, but are not limited to, State income tax refunds and the wages of State employees.
- k) ISAC shall provide a borrower with an opportunity for an administrative review of the legal enforceability or past-due status of the loan obligation after it pays a default claim but before it reports the default to each national consumer reporting agency or assesses collection costs against the borrower, in accordance with

federal regulations (34 CFR 682.410(b)(5)(ii)(C)).

- l) ISAC may garnish the disposable pay of a borrower if the individual is not currently making required payments, in accordance with Section 488A of the Higher Education Act, as amended.
- m) ISAC requires the lender or holder to submit a request for an increase in claim payment within 90 days after receiving the claim payment. ISAC will provide the lender or holder with a determination on the increase in claim payment within 90 days after receiving the request and supporting documentation.

(Source: Amended at 34 Ill. Reg. 8565, effective July 1, 2010)

#### **Section 2720.80 Federal Default Fee**

- a) ISAC must charge a federal default fee on each loan guaranteed on or after July 1, 2006. The fee must be collected from the borrower or from any non-federal source. If assessed to the borrower, the fee must be deducted proportionally from each disbursement of the loan. The fee must be remitted to ISAC by the lender no less frequently than monthly.
- b) The amount of the federal default fee collected on each loan shall be equal to one percent of the principal amount of the loan (see 20 USC 1071 et seq.).
- c) Refunds of any federal default fees assessed the borrower shall be made in accordance with federal regulations. (See 34 CFR 682.401(b)(10)(v) & (vi).)
- d) The federal default fees shall be deposited in the Federal Student Loan Reserve Fund. In accordance with federal regulations, a guaranty agency shall not use such proceeds for incentive payments to lenders and shall only use these proceeds for costs incurred as outlined in 34 CFR 682.419(c).

(Source: Amended at 32 Ill. Reg. 10290, effective July 1, 2008)

#### **Section 2720.90 Guarantee Transfers**

- a) ISAC may transfer loan guarantees to or from another guarantor, as specified in Section 428(b)(2)(E) of the Higher Education Act of 1965 (HEA), as amended (20 USCA 1078(b)), provided:
  - 1) the loan guarantees are insured (see Section 428(b) of the HEA);

- 2) an agreement has been entered into between ISAC and:
    - A) the other guaranty agency;
    - B) an agent of the guaranty agency, who has been approved by the U.S. Secretary of Education; or
    - C) the U.S. Secretary of Education or an agent thereof;
  - 3) the transfer has been approved by the holder of the loan.
- b) Notwithstanding any provision of Section 2720.42, regarding all loans being held by one holder, a loan guarantee may be transferred to ISAC from another guaranty agency.

(Source: Amended at 21 Ill. Reg. 11038, effective July 18, 1997)

#### SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

##### **Section 2720.105 Summary and Purpose**

- a) The Commission provides a secondary market for ISAC Guaranteed Loans through the Illinois Designated Account Purchase Program (IDAPP). ISAC's secondary market reduces the administrative expenses of lenders and increases the availability of education loans.
- b) Through IDAPP, ISAC purchases and/or services eligible loans from IDAPP-eligible lenders.
- c) Services provided pursuant to this Subpart are conditional upon the execution of a contract between the eligible lender and ISAC, and the eligible lender's good faith compliance with the contract.

(Source: Amended at 24 Ill. Reg. 9101, effective July 1, 2000)

##### **Section 2720.120 IDAPP Eligible Loans**

- a) Loans that are eligible for purchase and/or servicing by IDAPP:
  - 1) are not in default. Loans that are in default should be submitted for reimbursement in accordance with Section 2720.70.

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- 2) are in compliance with federal regulations and ISAC rules up to the date of the sale. ISAC will decline to purchase any account if the lender cannot demonstrate the loan was originated and serviced in accordance with all program requirements.
  - 3) have not been rejected for purchase by a different secondary market unless the account is current (not in delinquency status) and has an outstanding balance of at least \$3,500.
- b) Upon the sale or transfer of an account to ISAC, the lender shall report the transfer of ownership or servicing responsibility to the credit reporting agency utilized by the lender. The lender shall not put an adverse report on the borrower's credit rating.
  - c) ISAC may also purchase eligible loans as defined in Section 135 of the Higher Education Student Assistance Act [110 ILCS 947/135].

(Source: Amended at 24 Ill. Reg. 9101, effective July 1, 2000)

**Section 2720.130 IDAPP Eligible Lenders**

- a) Prior to submitting accounts for purchase, the lender and ISAC must execute an IDAPP contract. The contract requires lenders to comply with statutes, federal regulations and State rules.
- b) ISAC will purchase loans only from those lenders that have no inappropriate relationships with the institutions certifying the loans. An inappropriate relationship includes, but is not limited to, fiscal or loan service arrangements between commercial lenders and institutions which are not permitted by law or federal regulation (34 CFR 682.212) and/or is of such a special nature that all institutions or all lenders under similar circumstances do not receive similar terms, conditions or services from the lender.
- c) If it appears that the lender has violated one or more of ISAC's rules in the handling of any account, and if such violation contributed to the delinquent status of the account, ISAC will decline to purchase the account.

(Source: Amended at 25 Ill. Reg. 8369, effective July 1, 2001)

SUBPART C: ISAC ORIGINATED LOANS

**Section 2720.200 ISAC Originated Consolidation Loans**

- a) ISAC shall serve as a direct lender of Federal Consolidation Loans in accordance with Section 2720.55, Federal Consolidation Loan Program.
- b) A recipient of an ISAC-originated Federal Consolidation Loan must be an eligible borrower as established by Section 428C of the Higher Education Act of 1965, as amended. (See 20 USCA 1078-3.) Subject to the availability of funds, no eligible borrower shall be denied a Federal Consolidation Loan by ISAC.

(Source: Amended at 24 Ill. Reg. 9101, effective July 1, 2000)

**Section 2720.210 Illinois Opportunity Loan Program**

- a) ISAC may serve as a direct lender of non-subsidized Federal Stafford Loans through the Illinois Opportunity Loan Program.
- b) Each recipient of an Illinois Opportunity Loan must be an eligible borrower as established by Section 428 et seq. of the Higher Education Act of 1965, as amended. (See 20 USCA 1078 et seq.)
- c) In addition to the eligibility criteria established by federal law for all Federal Stafford Loan borrowers, each recipient must satisfy the following requirements to receive an Illinois Opportunity Loan.
  - 1) Each borrower must be a full-time student who is enrolled in a degree program. The borrower must be classified at an academic level of sophomore or above in the degree program. The institution shall verify the borrower's enrollment status prior to disbursement.
  - 2) Each borrower must be a resident of Illinois. For purposes of this Part, an applicant for an Illinois Opportunity Loan is a resident of Illinois notwithstanding the applicant's temporary absence from the State in order to enroll at an out-of-state institution.
  - 3) The Illinois Opportunity Loan Program shall have a minimum loan size of \$1000 per academic year.



- 4) No applicant may receive an Illinois Opportunity Loan if the total student assistance available to the borrower would exceed the borrower's cost of attendance. No applicant may receive an Illinois Opportunity Loan unless the institution's financial aid administrator determines the borrower needs an Illinois Opportunity Loan to finance his/her education. (See, e.g., Title IV, Part F of the Higher Education Act of 1965, as amended (20 USCA 1087 et seq.))
  
- d) The receipt of an Illinois Opportunity Loan by an eligible borrower is subject to the availability of lending capital. To the extent necessary to avoid an overcommitment of funds, ISAC may determine applicant eligibility on the basis of an application receipt date, the term of study for which the loan is being requested, or both.

(Source: Amended at 24 Ill. Reg. 9101, effective July 1, 2000)

**Section 2720.220 Federal Family Education Loan Program (FFELP) Loans**

- a) ISAC may serve as a direct lender of educational loans under FFELP.
  
- b) Each borrower must be an eligible borrower as established by the Higher Education Act of 1965, as amended (see 20 USCA 1078 et seq.), and must meet the eligibility requirements set forth in Section 2720.10 of this Part, Eligibility for ISAC Loan Guarantees.
  
- c) The amounts, terms and conditions of loans made under this Section shall be in accordance with the provisions of the Higher Education Act of 1965, as amended (see 20 USCA 1078 et seq.).
  
- d) Educational loans may be made to borrowers referred by lenders which have executed a Community Educational Loan Partnership agreement with ISAC.

(Source: Amended at 24 Ill. Reg. 9101, effective July 1, 2000)

**Section 2720.APPENDIX A Required Activities of Educational Lenders (Repealed)**

(Source: Repealed at 20 Ill. Reg. 9147, effective July 1, 1996)