

**RULES
OF
TENNESSEE STUDENT ASSISTANCE CORPORATION**

**CHAPTER 1640-1-2
GUARANTEED STUDENT LOAN PROGRAM**

TABLE OF CONTENTS

1640-1-2-.01	General	1640-1-2-.04	Loan Collection
1640-1-2-.02	Eligibility	1640-1-2-.05	Reporting Requirements
1640-1-2-.03	Loan Terms		

1640-1-2-.01 GENERAL.

- (1) Definitions. As used in these regulations (Chapter 1640-1-2):
- (a) “Corporation” shall mean the Tennessee Student Assistance Corporation.
 - (b) “Resident” or “bona fide resident” means a person who would meet the standards promulgated by the State Board of Regents under the authority of T.C.A. §49-3224 for determining a student’s residency for tuition purposes.
 - (c) “Eligible institution” shall be those educational institutions that have established their eligibility for participation in the Guaranteed Student Loan Program with the U.S. Department of Education and that have not had their eligibility suspended or terminated under regulations promulgated by the U.S. Secretary of Education or his designated official.
 - (d) “Eligible lender” or “lender” means:
 - 1. A national or state chartered bank, a savings and loan association, or a credit union which is subject to examination and supervision by an agency of the United States or the State of Tennessee and which does not have as its primary consumer credit function the making or holding of loans made to students under the Guaranteed Student Loan Program;
 - 2. A pension fund as defined in the Employees Retirement Income Security Act;
 - 3. An insurance company which is subject to examination and supervision by an agency of the United States or the State of Tennessee;
 - 4. An eligible institution in Tennessee which:
 - (i) employs at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;
 - (ii) is not a home study school;
 - (iii) has an agreement with the U.S. Secretary of Education under which it agrees to make loans under the Guaranteed Student Loan Program to no more than 50 percentum of the students in attendance at the institution who are not graduate or professional students and that it will not make such a loan to a student, other than a graduate or professional student who has not previously received a loan from

(Rule 1640-1-2-.01, continued)

such institution until such student has provided the institution with either a statement from an eligible commercial lender that the student sought a loan from it and was denied such loan or a sworn statement by the student that the lender from which he sought a loan declined to provide the statement;

- (iv) has not had its eligible lender status terminated by the U.S. Secretary of Education.
5. For purposes only of purchasing and holding loans made by other lenders and insured by the Corporation, the Student Loan Marketing Association or an agency of the State of Tennessee functioning as a secondary market, or an eligible lender as defined in subparagraph (d) of this part and which has signed an agreement with the Corporation.
- (e) “Graduate or professional student” means a student who (a) is pursuing a program, or has a bachelor’s degree and is enrolled in courses which are normally part of a program, leading to a graduate or professional degree at an institution of higher education; and (b) has successfully completed the equivalent of at least three years of full-time study at an institution of higher education either prior to entrance into the program or as part of the program itself.
 - (f) “Full-time student” means: (a) a student enrolled in an institution of higher education (other than a correspondence school) who is carrying a full-time academic workload as determined by the school, under standards applicable to all students enrolled in that student’s particular program. The student’s workload may include any combination of courses, work experience, research, or special studies; whether or not for credit, that the school considers sufficient to classify the student as a full-time student; or (b) a student enrolled in a vocational school (other than a correspondence school) who is carrying a workload of not less than 24 clock hours per week or 12 semester or quarter hours of instruction, or its equivalent.

“Half-time student” means an enrolled student who is carrying a half-time academic workload as determined by the school, and that amounts to at least one-half the workload of a full-time student. A student enrolled solely in an eligible program of study by correspondence is considered a half-time student.
 - (g) “Line of Credit” means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.
 - (h) “Academic year” means a period of time, typically eight or nine months, in which a full-time student would normally be expected to complete two semesters, two trimesters, three quarters, 900 clock hours of instruction, or its equivalent. Eighteen months shall be considered the equivalent of an academic year with regard to a program offered by correspondence.
 - (i) “Default” means the failure of a student borrower to make an installment payment when due, or to comply with other terms of the note or other written agreement evidencing a loan under circumstances where the Tennessee Student Assistance Corporation finds it reasonable to conclude that the borrower no longer intends to honor his obligation to repay, where such failure persists (i.e., is not cured either by payment or other appropriate arrangements) in the case of a loan repayable in monthly installments for 180 days, or in the case of a loan repayable in less frequent installments for 240 days.
 - (j) “Insurance premium” means a fee charged by the Tennessee Student Assistance Corporation to insure a loan under the Guaranteed Student Loan Program.

(Rule 1640-1-2-.01, continued)

- (k) “Totally and permanently disabled” means unable to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death.
- (l) “Holder” means an eligible lender or the Student Loan Marketing Association.
- (m) “Estimated cost of attendance” or “cost of attendance” means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the eligible institution’s estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable transportation costs, and costs for books and supplies.
- (n) “Estimated financial assistance” means for the period for which a loan is sought, the estimated amount of assistance that a school is aware a student has been or will be awarded in federal, state or privately supported scholarship, grant, work, or loan programs, any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he or she were not a student, and any amount paid the student under Chapters 32, 34, and 35 of Title 38, United States Code.
- (o) “Independent student” means a student who:
 - 1. is 24 years of age or older by December 31 of the award year; or
 - 2. is an orphan or ward of the court; or
 - 3. is a veteran of the U.S. Armed Forces; or
 - 4. has legal dependents other than a spouse; or
 - 5. is married, or is a graduate or professional student, and can document that they will not be claimed for tax purposes by parent, guardian, or any other individual for the first calendar year of the award year; or
 - 6. is a single person with no dependents who can document that they will not be claimed for tax purposes by parent, guardian, or any other individual for two calendar years preceding the award year and can demonstrate to the financial aid administrator an annual income of at least \$4,000 during those two calendar years preceding the award year.
- (p) “Temporarily totally disabled” means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period required continuous nursing or other similar services.
- (q) “Origination fee” means a one-time charge authorized by federal law which is made by an eligible lender to a student borrower for the purpose of recovering a portion of the in-school interest subsidy paid by the U.S. Department of Education.

(Rule 1640-1-2-.01, continued)

- (r) "New borrower" is a student who has no outstanding balance on GSL, PLUS, SLS, or Consolidation Loans on the date he or she signs the promissory note for a loan to cover periods of enrollment beginning on or after July 1, 1987.
- (2) The Corporation shall administer a program of insurance for educational loans to be known as the Guaranteed Student Loan Program. Such program is authorized by Title IV, Part B, Higher Education Act of 1965 as amended, and Chapter 50, Title 49, Tennessee Code Annotated, and is to be governed by those laws and applicable regulations promulgated thereunder. Regulations promulgated by the United States Secretary of Education which govern the Guaranteed Student Loan Program are published as 34 Code of Federal Regulations part 682. If there is any conflict between the provisions of Chapter 1640-1-2 T.A.R. and 34 C.F.R. part 682, the provisions of 34 C.F.R. part 682 shall prevail.
- (3) The Corporation shall insure 100 percentum of the unpaid principal balance plus accrued interest of educational loans made by eligible lenders to worthy and needy students who are bona fide residents of the State of Tennessee and who are enrolled or accepted for enrollment in eligible educational institutions and who carry at least one-half the normal full-time workload as determined by the educational institution. The Corporation shall also insure, under the same conditions, loans made to non-residents who attend eligible institutions located in Tennessee. Such loan insurance will be provided for any year of study at an eligible institution. Insurance coverage of accrued interest shall be limited to a maximum of 270 days on default claims and 60 days on death, bankruptcy and disability claims, plus the required Corporation processing time.
- (4) The aggregate amount of loans insured under the Guaranteed Student Loan Program shall at no time exceed a sum equal to ten (10) times the total reserve funds available for that purpose; however, with respect to so much of any loan reinsured by the United States Secretary of Education, such amounts of reinsurance shall be considered a part of the reserve and fully available for Guaranteed Student Loan Program purposes.
- (5) Eligible lenders desiring to have educational loans insured by the Corporation must enter into a written agreement with the Corporation stating the duties and responsibilities of both parties. Should a lender fail to comply with all state and federal regulations governing the Guaranteed Student Loan Program, the Executive Director of the Corporation may suspend the insurance of new educational loans by the lender until such time as the Corporation obtains satisfactory evidence that the lender is and will remain in compliance with all GSLP regulations. Should the lender continue in a state of noncompliance, the Executive Director of the Corporation is authorized to terminate the contract with the lender pursuant to termination provisions contained therein.
- (6) With the exception of sales or assignments to the approved secondary markets, eligible lenders may not sell or assign loans insured under the Guaranteed Student Loan Program without the prior approval of the Corporation.
- (7) Educational institutions which have established eligibility to participate in the Guaranteed Student Loan Program and enroll loan recipients shall abide by all applicable laws and regulations governing the program. Should an eligible educational institution fail to comply with all applicable laws and regulations governing the Guaranteed Student Loan Program, the Executive Director of the Corporation may suspend the insurance of loans to students attending the institution until such time as the Corporation obtains satisfactory evidence that the institution is and will remain in compliance with all Guaranteed Student Loan Program laws and regulations. Should the institution continue in a state of noncompliance, the Executive Director of the Corporation is authorized to terminate the insuring of Guaranteed Student Loans for students to attend the institution. Suspension and termination actions by the Executive Director may be appealed by the institution in accord with the Uniform Administrative Procedures Act, Chapter 5, Title 4, Tennessee Code Annotated.

(Rule 1640-1-2-.01, continued)

Authority: T.C.A. §§49-4-204 and 49-50-104. **Administrative History:** Original rule filed January 23, 1976; effective April 15, 1976. Repeal and new rule filed February 8, 1977; effective March 10, 1977. Amendment filed October 20, 1978; effective January 29, 1979. Amendment filed March 27, 1979; effective June 29, 1979. Amendment and new rule filed December 27, 1979; effective March 30, 1980. Amendment filed January 23, 1981; effective April 29, 1981. Amendment filed November 30, 1981; effective March 1, 1982. Amendment filed March 3, 1982; effective July 1, 1982. Amendment filed July 26, 1983; effective October 14, 1983. Amendment filed February 8, 1984; effective May 15, 1984. Amendment filed July 10, 1984; effective October 14, 1984. Amendment filed November 2, 1984; effective February 12, 1985. Amendment filed May 15, 1986; effective August 12, 1986. Amendment filed January 20, 1987; effective April 29, 1987. Amendment filed March 31, 1987; effective June 29, 1987.

1640-1-2-.02 ELIGIBILITY.

- (1) To be eligible to receive a Guaranteed Student Loan, a student must meet the following general eligibility criteria:
 - (a) must be a citizen, national, or permanent resident of the U.S. or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands; or be in the U.S. for other than a temporary purpose and provide evidence from the Immigration and Naturalization Service of intent to become a permanent resident;
 - (b) be a resident of the State of Tennessee or a non-resident enrolled in an eligible institution in Tennessee;
 - (c) be enrolled or accepted for enrollment in a participating school as at least a half-time student;
 - (d) be enrolled or accepted for enrollment in a degree, certificate or other program leading to a recognized educational credential at an eligible institution;
 - (e) if in a vocational school, must not be attending either elementary or secondary school;
 - (f) if in a vocational school, must meet institutional criteria for determining his or her ability to benefit from the training undertaken;
 - (g) if already enrolled, be maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution;
 - (h) demonstrate need for the loan;
 - (i) not owe a refund on a Title IV grant or be in default on a Title IV loan at any institution;
 - (j) file a statement of educational purpose with the lender, and, if required, a statement of Selective Service registration compliance with the school;
 - (k) provide his or her social security number;
 - (l) authorize the school in writing to pay directly to the lender any part of a refund that the school determines to be allocable to the loan;
 - (m) if an undergraduate attending a school that participates in the Pell Grant program, receive a determination of eligibility or ineligibility for a Pell Grant.

(Rule 1640-1-2-.02, continued)

- (2) To be eligible for federal interest subsidies a student must satisfy the requirements of Title 4, Part B, Higher Education Act of 1965, as amended and any regulations promulgated by the U.S. Secretary of Education.
- (3) If a student attending an eligible institution should owe a refund on a grant received from a program funded in whole or in part under Title IV of the Higher Education Act of 1965, as amended, or be in default on a loan received under the provisions of Title IV at any institution, then the student shall be ineligible for further payment of benefits while attending any institution should the Corporation become aware that the student has not satisfied his obligations.
- (4) A student convicted of any criminal offense growing out of any student riot, protest, or disturbance shall forfeit any further right to any benefits of the loan insurance program supported by the State of Tennessee.

Authority: T.C.A. §§49-5004 and 49-50-104. **Administrative History:** Original rule certified January 23, 1976; effective April 15, 1976. Repeal and new rule filed February 8, 1977; effective March 10, 1977. Amendment filed March 27, 1979; effective June 29, 1979. Amendment and new rule filed December 27, 1979; effective March 30, 1980. Amendment filed January 23, 1981; effective April 29, 1981. Amendment filed November 30, 1981; effective March 1, 1982. Amendment filed July 26, 1983; effective October 14, 1983. Amendment filed February 9, 1984; effective May 15, 1984. Amendment filed January 20, 1987; effective April 29, 1987. Amendment filed March 31, 1987; effective June 29, 1987.

1640-1-2-.03 LOAN TERMS.

- (1) The maximum amount of a loan insured under the Guaranteed Student Loan Program in any academic year shall not exceed \$2,625 for first and second year undergraduates. A student who the school determines has successfully completed the first and second year of an undergraduate program, but who has not successfully completed the undergraduate program, may borrow up to \$4,000 per academic year. Graduate and professional students may borrow up to \$7,500 per academic year. Exceptions are:
 - (a) Loans made by a single agency of the State of Tennessee, a single nonprofit private agency designated by the State of Tennessee, or by an eligible institution, to a student who is enrolled in the first academic year of undergraduate study and was not previously enrolled in an undergraduate program shall not be insured if the amount of the loan exceeds (50) percentum of the estimated cost of attendance.
 - (b) Loans may be insured in excess of these maximums if the U.S. Secretary of Education determines, pursuant to regulations prescribed by him, that the higher amount is warranted with respect to students engaged in specialized training requiring exceptionally high costs of education.
 - (c) In no case shall the amount of the loan exceed the student's estimated cost of attendance for the period of the loan less estimated financial assistance less expected family contribution. Provided that the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.
- (2) The aggregate insured unpaid principal amount of all insured loans made to any student shall not at any time exceed \$17,250 in the case of any student who has not successfully completed a program of undergraduate education.

(Rule 1640-1-2-.03, continued)

- (3) The aggregate insured unpaid principal amount for all insured loans made to any graduate or professional student, including loans insured before such student became a graduate or professional student, shall not at any time exceed \$54,750. Provided, however, that the U.S. Secretary of Education may increase this limit for graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive.
- (4) Loans insured under the Guaranteed Student Loan Program for periods of instruction beginning before January 1, 1981 shall not bear interest at a yearly rate in excess of seven percentum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance or any origination fee which may be passed on to the borrower).

With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall:

- (a) not exceed 7 percentum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan insured under the Guaranteed Student Loan Program, other than a loan for which the interest rate is determined under paragraph (b) or (c) immediately below.
- (b) except as provided in paragraph (c), be nine percentum, per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan insured under the Guaranteed Student Loan Program, or who has such an outstanding balance on a loan for which the interest rate is determined under this paragraph.
- (c) be eight percentum per annum on the unpaid principal balance of the loan in the case of any borrower not subject to paragraph (a) or (b) for any loan to cover the cost of education for any period of enrollment beginning on or after a date which is three months after the United States Secretary of Education, after consultation with the United States Secretary of the Treasury, determines for any twelve-month period beginning on or after January 1, 1981, that the average of the bond equivalent rates of ninety-one day Treasury bills auctioned for such twelve-month period is equal to or less than nine percentum.
- (d) be with respect to any loan made to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this paragraph, the applicable rate of interest shall be:
 1. eight percentum per annum on the unpaid principal balance of the loan during the period beginning on the date of disbursement of the loan and ending four years after the commencement of repayment; and
 2. ten percentum per annum on the unpaid principal balance of the loan during the remainder of the repayment period.
- (e) nothing in this rule shall be construed to prohibit a lender from charging a borrower interest at a rate less than the maximum rate established by this rule.

Interest which has accrued during authorized periods of forbearance may be capitalized by adding it to the previously unpaid principal balance.

(Rule 1640-1-2-.03, continued)

- (5) Insurance premiums assessed borrowers shall be equal to not more than 3 percent of the principal amount of the loan by deduction proportionately from each installment payment of the proceeds of the loan to the borrower and the proceeds of the premium will not be used for incentive payments to lenders. Insurance premiums assessed of borrowers shall not be retained by a lender to cover the costs of making a loan or for any other purpose. This provision shall become effective for applications filed on or after July 1, 1987. If a lender has been billed for an insurance premium (guarantee fee) and fails to remit the fee to the TSAC within sixty (60) days after the actual disbursement date of the loan, the guarantee on the loan is forfeited and, thereby, becomes null and void.
- (6) Notes evidencing loans insured under the provisions of the Guaranteed Student Loan Program may, at the option of the lender, be co-signed by a parent, guardian, spouse of the student, or another responsible adult.
- (7) Except for authorized periods of deferment or forbearance, the repayment period of any insured loan may not exceed 10 years from the date the repayment period begins.
- (8) Payments on loans insured under the Guaranteed Student Loan Program may be deferred during periods when a borrower is engaged in one of the following activities:
 - (a) full-time study at a participating school, unless the borrower is not a national of the United States and is pursuing a course of study at a school not located in a state.
 - (b) study under a graduate fellowship program approved by the U.S. Secretary of Education.
 - (c) up to three years of active duty service in the United States Armed Forces or as an officer in the Commissioned Corps of the Public Health Service.
 - (d) up to three years of volunteer service under the Peace Corps Act.
 - (e) up to three years of service as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973 (ACTION programs).
 - (f) pursuing a course of study under a rehabilitation training program for disabled individuals that is approved by a U.S. Commissioner of Education.
 - (g) conscientiously seeking but unable to find full-time employment in the United States for a total of up to twenty-four (24) months.
 - (h) up to three years during which the borrower is in service, comparable to Peace Corps or ACTION, as a full-time volunteer for an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954.
 - (i) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service.
 - (j) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.

Payments on loans insured under the Guaranteed Student Loan Program for new borrowers covering periods of enrollment beginning on or after July 1, 1987 may be deferred during periods when the borrower is engaged in one of the following activities:

(Rule 1640-1-2-.03, continued)

- (k) at least half-time study at a school that is participating in the GSLP, unless the borrower is not a national of the United States and studying at a school not located in the United States, and if student has received a loan under the GSL or PLUS/SLS Program for that enrollment period.
 - (l) up to three years of active duty status in the Armed Forces of the United States or serving as an officer in the Commissioned Corps of the United States Public Health Service, or an active duty member of the National Oceanic and Atmospheric Administration.
 - (m) up to three years as a full-time teacher in a public or private elementary or secondary school in a teacher shortage area as defined by the Secretary of Education.
 - (n) up to three years being unable to secure employment because the student is providing care required by a spouse or other dependent who is temporarily disabled, as established by a sworn affidavit of a qualified physician.
 - (o) up to twelve months if the student is a mother with preschool age children, and is entering or reentering the work force, and is being paid at a rate that is no more than \$1.00 above the minimum hourly wage prescribed by the Fair Labor Standards Act of 1938.
 - (p) up to six months when the student is pregnant or caring for a newborn child or caring for a child immediately following the placement of the child through adoption, provided the student is not attending a school and is not gainfully employed. The student must have been enrolled within the past six months, at least half-time in an eligible school.
- (9) Repayment of loans shall be in installments over a period of not less than five years nor more than ten years beginning not earlier than nine months nor later than one year after the date the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except:
- (a) The student shall be entitled to accelerate without penalty the whole or any part of an insured loan.
 - (b) The student, during the nine to twelve-month period preceding the start of the repayment period, may request that repayment begin earlier or be made over a shorter period. In the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years.
 - (c) This regulation is subject to regulations 7, 8, and 10 of this part.
 - (d) Provided, however, that repayment of loans bearing an interest rate of either eight or nine percentum per annum shall begin six months after the month the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution.
- (10) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under the Guaranteed Student Loan Program shall not be less than \$600 or the balance of all such loans (together with interest thereon), whichever amount is less, except:
- (a) The borrower and lender may mutually agree on a lesser amount.

(Rule 1640-1-2-.03, continued)

- (b) In the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than \$600 or the balance of all such loans, whichever is less.
 - (c) This regulation is subject to regulation 7 of this part.
- (11) Lenders are encouraged to grant forbearance for the benefit of a borrower in order to prevent a borrower from defaulting on his or her payment obligations. "Forbearance" means permitting the temporary cessation of payments, allowing an extension of time for making payments, or accepting smaller payments than were previously scheduled.

A lender may grant forbearance of payments of principal and/or interest whenever poor health or other personal problems affect the ability of the borrower to make scheduled payments, or the borrower's payments of principal are deferred.

A lender may grant forbearance on terms that are consistent with the minimum annual payment requirement and the 10-year limitation on length of repayment if the lender and the borrower agree in writing to the new terms, or, in the case of forbearance of interest during a period of deferment, if the lender informs the borrower in writing at the time the deferment is granted that interest payments are to be forborne.

A lender may also grant forbearance for a period of up to one year at a time. Any forbearance that is for more than a year must be approved by the Corporation on a case by case basis. If payments of interest are forborne they may be added to the principal amount of the loan obligation at the end of each calendar quarter.

- (12) An eligible lender must charge a student borrower an origination fee when established by current federal law. This origination fee must be deducted proportionately from each installment payment of the loan.

Authority: T.C.A. §§49-4-204 and 49-50-104. **Administrative History:** Original rule certified January 23, 1976; effective April 15, 1976. Repeal and new rule filed February 8, 1977; effective March 10, 1977. Amendment filed August 14, 1977; effective September 13, 1977. Amendment and new rule filed December 27, 1979; effective March 30, 1980. Amendment filed January 23, 1981; effective April 29, 1981. Amendment filed November 30, 1981; effective March 1, 1982. Amendment filed July 30, 1982; effective October 13, 1982. Amendment filed July 10, 1984; effective October 14, 1984. Amendment filed December 14, 1984; effective March 16, 1985. Amendment filed February 11, 1985; effective May 14, 1985. Amendment filed September 3, 1985; effective December 14, 1985. Amendment filed January 20, 1987; effective April 29, 1987. Amendment filed March 31, 1987; effective June 29, 1987. Amendment filed July 26, 1988; effective October 29, 1988.

1640-1-2-.04 LOAN COLLECTION.

- (1) Eligible lenders making loans under the Guaranteed Student Loan Program shall use due diligence in the making, servicing, and collecting of such loans. The term "due diligence" requires the utilization by a lender in the making, servicing, and collection of loans insured by the Corporation, of practices at least as extensive and forceful as those generally practiced by financial institutions in the making, servicing and collection of similar consumer loans not covered by insurance, except that the lender will not be required to make a credit determination in the making of such loans. The term "due diligence" also requires adherence to the following standards:
- (a) General Standards

(Rule 1640-1-2-.04, continued)

1. The lender must be familiar with and abide by State and Federal law and regulations governing the Guaranteed Student Loan Program.
 2. The lender must establish procedures and assign sufficient personnel to process and service educational loans.
 3. The lender must respond to inquiries from the borrower or co-maker in a timely and businesslike manner.
 4. The lender must maintain records of all events affecting a Guaranteed Student Loan, including but not limited to, changes of address or enrollment status, copies of all correspondence, and a history of all payments by the borrower.
 5. The lender shall in each case exhaust all reasonable means of collecting a loan from a student before requesting repayment by the Corporation.
 6. The lender must report to a credit bureau information concerning dates, amounts and repayment status of all Guaranteed Student Loans.
- (b) Specific Standards
1. The lender shall not delegate the loan-making function to a third party.
 2. Prior to making each loan, the lender must obtain the student's signature on the Certification Statement located on the form, "Statement of Student Borrower's Rights and Responsibilities", which attests that the student has read his or her responsibilities regarding the loan and understands them. The student's signature may, at the option of the lender, be obtained either through the mail or in person.
 3. The lender must not ask the borrower to sign any form used in the Guaranteed Student Loan Program before all information requested of the borrower on such form has been supplied.
 4. The proceeds of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of \$1,000 or more will be disbursed by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being disbursed not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment). Disbursement of funds must be by check payable to the order of and requiring the endorsement of the borrower. All checks must be mailed to the educational institution except in the case of students enrolling in foreign institutions. Foreign enrollment checks are to be mailed directly to the student in only one disbursement.
 5. The lender should not disburse loan proceeds to a student earlier than is reasonably necessary to meet the educational costs for which the loan is being made and in no case earlier than thirty days prior to the date on which the student is scheduled to matriculate.
 6. Eligible institutional lenders shall disburse loan proceeds in approximately equal installments no earlier than the beginning of each school term in cases where a loan is approved for more than one term.

(Rule 1640-1-2-.04, continued)

7. The lender shall not charge nor is the student borrower liable for any interest that would be payable by the U.S. Department of Education if requested by the lender, nor shall the lender attempt to collect from the borrower any charges or costs not specifically provided for in state or federal regulations.
8. When a lender receives notice from the educational institution, the student, or from the Corporation, or when it determines or has reason to believe that a borrower is no longer enrolled at an eligible institution on at least a half-time basis, the lender must attempt, within forty-five days, to contact the borrower in order to establish the terms of repayment. If the lender is unsuccessful in locating the student, or in negotiating the terms of repayment, it must promptly request assistance from the Corporation.
9. Lenders should at a minimum adhere to the following schedule, or a similar schedule, of actions when attempting to collect from student borrowers whose loans are delinquent:

Day Delinquent	Action to be Taken
1-30	Two written notices, including co-signer attempt (if applicable).
31-60 notices	Phone contact. If unable to reach borrower, two written notices which require certain language.
60-70	File Request for TSAC Collection Assistance.
61-90	Phone Contact. If unable to reach borrower, one written notice which requires certain language.
91-120	Phone Contact. If unable to reach borrower, one written notice which requires certain language.
121-150	Phone Contact. If unable to reach borrower, one written notice which requires certain language.
151-180	Final Demand Letter.
181-270	File Request for Payment.

10. The lender must employ skip tracing within 10 days of known bad address, including, but not limited to co-signers, relatives, and references.
- (2) Eligible lenders filing claims for insurance with the Corporation and providing satisfactory documentation of adherence to specific standards of due diligence, and in the absence of evidence of violation of general standards of due diligence, shall be presumed to have performed due diligence in the making, servicing, and collecting of loans.

The Corporation reserves the right or option to refuse to pay a default claim if the lender or the holder fails to exercise due diligence in the making, servicing, or collection of the loan.

- (3) In no case will a claim for insurance from an eligible lender be honored unless the student dies or becomes permanently and totally disabled, or has commenced the repayment period and subsequently defaults or is adjudicated bankrupt.
- (4) Claims for insurance shall be filed on forms provided by the Corporation.
- (5) Nothing in these regulations shall be construed so as to require or prohibit legal action by an eligible lender in an attempt to recover on a delinquent student loan. Lenders and holders are encouraged to

(Rule 1640-1-2-.04, continued)

resort to litigation when appropriate, as determined in consultation with the Corporation, as a part of their collection procedures.

- (6) Claims for insurance shall be filed within 90 days after the 180th day delinquency period in order for the loans to be eligible for principal and interest payments. Default claims submitted after the 270th day of delinquency will receive principal and interest payments to a maximum of 270 days.

Authority: T.C.A. §§49-4-204 and 49-50-104. **Administrative History:** Original ruled filed January 23, 1976; effective April 15, 1976. Repeal and new rule filed February 8, 1977; effective March 10, 1977. Amendment filed March 27, 1979; effective May 11, 1979. Amendment filed January 23, 1981; effective April 29, 1981. Amendment filed November 30, 1981; effective March 1, 1982. Amendment filed July 10, 1984; effective October 14, 1984. Amendment filed September 3, 1985; effective December 14, 1985. Amendment filed January 6, 1986; effective April 15, 1986. Amendment filed September 10, 1986; effective December 29, 1986. Amendment filed January 20, 1987; effective April 29, 1987. Amendment filed March 31, 1987; effective June 29, 1987. Amendment filed March 11, 1988; effective June 29, 1988.

1640-1-2-.05 REPORTING REQUIREMENTS.

- (1) The Corporation shall assume the responsibility of promptly notifying the eligible institution attended by the borrower at the time of the loan that a loan has been insured for the student and shall in each case provide the name of the lender.
- (2) The student borrower shall promptly notify the holder of the loan concerning any change of address.
- (3) The student borrower shall, within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligation.
- (4) An institution enrolling a Guaranteed Student Loan recipient must, on forms provided by the Corporation, notify the holder of the loan (or if unknown, the Corporation) of the latest known address of any student who has either formally terminated his enrollment or failed to re-enroll on at least a half-time basis. Such notification shall be made not later than sixty days after such termination or failure to re-enroll.
- (5) An institution enrolling a Guaranteed Student Loan recipient must indicate on any subsequent application by such student if:
 - (a) the student has been convicted of any criminal offense growing out of a student riot or disturbance.
 - (b) the student is not in good standing as defined by the institution.
 - (c) the student is not maintaining satisfactory progress as defined by the institution.
 - (d) the student owes a refund on any grant or is in default on any loan received at any institution from a program funded in whole or in part under Title IV of the Higher Education Act of 1965, as amended.
- (6) Any holder of a loan insured under the Guaranteed Student Loan Program is required to submit to the U.S. Secretary of Education, or to the Corporation, at such time or times and in such manner as they may prescribe, statements containing such information as may be required for proper administration of the program.

(Rule 1640-1-2-.05, continued)

Authority: T.C.A. §49-5004. **Administrative History:** Original ruled filed January 23, 1976; effective April 15, 1976. Repeal and new rule filed February 8, 1977; effective March 10, 1977. Amendment filed January 23, 1981; effective April 29, 1981. Amendment filed July 10, 1984; effective October 14, 1984. Amendment filed January 20, 1987; effective April, 29, 1987.