

**RULES
OF
TENNESSEE STUDENT ASSISTANCE CORPORATION**

**CHAPTER 1640-1-7
AUXILIARY LOANS TO ASSIST STUDENTS PROGRAM**

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1640-1-7-.01 INTRODUCTION.

- (1) These rules implement the Auxiliary Loans to Assist Students Program. This program shall include the PLUS program and the Supplemental Loans for Students. This program, which shall be called the PLUS/SLS Program, insures educational loans made by participating lenders to parents of dependent undergraduate or graduate students, to independent undergraduate students, and to graduate and professional students who wish to borrow funds to meet the costs of postsecondary education.

Authority: T.C.A. §49-50-104. *Administrative History:* Original rule filed August 6, 1982; effective November 15, 1982. Amendment filed February 5, 1987; effective May 27, 1987.

1640-1-7-.02 GENERAL.

- (1) Definitions. As used in these regulations (Chapter 1640-1-7):
- (a) “Corporation” shall mean the Tennessee Student Assistance Corporation.
 - (b) “Resident” or “bona fide resident” means a student and/or parent 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) “Participating school” means an educational institution which has established its eligibility for participation in the PLUS Program with the U.S. Department of Education and has not had its eligibility suspended or terminated under regulations promulgated by the U.S. Secretary of Education or his designated official.
 - (d) “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 (Chapter 1640-1-2) and the PLUS 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. A participating school in Tennessee which:

(Rule 1640-1-7-.02, continued)

- (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;
- 5. For purposes only of purchasing and holding PLUS 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) “Parent” means a person’s mother or father or legal guardian. An adoptive parent is considered to be the person’s mother or father.
- (f) “Legal guardian” means an individual who is appointed by a Court as a “legal guardian” of a person and who is specifically required by the Court to use his or her own financial resources to support that person.
- (g) “Endorser” means an individual who is secondarily liable for the loan.
- (h) “Graduate or professional student” means a student who:
 - 1. 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
 - 2. 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 of 12 semester or quarter hours of instruction, or its equivalent.
- (i) “Undergraduate student” means a student who is not a graduate or professional student.
- (j) “Independent student” means a student who is determined pursuant to regulations promulgated by the U.S. Secretary of Education to be independent of the parents or legal guardian of the student.
- (k) “Dependent student” means a person who is not an independent student.
- (l) “Full-time student” means: (i) 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 (ii) 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.
- (m) “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.

(Rule 1640-1-7-.02, continued)

- (n) “Borrower” means the parent of a dependent undergraduate student or dependent graduate student, a graduate or professional student, or an independent undergraduate student.
- (o) “Estimated cost of attendance” or “cost of attendance” means:
 - 1. for the period for which the loan is sought, the tuition and fees applicable to such student together with the participating school’s estimate of other expenses reasonably related to attendance at such school, including, but not limited to, the cost of room and board, reasonable transportation costs, and costs for books and supplies, the insurance premium for the loan, and if the student has applied for a Guaranteed Student Loan for the same academic period, the origination fee and insurance premium for that loan;
 - 2. for a student enrolled in a correspondence study program, only the insurance premium for the loan and the contract price of the program, and, if the student has applied for a Guaranteed Student Loan for the same academic period, the origination fee and insurance premium for that loan, plus the “estimated cost of attendance” for any required period of residential training in connection with the correspondence study program.
- (p) “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 Veterans benefits paid the student under the Chapters 32, 34, and 35 of the United States Code.
- (q) “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.
- (r) “Disbursement” means the transfer of funds by a lender to a borrower by means of issuing a check or draft payable to the order and requiring the personal endorsement of the borrower.
- (s) “Due diligence” means the utilization by a lender in the making and collection of PLUS loans of practices at least as extensive and forceful as those generally practiced by financial institutions for consumer loans.
- (t) “Default” means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the Tennessee Student Assistance Corporation finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments or 240 days for a loan repayable in less frequent installments.
- (u) “Insurance premium” means a fee charged by the Tennessee Student Assistance Corporation to insure a PLUS loan.
- (v) “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.

(Rule 1640-1-7-.02, continued)

- (w) “Temporarily totally disabled” means a borrower who, by reason of injury or illness, cannot be expected to be able to attend a participating school 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.
 - (x) “Holder” means either an eligible lender or the Student Loan Marketing Association in possession of a PLUS loan.
 - (y) “Capitalization” means increasing the unpaid principal of a PLUS loan through the addition of accrued interest to the previously unpaid principal balance.
 - (z) “Independent student” means a person who is:
 - 1. twenty-four or older by December 31 of the award year;
 - 2. an orphan, ward of the court, a veteran of the Armed Forces, or has legal dependents other than a spouse;
 - 3. a graduate or professional, or married student who will not be claimed as a dependent for income tax purposes by a parent or guardian for the first calendar year of the award year, and who, if treated as an independent student in the preceding award year, was not claimed for income tax purposes by anyone other than a spouse for the first calendar year of that award year;
 - 4. a single undergraduate student with no dependents who was not claimed as a dependent by a parent or guardian for income tax purposes for the two calendar years preceding the award year and demonstrates total self-sufficiency during the two calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total resources (except resources from parents) of \$4,000; or
 - 5. an undergraduate student for whom a financial aid administrator makes a documented determination that extenuating circumstances preclude the student’s parents from borrowing under the Parent PLUS program, and that the student’s family is otherwise unable to provide its expected family contribution. In making this determination, the financial aid administrator must consider the financial information of the family supplied by the student and the debt burden of the student. Refusal of the parent to borrow under the Parent PLUS program does not constitute an extenuating circumstance.
 - (aa) A “new borrower” is one who has no outstanding balance on a GSL, PLUS, SLS or Consolidation Loan 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 PLUS 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 U.S. Secretary of Education which govern the PLUS Program are published as 34 Code of Federal Regulations Part 683. If there is any conflict between the provisions of Chapter 1640-1-7 T.C.A. and 34 CFR Part 683, the provisions of 34 CFR Part 683 shall prevail.

(Rule 1640-1-7-.02, continued)

- (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 work load as determined by the 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 six months accrued interest in all cases where the holder of the loan has failed to request pre-claim assistance from the Corporation during a period ending not later than thirty days prior to the date of default. Requests for pre-claim assistance shall be made on forms provided or approved by the Corporation or by telephone to the Corporation's staff.
- (4) The aggregate amount of loans insured under the PLUS 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 U.S. Secretary of Education, such amounts of reinsurance shall be considered a part of the reserve and fully available for PLUS Program purposes.
- (5) Lenders desiring to have PLUS loans insured by the Corporation must enter into 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 PLUS Program, the Executive Director of the Corporation may suspend the insurance of new PLUS loans for the lender until such time as the Corporation obtains satisfactory evidence that the lender is and will remain in compliance with all PLUS Program 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) Lenders may not sell or assign PLUS loans without the prior approval of the Corporation.
- (7) Participating schools shall abide all applicable laws and regulations governing the PLUS Program. Should a participating school fail to comply with all applicable laws and regulations governing the PLUS Program, the Executive Director of the Corporation may suspend the insurance of loans to students attending the school until such time as the Corporation obtains satisfactory evidence that the school is and will remain in compliance with all PLUS Program laws and regulations. Should the participating school continue in a state of noncompliance, the Executive Director of the Corporation is authorized to terminate the insuring of PLUS loans for students to attend the school. Suspension and termination actions by the Executive Director may be appealed by the participating school in accord with the Uniform Administrative Procedures Act, Chapter 5, Title 4, Tennessee Code Annotated.

Authority: T.C.A. §§49-4-204 and 49-50-104. **Administrative History:** Original rule filed August 6, 1982; effective November 15, 1982. Amendment filed February 9, 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 February 5, 1987; effective May 27, 1987. Amendment filed April 2, 1987; effective July 29, 1987. Amendment filed April 22, 1988; effective July 27, 1988.

1640-1-7-.03 ELIGIBILITY.

- (1) To be eligible to borrow for the PLUS program loans or for the Supplemental Loans for Students, the borrower must be a Tennessee resident and be:
 - (a) a parent of an eligible dependent undergraduate or graduate student;

(Rule 1640-1-7-.03, continued)

- (b) an eligible independent undergraduate student; or
 - (c) an eligible graduate or professional student, except in the case of a borrower described in (b) or (c) of this paragraph, a PLUS/SLS borrower may be a non-resident if he/she is enrolled in an eligible institution in Tennessee or a non-resident parent who is borrowing on behalf of a student who is enrolled in an eligible Tennessee institution.
- (2) An eligible student is a person who:
- (a) is a resident of the State of Tennessee or a non-resident enrolled in an eligible institution in Tennessee;
 - (b) is enrolled or accepted for enrollment as an undergraduate or graduate student on at least a half-time basis in a participating school; effective for periods of enrollment on or after July 1, 1987 the student must be enrolled in a degree, certificate or other program leading to a recognized educational credential at an eligible institution;
 - (c) is maintaining satisfactory progress as determined by the participating school;
 - (d) is attending neither elementary or secondary school;
 - (e) authorizes the participating school to return any refund of school charges which are attributable to the PLUS loan to the lender.
- (3) If a prospective borrower or an eligible student on whose behalf a PLUS loan is sought owes 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 is in default on a loan received under any provision of Title IV, then a PLUS loan shall not be insured until satisfactory arrangements have been made to repay the defaulted loan or to refund the appropriate grant program. Repayment or refund arrangements shall be deemed satisfactory if they are so defined by 34 CFR Part 683.11 or (if undefined by Part 683.11) by the Corporation.

In determining whether a prospective borrower or eligible student is in default on a loan or owes a refund on a grant received under Title IV, the Corporation and the participating school may rely on the prospective borrower or eligible student's written statement that he or she is not in default or does not owe a refund, unless the Corporation or participating school has information to the contrary.

- (4) The borrower must file with the lender a statement of educational purpose stating the loan proceeds will be used solely for costs of attendance at the participating school the eligible student will be attending.
- (5) The student who will benefit from a loan made under the PLUS Program must, for periods of instruction beginning on or after July 1, 1983, file a Statement of Registration Compliance certifying that he or she is registered with Selective Service or that he or she is not required to be registered.

Authority: §§49-4-204 and 49-50-104. **Administrative History:** Original rule filed August 6, 1982; effective November 15, 1982. Amendment filed February 9, 1984; effective May 15, 1984. Amendment filed February 5, 1987; effective May 27, 1987. Amendment filed April 22, 1988; effective July 27, 1988.

1640-1-7-.04 LOAN TERMS.

- (1) The maximum amount of PLUS loan must not exceed:

(Rule 1640-1-7-.04, continued)

- (a) Academic Year Amounts
 - 1. \$4,000, in the case of a parent borrower on behalf of each eligible dependent undergraduate/graduate student.
 - 2. \$4,000, in the case of a graduate or professional student.
 - 3. \$4,000, in the case of an independent undergraduate student.
 - (b) Aggregate Loan Amounts
 - 1. \$20,000, in the case of a parent borrower on behalf of each eligible dependent undergraduate student.
 - 2. \$20,000, in the case of a graduate or professional student.
 - 3. \$20,000, in the case of an independent undergraduate student.
 - (c) In no case may the amount of a loan exceed the student's estimated cost of attendance less estimated financial assistance.
 - (d) Loans may be insured in excess of these maximums if the U.S. Secretary of Education determines, pursuant to regulations prescribed by him, that a higher amount is warranted with respect to students engaged in specialized training requiring exceptionally high costs of education.
- (2) The interest rate for PLUS/SLS loans made for periods of enrollment beginning before July 1, 1987 is 12%. PLUS/SLS loans made for which the first disbursement is on or after July 1, 1987 will have a variable interest rate. The variable interest rate for any July 1 through June 30 period will be the bond equivalent rate of the 52-week Treasury bill auctioned at the final auction held prior to June 1 plus 3.25 percent. However, the rate may not exceed 12 percent. The rate determined by the Secretary of Education will be published in the Federal Register as soon as practicable after the rate is determined.
 - (3) 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.
 - (4) Notes evidencing PLUS loans insured for a parent borrower must be endorsed by the eligible student on whose behalf the loan is made.

Notes evidencing PLUS loans insured for a student borrower may, at the option of the lender, be co-signed by a parent, guardian, spouse of the student, or another responsible adult.
 - (5) Except for authorized periods of deferment or forbearance, the period of any PLUS loan may not exceed ten years, calculated from the beginning of the repayment period.
 - (6) Deferment Provisions:

(Rule 1640-1-7-.04, continued)

- (a) Payments on loans insured under the Parent PLUS/SLS program covering periods of enrollment beginning prior to July 1, 1987 may be deferred during a period not exceeding 24 months while the borrower is unemployed and conscientiously seeking but unable to find full-time employment in the United States.
- (b) Payments on loans insured under the Parent PLUS/SLS program for new borrowers covering periods of enrollment beginning on or after July 1, 1987, may, in addition to the Unemployment Deferment, be deferred during periods when the borrower is engaged in one of the following activities:
 - 1. 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 if borrower has received a loan under the GSL or Student PLUS/SLS programs for the enrollment period;
 - 2. full-time study at an institution of higher education or a vocational school that is operated by an agency of the Federal Government (e.g., the service academies), unless the borrower is not a national of the United States and is studying at a school not located in the United States;
 - 3. study under a graduate fellowship program approved by the U.S. Secretary of Education;
 - 4. pursuing a course of study under a rehabilitation training program for disabled individuals that is approved by the U.S. Secretary of Education;
 - 5. not in excess of three years during which the borrower is temporarily totally disabled, as established by a sworn affidavit of a qualified physician, or unable to secure employment because the borrower is providing care required by a dependent who is temporarily totally disabled, as established by a sworn affidavit of a qualified physician;
 - 6. periods during which a student, for whom the parent borrowed a PLUS loan, is dependent and meets the conditions required for the in-school deferments (full-time and half-time), the graduate fellowship deferment, or the rehabilitation training deferment.
- (c) Payments on loans insured under the Student PLUS/SLS program may be deferred during periods when a student borrower is engaged in one of the following activities:
 - 1. full-time study at a participating school, or at a school which meets the definition of either an institution of higher education or a vocational school and which is operated by an agency of the Federal Government, 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;
 - 2. study under a graduate fellowship program approved by the U.S. Secretary of Education;
 - 3. 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;
 - 4. up to three years of volunteer service under the Peace Corps Act;
 - 5. up to three years of service as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973 (ACTION programs);
 - 6. pursuing a course of study under a rehabilitation training program for disabled individuals that is approved by the U.S. Secretary of Education;

(Rule 1640-1-7-.04, continued)

7. conscientiously seeking but unable to find full-time employment in the United States over a single period of up to twenty-four months;
 8. up to three years of full-time volunteer service for an organization exempt from Federal Income Tax under Section 501 of the Internal Revenue Code of 1954, which the U.S. Secretary of Education has determined is comparable to service in the Peace Corps or ACTION;
 9. not in excess of two years during which the borrower is serving an internship, the successful completion of which the U.S. Secretary has determined is required in order to receive professional recognition required to begin professional practice or service;
 10. 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.
- (d) Payments on loans insured under the Student PLUS/SLS program for new borrowers covering periods of enrollment beginning on or after July 1, 1987 may, in addition, be deferred during periods when the borrower is engaged in one of the following activities:
1. 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;
 2. 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 Corps;
 3. 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;
 4. 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 totally disabled, as established by a sworn affidavit of a qualified physician;
 5. 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;
 6. 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 school and is not gainfully employed. The student must have been enrolled within the past six months, at least half-time in a school participating in the GSLP.
- (7) Repayment of PLUS loans shall be in installments over a period not less than five years nor more than ten years beginning from the day the borrower's loan is disbursed. The borrower's first payment shall be due within 60 days after the loan is disbursed.

(Rule 1640-1-7-.04, continued)

- (a) The borrower may repay the whole or any part of the loan at any time without penalty.
 - (b) Any period of deferment or forbearance granted the borrower is not counted in the 5- and 10-year periods.
 - (c) The borrower is not entitled to the 5-year repayment period if the minimum annual repayment required in regulation 8 of this part would result in complete repayment of the loan in less than five years.
- (8) 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 and PLUS Program shall not be less than \$600 or to 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;
 - (b) in the case of a husband or 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 loans, whichever is less;
 - (c) this regulation is subject to regulation 5 of this part.
- (9) 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 on terms that are inconsistent with the minimum annual repayment requirement and the 10- and 15-year limitations on length of repayment if 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, or the interest may accrue and be added at the end of the period of forbearance.

Authority: T.C.A. §§49-4-204 and 49-50-104. **Administrative History:** Original rule filed August 6, 1982; effective November 15, 1982. Amendment filed February 9, 1984; effective May 15, 1984. 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 February 5, 1987; effective May 27, 1987. Amendment filed April 22, 1988; effective July 27, 1988.

(Rule 1640-1-7-.04, continued)

1640-1-7-.05 LOAN COLLECTION.

- (1) Eligible lenders making PLUS loans 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, of practices which are 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 for student borrowers, the lender will 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.
 1. The lender must be familiar with and abide by State and Federal law and regulations governing the PLUS Program.
 2. The lender must establish procedures and assign sufficient personnel to process and service PLUS loans.
 3. The lender must respond to inquiries from the borrower or endorser.
 4. The lender must maintain records of all events affecting PLUS loans 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 PLUS loan from the borrower before requesting repayment by the Corporation.
 6. The lender must report to a credit bureau information concerning amounts and repayment status on all PLUS/SLS 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 borrower’s signature on the Certification Statement located on the form, “Statements of Borrower’s Rights and Responsibilities,” which attests that the borrower has read his or her responsibilities regarding the loan and understands them. The borrower’s/endorser’s signature(s) 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 PLUS Program before all information requested of the borrower on such form has been supplied.
 4. Disbursement of PLUS/SLS loan proceeds must be by check payable to the order and requiring the endorsement of the borrower. All Supplemental Loans for Students checks must be mailed to the educational institution.
 5. The lender must not disburse PLUS loan proceeds to a borrower 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 eligible student is scheduled to matriculate.

(Rule 1640-1-7-.05, continued)

6. Participating school lenders shall disburse PLUS 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.
7. The lender shall not charge nor is the 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 and Federal regulations.
8. When a lender determines or has reason to believe that a borrower in deferment is no longer eligible for deferment, the lender must immediately contact the borrower in order to establish the terms of repayment. If the lender is unsuccessful in locating the borrower, 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 similar schedule of actions when attempting to collect from student borrowers whose loans are delinquent:

Days Delinquent	Action To Be Taken	Days Delinquent	Action To Be Taken
1-30	Two written notices, including co-signer attempt (if applicable)	91-120	Phone contact. If unable to reach borrower, one written notice which requires certain language
31-60	Phone contact. If unable to reach borrower, two written notices which require certain language	121-150	Phone contact. If unable to reach borrower, two written notices which require certain language
61-70	File Request for Collection Assistance	151-180	Final Demand Letter
71-90	Phone contact. If unable to reach borrower, one written notice which requires certain language	181-270	File Request for Payment

10. The lender must employ skip-tracing procedures within 10 days of known bad address, including, but not limited to co-signers, relatives, references.
 11. For student borrowers attending foreign schools, loan funds are to be delivered directly to the student.
- (2) 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 PLUS 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.

(Rule 1640-1-7-.05, continued)

- (3) In no case will a claim for insurance from a lender be honored unless the borrower dies or becomes permanently and totally disabled, or has commenced the repayment period and subsequently defaults or is adjudicated a bankrupt.
- (4) Claims for insurance shall be filed on forms provided by the Corporation.
- (5) Nothing in Chapter 1640-1-7 shall be construed so as to require or prohibit legal action by a lender in an attempt to recover a delinquent PLUS loan. Lenders and holders are encouraged to 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 180-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, plus the required Corporation processing time.

Authority: T.C.A. §§49-4-204 and 49-50-104. **Administrative History:** Original rule filed August 6, 1982; effective November 15, 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 February 5, 1987; effective May 27, 1987. Amendment filed April 22, 1988; effective July 27, 1988.

1640-1-7-.06 REPORTING REQUIREMENTS.

- (1) The Corporation shall assume the responsibility for promptly providing notice to the participating school attended by the student on whose behalf the loan is made that a PLUS loan has been insured.
- (2) The parent, the endorser and the student borrower shall promptly notify the holder of the loan concerning any change of address.
- (3) A deferred student borrower shall, immediately upon completion of the deferment period, contact the holder of his PLUS loan to negotiate the terms of his or her repayment obligation.
- (4) A participating school must, on forms provided by the Corporation, immediately notify the holder of a PLUS loan and the Corporation of the latest known address of a deferred student borrower if such borrower has either formally terminated his full-time enrollment or failed to re-enroll on a full-time basis.
- (5) A participating school must indicate on each application for a PLUS loan if:
 - (a) the student is not maintaining satisfactory progress as defined by the institution, or
 - (b) the student or parent borrower owes a refund on a grant or is in default on a loan received 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 PLUS loan 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 PLUS Program.

Authority: T.C.A. §49-50-104. **Administrative History:** Original rule filed August 6, 1982; effective November 15, 1982.