



HEOA Hot Topics: Code of Conduct and Preferred Lender Lists Q&A Session

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Q: With respect to the Code of Conduct, does it apply to all institutional employees or just employees with loan responsibilities?

A: The Code of Conduct, as a whole, applies to all officers, employees, and agents of an institution. [See GEN-08-12, pg 69]. However, certain prohibitions within the Code of Conduct requirements are specifically applicable to officers and individuals employed in the financial aid office and to other individuals with loan responsibilities.

Q: Is it true that individual states and or institutions may have stricter Code of Conduct criteria?

A: Yes, individual states or institutions may impose more stringent criteria than that which is outlined in federal law.

Q: Where can we find the Department of Education's list of affiliated lenders?

A: As of the date of this webinar, the Department of Education (ED) has not yet published a list of affiliated lenders. It is expected that once available, ED will post the list to the IFAP website (www.ifap.ed.gov). Until the list is available, schools should use the best information available to ensure a preferred lender list complies with the lender affiliation requirements.

Q: Do schools that solely use Direct Lending also have to offer additional lenders?

A: Nothing in the Higher Education Act requires schools solely participating in the Direct Loan program to also accept and process FFEL program loan applications.

Q: If we have a lender list, can we decide not to have a preferred lender list?

A: Schools are not required to maintain a lender list unless they have a preferred lender arrangement. If a school does not promote, endorse, or recommend any lenders in any manner, the school is not required to create a preferred lender list.

The upcoming negotiated rulemaking sessions may discuss what actions constitute a recommendation or endorsement, for example, whether providing a "list of lenders used by students during the prior year" is considered a promotion or recommendation of those lenders. Until further clarification is received, schools need to make their best efforts to comply with the law as written. If a list could readily be perceived by students or their families as a school's recommendation, promotion, or endorsement of the lenders on that list, schools should comply with the preferred lender list requirements. Schools may wish to consult with their legal counsel regarding the handling of lists that aren't traditional "preferred lender lists".