
Tab 12

Action/Information Item

California Student Aid Commission

Update on Lender-of-Last Resort Program

Federal law guarantees the availability of a Federal Family Education Loan to eligible students through a lender-of-last-resort (LLR). A student, who is otherwise eligible for a Stafford Loan and, after receiving two rejections, has been unable to find a FFEL lender willing to make such a loan is eligible for the LLR program.

The guaranty agency must ensure that it or an eligible lender act as an LLR in the state in which the guaranty agency is the designated guaranty agency. The guaranty agency either must designate an eligible lender to serve as an LLR or must itself serve in that capacity. Eligible LLR providers include state guaranty agencies; a lender that is an agency of the state, or a nonprofit agency designated by the state; or any eligible FFEL Program lender that works with guaranty agencies or state lending agencies.

During times where broad-scale loan access problems prohibit the implementation of LLR programs, the Secretary of Education has the authority to advance federal funds to guaranty agencies to make LLR loans. If access to FFEL loans becomes a problem, the goal is to have guarantors provide lender-of-last-resort services under their existing LLR programs using non-federal funding sources. The first choice for an LLR process is to secure lenders who are willing to serve as lenders of last resort. Because guarantors have very limited capacity to use their own funds in making LLR loans, they will need to rely on federal advance funds if lenders are unwilling to participate as lenders of last resort. If a guarantor advises the Secretary that it has been unable to find a lender or lenders to act in the lender of last resort capacity, the Secretary will make federal advances available to the guarantor consistent with its authority under Sec. 428(j)(3) of the Higher Education Act, in order to make such loans.

The Governor's May Revision contains proposed trailer-bill legislation to remove a potential statutory conflict that may impact the Commission's ability to act as an LLR should it be necessary for the Secretary of Education to advance federal funds to guaranty agencies to make LLR loans.

As instructed by The United States Department of Education (ED) in May 2008, the Commission submitted two letters to ED for review. The first letter contained the Commission/EDFUND's updated LLR rules and operating procedures. The second letter contained the Commission/EDFUND's commitment to the maximum number of loans that it would be willing to originate under the terms of the federal Advance funds. ED indicated that the LLR rules and operating procedures are automatically approved until ED disapproves or modifies the procedures. ED intends to closely monitor guaranty agency implementation of the LLR policies and procedures. Staff will provide an update on the status of the LLR rules and operating procedures.

Responsible Persons: Janet McDuffie, Chief
Federal Policy & Programs

Sam Kipp
EDFUND President