

## 11 KAR 3:001. Definitions.

RELATES TO: KRS 164.740, 164.744(1), 164.748(1), (3) (14), (15), 164.753(2), 164.766, 8 U.S.C. 1101(a)(22), 10 U.S.C. Chapters 2, 106, 107, 20 U.S.C. 421-429, 1070a, 1070b, 1070c, 1078, 1078-1, 1078-2, 1078-3, 1078(c)(1), as amended by Pub.L. 103-66 sec. 4108(a), 1087a, 1087aa-1087ii, 1095-1, 37 U.S.C. Chapter 2, 38 U.S.C. Chapters 30, 31, 32, 35, 20 U.S.C. 1087vv(c)

STATUTORY AUTHORITY: KRS 13A.222(4)(e), 164.746(6), 164.748(4), (15), 34 C.F.R. 682.401(b)(10)(ii)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.744(1) empowers the authority to insure loans to students, provided that the loans meet the criteria of the federal act. This administrative regulation sets forth general definitions applicable to one (1) or more administrative regulations in this chapter. KRS 164.740(12) and (14) define the terms "insured student loan" and "loan guarantee" to pertain to loans reinsured by the secretary to the extent of not less than eighty (80) percent. Pub.L. 103-66 sec. 4108(a) amended 20 U.S.C. 1078(c)(1) by reducing the minimum rate of reinsurance from eighty (80) percent to seventy-eight (78) percent. KRS 164.748(15) authorizes the authority board to adopt "rules, administrative regulations and policies consistent with the federal act" to overcome a conflict "between KRS 164.740 to 164.764 and the federal act, which conflict would result in a loss by the authority of any federal funds." This amendment is necessary to conform the definitions of "insured student loan" and "loan guarantee" to changes in the federal act enacted in Pub.L. 103-66 sec. 4108(a).

Section 1. The following definitions apply to all authority insured student loan programs:

(1) "Academic year" means:

(a) A period of at least thirty (30) weeks of instructional time in which a full-time student is expected to complete at least twenty-four (24) semester hours or thirty-six (36) quarter hours at an institution which measures academic progress in credit hours but does not use a semester, trimester or quarter system; or

(b) At least 900 clock hours at a participating institution which measures academic progress in clock hours.

(2) "Applicable interest rate" means the maximum annual interest rate that a lender may charge on an authority insured loan.

(3) The definition of "authority" is governed by KRS 164.740(1).

(4) "Borrower" means a student or parent to whom a federal Stafford loan, a federal SLS loan, a federal PLUS loan, or a federal Consolidation loan is made.

(5) "Clock hour" means the equivalent of:

(a) A fifty (50) to sixty (60) minute class, lecture or recitation;

(b) A fifty (50) to sixty (60) minute faculty supervised laboratory, shop training, or internship; or

(c) Sixty (60) minutes of preparation in a program of study by correspondence.

(6) "College work study program (CWS)" means the part-time employment program for students authorized by Part C of the federal Act (42 U.S.C. 2751-2756b).

(7) "Co-maker" means one (1) of two (2) individuals who are joint borrowers on a federal PLUS Program loan and who are equally liable for repayment of the loan.

(8) "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 authority finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for:

(a) 180 days for a loan repayable in monthly installments; or

(b) 240 days for a loan repayable less frequent installments.

(9) "Defense loan" means a loan made before July 1, 1972, under Title II of the National Defense Education Act (20 U.S.C. 421-429).

(10) "Dependent student" means any student who does not qualify as an independent student (see independent student).

(11) "Direct loan" means a loan made under Part E of the federal Act (20 U.S.C. 1087aa, et seq.) after June 30, 1972, which does not satisfy the definition of "Perkins loan."

(12) "Disbursement" means the transfer of loan proceeds by a participating lender to a borrower, a school, or an escrow agent by issuance of a check or by electronic funds transfer.

(13) The definition of "disposable pay" is governed by Section 488A(d) of the federal Act (20 U.S.C. 1095-1).

(14) The definition of "eligible student" is governed by KRS 164.740(6).

(15) The definition of "endorser" is governed by KRS 164.740(7).

(16) "Enrolled" means the status of a student who:

(a) Has completed the registration requirements (except for the payment of tuition and fees) at the participating institution he is attending; or

(b) Has been admitted into a correspondence study program and has submitted one (1) lesson, completed by him or her after acceptance for enrollment and without the help of a representative of the school.

(17) "Escrow agent" means the authority acting in a capacity in which it agrees to receive the proceeds of an insured student loan as an agent of a participating lender for the purpose of transmitting those proceeds to the borrowers.

(18)(a) "Estimated cost of attendance" means, for loans disbursed prior to July 1, 1993, the tuition and fees applicable to a student, plus the participating institution's estimate of other expenses reasonably related to attendance at that school, for the period of enrollment for which the loan is sought. These expenses shall not include the purchase of a motor vehicle. The expenses may include, but are not limited to, reasonable transportation and commuting costs, costs for room, board, books, and supplies, the insurance premium for the loan, and if applicable, the origination fee for the loan.

(b) "Estimated cost of attendance" means, for loans disbursed on or after July 1, 1993.

1. Tuition and fees normally assessed a student carrying the same academic workload as determined by the participating institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

2. An allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the participating institution on at least a half-time basis, as determined by the participating institution at which such student is enrolled;

3. An allowance (as determined by the participating institution) for room and board costs incurred by the student, which shall be not less than \$1,500 for a student without dependents residing at home with parents, the amount normally assessed most of the institution's residents for room and board for students without dependents residing in institutionally owned or operated housing, or an allowance of not less than \$2,500 for all other students based on the expenses reasonably incurred by the students for room and board;

4. For a student enrolled in an academic program of study abroad approved for credit by the student's home institution, reasonable costs associated with the study (as determined by the participating institution at which such student is enrolled);

5. For a student with one (1) or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that the allowance shall not exceed the reasonable cost in the community in which the student resides for the kind of care provided, and the period for which dependent care is required includes, but is not limited to, class time, study time, field work, internships, and commuting time;

6. For a student with a disability, an allowance (as determined by the participating institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

7. For a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, except that the financial aid officer at a participating institution shall reduce the amount of an authority insured student loan for which a student is otherwise eligible, if the financial aid officer determines that the student's cost of attendance is substantially reduced due to instruction by means of the use of telecommunication, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment; and

8. For a student placed in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the participating institution at which such student is enrolled).

(19) "Estimated financial assistance" means the estimated amount of assistance that a student has been or will be awarded during the period of enrollment for which the loan is sought from federal, state, institutional or other scholarship, grant, work, or loan programs, including but not limited to:

(a) Any Social Security benefits paid to, or on account of, the student that would not be paid if he was not a student;

(b) Any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits received under U.S.C. Title 10 chapters 2, 106, and 107; Title 37 chapter 2; Title 38 chapters 30, 31, 32, and 35; 20 U.S.C. 1087vv(c); and

(c) Other scholarship, grant, or loan assistance;

(d) The estimated amount of other federal student financial aid, including but not limited to Pell Grants and assistance under the SEOG, federal work-study, and federal Perkins Loan programs, which the student would be expected to receive if the student applied, whether or not the student has applied for that aid; and

(e) Loan proceeds withheld by the lender and applied towards an origination fee or insurance premium, if these costs are included in computing the borrower's estimated cost of attendance.

(20) The definition of "federal act" is governed by KRS 164.740(8).

(21) "Federal Consolidation Loan Program" means the loan program authorized by section 428C of the federal Act (20 U.S.C. 1078-3).

(22) "Federal PLUS Program" means the loan program authorized by section 428B of the federal Act (20 U.S.C. 1078-2).

(23) "Federal Supplemental Loans for Students (SLS) Program" means the loan program authorized by section 428A of the federal Act (20 U.S.C. 1078-1) and formerly called the ALAS Program.

(24) "Foreign school" means a school not located in a state.

(25) "Full-time student" means:

(a) A student enrolled in a participating institution (other than a student enrolled in a program of study by correspondence) who is carrying a full-time academic workload as determined by the institution under standards applicable to all students enrolled in that student's particular program. The student's workload may include any combination of courses, work, research or social 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 program of study (other than a student enrolled in a program of study by correspondence) who is carrying a workload of not less than twenty-four (24) clock-hours per week or twelve (12) semester or quarter hours of instruction, or its equivalent.

(26) "Grace period" means the period that begins on the day on which a federal Stafford loan borrower ceases to be enrolled as at least a half-time student at a participating institution and ends on

the day that the repayment period begins. See also "postdeferment grace period".

(27) "Graduate or professional student" means a student who:

(a) Is enrolled in a program or course above the baccalaureate level at an institution of higher education or is enrolled in a program leading to a first professional degree;

(b) Has completed the equivalent of at least three (3) 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; and

(c) Is not receiving aid under Title IV of the federal Act (20 U.S.C. 1070 through 1099c-1) as an undergraduate student for the same period of enrollment.

(28) "Guarantee agency" means a state or private nonprofit organization that has an agreement with the secretary to administer a loan guarantee program under the federal Act.

(29) "Guaranteed Student Loan (GSL) Program" means the student loan program, which has been redesignated as the Robert T. Stafford Federal Student Loan program, authorized by Part B of Title IV of the federal Act (20 U.S.C. 1071(c)).

(30) "Half-time student" means a student who is enrolled in a participating institution, is carrying an academic workload that amounts to at least one-half (1/2) the workload of a full-time student, as determined by the school, and is not a full-time student. A student enrolled solely in an eligible program of study by correspondence is considered a half-time student.

(31) "Holder" means a participating lender in possession of authority insured student loan.

(32) "Income Contingent Loan (ICL) Program" means the student loan program authorized by Part D of the federal Act (20 U.S.C. 1087a, et seq.).

(33) "Independent student" means any individual who:

(a) Is twenty-four (24) years of age or older by December 31 of the award year;

(b) Is an orphan or ward of the court;

(c) Is a veteran of the Armed Forces of the United States;

(d)1. Is a graduate or professional student; and

2. For award years beginning prior to July 1, 1993, declares that he will not be claimed as a dependent for income tax purposes by his parents for the first calendar year of the award year;

(e)1. Is a married individual; and

2. For award years beginning prior to July 1, 1993, declares that he will not be claimed as a dependent for income tax purposes by his parents for the first calendar year of the award year;

(f) Has legal dependents other than a spouse;

(g) For award years beginning prior to July 1, 1993, is a single undergraduate student with no dependents who was not claimed as a dependent for income tax purposes by his parents for the two (2) calendar years preceding the award year and demonstrates total self-sufficiency for those two (2) years by total annual resources of at least \$4,000; or

(h) Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(34) The definition of "insured student loan" is governed by KRS 164.740(11), except that, for loans on which the first disbursement is made on or after October 1, 1993, the term shall include loans reinsured by the secretary to the extent of not less than seventy-eight (78) percent.

(35) "Legal guardian" means an individual appointed by a court to be a "guardian" of a person and specifically required by the court to use his financial resources for the support of that person.

(36) The definition of "loan" is governed by KRS 164.740(12).

(37) The definition of "loan guarantee" is governed by KRS 164.740 (13), except that, for loans on which the first disbursement is made on or after October 1, 1993, the term shall include loans reinsured by the secretary to the extent of not less than seventy-eight (78) percent.

(38) "National Defense Student Loan program" means the student loan program authorized by Title II of the National Defense Education Act of 1958 (20 U.S.C. 421-429).

(39) "National Direct Student Loan (NDSL) Program" means the student loan program authorized

by Part E of the federal Act (20 U.S.C. 1087aa-1087ii) between July 1, 1972, and October 16, 1986.

(40) "National of the United States" means:

(a) A citizen of the United States; or

(b) As defined in the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22), a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(41) "One (1) year training program" means a program which is at least:

(a) Twenty-four (24) semester or trimester hours or units, or thirty-six (36) quarter hours or units at an institution using credit hours or units to measure academic progress;

(b) 900 clock hours of supervised training at an institution using clock hours to measure academic progress; or

(c) 900 clock hours in a correspondence program.

(42) "Origination relationship" means a special relationship between a participating institution and a lender, in which the lender delegates to the institution, or to an entity or individual affiliated with the institution, substantial functions or responsibilities normally performed by lenders before making loans.

(43) "Parent" means a student's mother, father, or legal guardian. A parent by adoption is considered to be a student's mother or father.

(44) The definition of "participating institution" is governed by KRS 164.740(14).

(45) The definition of "participating lender" is governed by KRS 164.740 (15).

(46) "Pell Grant program" means the grant program authorized by subpart 1 of Part A of the federal Act (20 U.S.C. 1070a).

(47) "Perkins loan" means a loan made under Part E of the federal Act (20 U.S.C. 1087aa, et seq.) to cover the cost of attendance for a period of enrollment beginning on or after July 1, 1987, to an individual who on July 1, 1987, had no outstanding balance of principal or interest owing on any loan previously made under the National Direct Student Loan program.

(48) "Perkins Loan program" means the student loan program authorized by Part E of the federal Act (20 U.S.C. 1087aa-1087ii) after October 16, 1986.

(49) "Postdeferment grace period" means for an insured student loan made prior to October 1, 1981, a period of six (6) consecutive months being on the day following the last day of an authorized deferment period.

(50) "Recognized equivalent of a high school diploma" means:

(a) A general education development (GED) certificate; or

(b) A state certificate received by a student after the student has passed a state authorized examination which the state recognizes as the equivalent of a high school diploma.

(51) "Regular student" means a person who is enrolled or accepted for enrollment at a participating institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution.

(52) "Robert T. Stafford Federal Student Loan program" means the student loan program authorized by Part B of the federal Act, consisting of subsidized and unsubsidized loans authorized by sections 428 (20 U.S.C. 1078) and 428H (20 U.S.C. 1078-8) of the federal Act, and includes loans previously made under the guaranteed student loan program.

(53) The definition of "secretary" is governed by KRS 164.740(20).

(54) "Six (6) month training program" means:

(a) A program which is at least:

1. Sixteen (16) semester or trimester hours or units, or twenty-four (24) quarter hours or units, at an institution using credit hours or units to measure academic progress;

2. 600 clock hours of supervised training at an institution using clock hours to measure academic progress; or

3. 600 clock hours in a correspondence program;

(b) A program which the secretary determines is at least a six (6) month training program on the basis of:

1. A certification by the nationally recognized accrediting association that accredits the institution that the program offered by the institution is equal in course content and student workload to the comparable clock or credit hour program described in paragraphs (a)1 through 3 of this subsection; and

2. The secretary's ratification of that accrediting agency's determination.

(55) "State" means each state of the Union, the Commonwealth of Puerto Rico, the District of Columbia, American Samoa, Guam, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(56) "State Student Incentive Grant (SSIG) program" means the grant program authorized by subpart 4 of Part A of the federal Act (20 U.S.C. 1070c, et seq.).

(57) "Subsidized Federal Stafford Student loan" means a loan qualifying for payment of an interest subsidy on behalf of the borrower under section 428 of the federal Act (20 U.S.C. 1078).

(58) "Supplemental Educational Opportunity Grant (SEOG) program" means the grant program authorized by subpart 3 of Part A of the federal Act (20 U.S.C. 1070b, et seq.).

(59) "Totally and permanently disabled" means the inability of a borrower to work and earn money because of an impairment that is expected to continue indefinitely or result in death.

(60) "Undergraduate student" means a student who is enrolled at a school in a course or program of study, at or below the baccalaureate level, that usually does not exceed four (4) academic years, or is up to five (5) academic years in length and shall be designed to lead to a first degree. A student enrolled in any other length program is considered an undergraduate student for only the first four (4) academic years.

(61) "Unsubsidized federal Stafford student loan" means a student loan authorized under section 428H of the federal Act (20 U.S.C. 1078-8).

(62) "U.S. citizen or national" means:

(a) A citizen of the United States; or

(b) A person defined in the Immigration and Nationality Act (8 U.S.C. 1101, (a)(22)) who, though not a citizen of the United States, owes permanent allegiance to the United States. (19 Ky.R. 1668; 2017; eff. 3-4-1993; 20 Ky.R. 1022; 1777; eff. 1-10-1994; TAm eff. 4-27-2016; Crt eff. 9-28-2018.)