

DEPARTMENT OF TREASURY
MICHIGAN HIGHER EDUCATION ASSISTANCE AUTHORITY
GUARANTEED LOAN PROGRAM

(By authority conferred on the higher education assistance authority by section 5 of Act No. 77 of the Public Acts of 1960, being S390.955 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 390.1401 Definitions; A, C.

Rule 1. As used in these rules:

(a) "Academic year" means a period of time during which a student borrower progresses from one level of class standing to the next higher level or 7 months.

(b) "Act" means title IV, part B, of the higher education act of 1965, as amended, 20 U.S.C. S1071 et seq.

(c) "Authority" means the Michigan higher education assistance authority as created by Act No. 77 of the Public Acts of 1960, as amended, being S390.951 et seq. of the Michigan Compiled Laws.

(d) "Claim" means the requesting of insurance under the guarantee when the borrower defaults on a loan in accordance with the conditions and requirements of the act and the secretary specified in the provisions of 34 C.F.R. SS682.200, 682.402, and 682.411. These provisions are adopted by reference in R 390.1491.

(e) "Cure requirements" means steps to be followed to reinstate the guarantee in accordance with the conditions and requirements of the act and the secretary that are set forth in 34 C.F.R. S682.413 and adopted by reference in R 390.1491, when those conditions and requirements were not properly carried out in the initial administration of the loan.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1402 Definitions; D.

Rule 2. As used in these rules:

(a) "Defaulted loans" means the failure of a borrower to make an installment payment when due or to comply with other terms of the note or other written agreement evidencing a loan in accordance with the conditions and requirements of the act and the secretary specified in the provisions of 34 C.F.R. SS682.200 and 682.412. These provisions are adopted by reference in R 390.1491.

(b) "Disbursement of a loan" means the transfer by a lender of loan proceeds to a borrower. Disbursement shall be made by a check which is payable to the borrower or to the borrower and the school that requires endorsement or by electronic transfer to an

account of the school on behalf of a borrower where the account requires the written approval of the borrower for the release of funds from the account.

(c) "Due diligence" means the secretary's requirements, specified in the provisions of 34 C.F.R. SS682.206 to 682.208, for a lender in making, disbursing, servicing, and collecting educational loans. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1403 Definitions; E.

Rule 3. As used in these rules:

(a) "Educational loans" means loans to student or parent borrowers as authorized by the act.

(b) "Executive director" means the executive director of the Michigan higher education assistance authority.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1404 Definitions; F, G.

Rule 4. As used in these rules:

(a) "Federal interest benefits" means the payment of interest by the secretary on behalf of an eligible borrower as defined in the act.

(b) "Forbearance" means reducing, extending, or delaying payments if scheduled payments will place an undue burden on a borrower which, without relief, will result in default.

(c) "Guarantee" means to insure lenders against loss due to default by a borrower if the lender meets the conditions and requirements of the act and the secretary specified in the provisions of 34 C.F.R. SS682.205 to 682.213 and 682.411 to 682.414, in administering the loan. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1405 Definitions; L.

Rule 5. As used in these rules:

(a) "Lender" means an eligible lender or holder, as defined by the secretary in the provisions of 34 C.F.R. S682.200, who has entered into a participation agreement with the authority. These provisions are adopted by reference in R 390.1491.

(b) "Limitation" means the continuation of an institution's eligibility subject to compliance with special conditions established by the provisions of R 390.1481 to R 390.1490.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1406 Rescinded.

History: 1979 AC; 1984 AACCS; 1990 AACCS; 1997 AACCS.

R 390.1407 Definitions; P to T.

Rule 7. As used in these rules:

(a) "Participating school" means an eligible institution which has executed an agreement with the secretary to participate in the educational loan programs.

(b) "Promissory note" means the legal document which is signed by a borrower agreeing to the terms and conditions of the educational loan.

(c) "Repayment period" means the period of the loan when a borrower is required to make scheduled payments.

(d) "Secretary" means the secretary of the United States department of education or an official or employee of the education department to whom the secretary has delegated authority.

(e) "Suspension" means the removal of a school's or lender's eligibility for a specified period of time or until the school or lender fulfills certain requirements.

(f) "Termination" means the removal of a school's or lender's eligibility for an indefinite period of time or until reinstatement after termination occurs in accordance with the provisions of R 390.1490.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1409 Primary forms; approval.

Rule 9. The authority shall approve primary forms used in making and servicing educational loans.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1411 Lender or school discrimination based on race, color, creed, sex, national origin, or marital status prohibited.

Rule 11. (1) The educational loans are available to all eligible borrowers without regard to race, color, creed, sex, national origin, or marital status.

(2) A participating school shall not discriminate in the admission and treatment of students because of race, color, creed, sex, national origin, or marital status.

(3) A lender shall not discriminate in making an educational loan to an eligible borrower because of race, color, creed, sex, national origin, or marital status.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1412 Lenders, policies; loan practices.

Rule 12. (1) A lender may determine its own lending policies, except as prescribed by these rules, federal or state legislation, and regulations concerning state and federal banking and credit practices.

(2) A lender shall comply with the secretary's requirements, as set forth in the provisions of 34 C.F.R. SS682.205 to 682.208, in the making, disbursing, and servicing of a loan. These provisions are adopted by reference in R 390.1491.

(3) A lender shall comply with the secretary's due diligence requirements, as specified in the provisions of 34 C.F.R. SS682.208 to 682.213 and 682.411, which are adopted by reference in R 390.1491 in the collection of loans and comply with both of the following provisions:

(a) A lender shall exercise reasonable care and diligence in the collection of loans insured by the authority with regard to borrowers. If the lender has obtained a cosigner, collection effort beyond notifying the cosigner if the loan becomes delinquent is not mandatory. If the loan is subsequently filed with the authority as a default, the cosigner shall be notified and advised that collection shall be pursued by a state agency or private agency.

(b) The due diligence procedures and collection efforts shall be employed and documented by the lender.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1413 Records and reports of lenders.

Rule 13. (1) A lender shall keep such records as may be necessary and as the authority and the law and regulations may require and shall afford access to the records, at any reasonable time, to the authority or the secretary, to assure accuracy and to verify reports and records.

(2) A lender shall maintain complete and accurate records of all educational loan accounts reflecting each transaction, ready identification of each borrower's account, and account status. The records shall contain full and proper documentation to support claims for losses.

(3) A lender shall retain all records pertaining to each applicant to whom an educational loan has been disbursed until the secretary has no further need for such records, but for not less than 60 months after the date the loan is paid in full or has been defaulted and the lender has been reimbursed by the authority. Records retained by the lender may be stored on microform or in computer format. The holder of a promissory note, however, shall retain the actual note until returned to the borrower upon payment in full, after which the lender shall retain a copy of the note for not less than 60 months.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1415 Records of participating schools.

Rule 15. (1) A participating school shall keep necessary records as the authority or the secretary require and afford access thereto at any reasonable time to the authority, the secretary, or a representative of the authority or the secretary to assure accuracy and to verify reports and records.

(2) With respect to each student who receives the benefits of an educational loan, a participating school shall maintain records for not less than 60 months after a

student has terminated enrollment regarding academic standing, periods of attendance, courses taken, and the handling of loan funds.

(3) The authority shall require each participating school to verify the enrollment status of student borrowers and students for whom loans have been provided through the parent loan program upon request.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1417 Student transfers.

Rule 17. (1) When a student transfers to another participating school, the original participating school that certified the loan shall continue to have the loan recorded against its total loans until repaid. The participating school to which the student transfers shall furnish periodic reports to the authority concerning the student's continuing loan eligibility.

(2) Where applicable, enrollment in an ineligible school shall not be taken into consideration in the establishment of a loan repayment due date. A due date shall be established based on the student's last date of at least half-time attendance at an eligible participating school.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1419 Rescinded.

History: 1979 AC; 1984 AACCS; 1990 AACCS; 1997 AACCS.

R 390.1421 Eligibility of applicants.

Rule 21. To be eligible to receive an educational loan, an applicant shall satisfy all requirements of the act, the authority, and the secretary specified in the provisions of 34 C.F.R. SS682.200, 682.201, 682.300, and 682.301. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1422 Age of applicants.

Rule 22. A person who otherwise qualifies for an educational loan is not disqualified because the person is under age 18. A person who is under age 18 is deemed to have full legal capacity to apply for, receive, and repay a loan and has all the rights, powers, privileges, and obligations of a person who is 18 years of age or older.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1423 Rescinded.

History: 1979 AC; 1984 AACS; 1997 AACS.

R 390.1424 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1425 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1426 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1427 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1429 Cancellation of loans.

Rule 29. The authority shall cancel a loan in full or in part if disbursement does not occur prior to the ending date of the academic period for which the loan was intended. A loan may be disbursed after the academic period for which the loan was intended, if the borrower meets late disbursement requirements as authorized by the authority.

History: 1979 AC; 1984 AACS; 1990 AACS.

PART 2. LOAN PROVISIONS AND PROCEEDS

R 390.1431 Negotiations and execution of loans; cosigners.

Rule 31. Negotiations and execution of educational loans are limited to lenders and participating schools that deal with eligible students or borrowers and the authority. The authority shall not require a cosigner on the note. The lender may require a cosigner on the promissory note.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1432 Maximum rate of interest; permissible fees and charges.

Rule 32. (1) The maximum rate of interest that may be charged on educational loans shall not be more than 6% per annum with respect to loans made before August

3, 1968. The interest rate for educational loans made August 3, 1968, and after shall comply with the provisions of the act.

(2) Interest is calculated from the date of disbursement of the funds by the lender to the borrower. A student borrower shall not be required to pay interest to the lender on any portion of the loan that the lender is concurrently receiving federal interest benefit payments from the federal government.

(3) A lender may add accrued interest to the unpaid principal balance, which is referred to as capitalization, under conditions provided by the authority and the secretary in the provisions of 34 C.F.R. S682.202. These provisions are adopted by reference in R 390.1491.

(4) A lender's method of computing interest shall not result in an actual rate that is more than the allowable maximum rate of interest.

(5) An insurance premium payment may be charged by the authority to underwrite loans and to cover costs incurred in the administration of the program. The insurance premiums shall be collected by the lender from the borrower when the loan is disbursed and shall be forwarded to the authority. The amount of the insurance premiums set by the authority shall not exceed the maximum amount permitted by the act. The insurance premium is refundable under conditions established by the secretary as specified in the provisions of 34 C.F.R. SS682.202 and 682.401. These provisions are adopted by reference in R 390.1491. A disbursed loan for which the insurance premium has not been paid by the borrower or for which the check written by the borrower is not honored by the financial institution upon which the check was drawn is subject to cancellation of the guarantee commitment.

(6) Each lender shall charge the borrower, if applicable, an origination fee or other fees as prescribed by the act.

(7) A borrower may be charged for late payments. The amount of the charge shall not be more than the maximum allowable amount as prescribed by the secretary in the provisions of 34 C.F.R. S682.202. These provisions are adopted by reference in R 390.1491.

(8) A borrower may be assessed collection charges as defined by the secretary in the provisions of 34 C.F.R. S682.202. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1433 Loan amounts.

Rule 33. (1) The annual loan limit, exclusive of interest, shall not be more than that set forth in the act.

(2) The aggregate insured unpaid principal of all loans shall not be more than the aggregate limit as set forth in the act.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1434 Rescinded.

History: 1979 AC; 1984 AACCS; 1990 AACCS; 1997 AACCS.

R 390.1435 Rescinded.

History: 1979 AC; 1984 AACCS; 1990 AACCS; 1997 AACCS.

R 390.1436 Disbursement of loan proceeds.

Rule 36. (1) The disbursement of loan proceeds by a lender shall be in compliance with the due diligence requirements for the disbursement of a loan set forth by law.

(2) Loan proceeds shall be disbursed in a manner permitted by law.

(3) Neither a lender nor a school may obtain a borrower's authorization to endorse a disbursement check on behalf of a borrower.

(4) The check, after being presented for payment, shall be retained by the lender either in original form or on microform for the period prescribed by the provisions of R 390.1413.

(5) When a participating school receives loan proceeds from a lender, the school shall process the proceeds based on requirements established by the secretary in the provisions of 34 C.F.R. S682.604. These provisions are adopted by reference in R 390.1491.

(6) A school may only retain loan proceeds as specified by the secretary in the provisions of 34 C.F.R. SS682.604 to 682.607. These provisions are adopted by reference in R 390.1491.

(7) With approval from the authority, a lender may disburse an educational loan during the stated loan period, but after a borrower has ceased to be enrolled on at least a half-time basis or after the expiration of the loan period as indicated in the loan application.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1437 Use of loan proceeds.

Rule 37. Loan funds shall be used to pay only those obligations as specified by the secretary in the provisions of 34 C.F.R. SS682.200 and 682.606. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

R 390.1438 Loan purchases.

Rule 38. An educational loan may be purchased by another lender and shall be reported on forms provided by the authority. Notice of a merger of financial institutions on forms prescribed by the authority is sufficient to enable the authority to make proper loan changes.

History: 1979 AC; 1984 AACCS; 1990 AACCS.

PART 3. INTEREST ON LOANS

R 390.1441 Eligibility for federal interest benefits.

Rule 41. (1) A borrower who obtained a loan after November 7, 1965, may be eligible for federal interest benefits if the borrower meets the eligibility requirements set forth in the act.

(2) A student loan disbursed before November 8, 1965, is not eligible for federal interest benefits. Interest accruing on such a loan shall be deferred and made a part of the principal when the repayment period begins.

(3) For a loan disbursed before November 8, 1965, a payment of 3% simple interest accrued on a loan before inception of the repayment period shall be made by the authority if the borrower has graduated or completed the originally intended course of study. The borrower shall pay the entire 6% simple interest during the repayment period.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1442 Payment of federal interest benefits.

Rule 42. Loans disbursed to students who are eligible for federal payment of interest benefits shall have interest paid by the secretary during the in-school period, grace period, and periods of authorized deferment in the full amount as authorized for the date on which the loan was disbursed.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1443 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1445 Rescinded.

History: 1979 AC; 1984 AACS; 1997 AACS.

PART 4. PAYMENTS, EXTENSIONS, AND DEFERMENTS

R 390.1451 Repayment terms.

Rule 51. (1) Loan repayment terms shall be established as required by the act and by the secretary in the provisions of 34 C.F.R. SS682.209 to 682.211. These provisions are adopted by reference in R 390.1491.

(2) The loan may be paid in full or in part at any time without penalty to the borrower.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1452 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1453 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1455 Deferment of payments; eligibility.

Rule 55. (1) To qualify for deferment, a borrower shall meet the following deferment conditions:

(a) For loans disbursed before November 8, 1965, a borrower shall meet the deferment conditions established by the authority.

(b) For loans disbursed on November 8, 1965, and after, a borrower shall meet the deferment conditions established by the act and by the secretary as set forth in the provisions of 34 C.F.R. S682.210. These provisions are adopted by reference in R 390.1491.

(2) Deferment of payment on principal is subject to both of the following conditions:

(a) If the loan was disbursed as a result of an application received by the authority before February 28, 1973, a lender may deny the deferment request, except for unemployment deferment requests.

(b) A lender does not have an option to deny a deferment request if the loan was disbursed as a result of an application received by the authority on or after March 1, 1973, unless the borrower is considered in default as defined by the secretary in the provisions of 34 C.F.R. SS682.200, 682.402, and 682.411. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1456 Deferment of payments; periods.

Rule 56. (1) The period of authorized deferment shall be in compliance with requirements prescribed in the act or by the authority.

(2) Monthly payments shall resume after the deferment condition has ended as specified in the act.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1457 Deferment of payments; effect.

Rule 57. (1) If a borrower is eligible for federal interest benefits, periodic installments of principal need not be paid and interest shall be paid by the federal government.

(2) For loans granted before November 8, 1965, interest shall continue to accrue and become part of the principal when payments are to be resumed. Interest which accrues during an authorized deferment on a loan granted on or after November 8, 1965, that is not eligible for federal interest benefits shall be payable by the borrower in a manner authorized by the secretary and agreed upon by the lender and borrower.

History: 1979 AC; 1984 AACS; 1990 AACS.

PART 5. DEFAULTED LOANS

R 390.1461 Death, disability, bankruptcy, and delinquency claims.

Rule 61. (1) The lender shall file a claim to the authority with the documentation prescribed by law.

(2) The authority, upon verification that the secretary's requirements have been met, shall purchase the borrower's note or notes. Failure to meet the secretary's requirements set forth in the provisions of 34 C.F.R. S682.413 will result in withdrawal of the guarantee. These provisions are adopted by reference in R 390.1491.

(3) To allow reinstatement of the guarantee, the lender shall meet the cure requirements as prescribed by the secretary in the provisions of 34 C.F.R. S682.413. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1462 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1463 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1464 Rescinded.

History: 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1465 Rescinded.

History: 1979 AC; 1984 AACS; 1990 AACS; 1997 AACS.

R 390.1466 Reimbursement of lender claim; assignment of notes.

Rule 66. (1) The authority shall reimburse the lending institution at a level that is not less than the authority's level of reimbursement by the secretary specified in the

provisions of 34 C.F.R. SS682.404 and 682.405. These provisions are adopted by reference in R 390.1491.

(2) A lender shall assign all of its rights in the note to the authority before claim purchase.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1467 Guaranty reserve fund.

Rule 67. (1) The authority shall hold moneys from all of the following to pay defaulted loans and administrative expenses:

- (a) Private contributions.
- (b) Deposits by participating schools.
- (c) Appropriations from the state of Michigan.
- (d) Reinsurance.
- (e) Administrative cost allowance.
- (f) Insurance premiums.
- (g) Investment earnings.
- (h) Advances from the federal government.

(2) The guaranty agency shall maintain the guaranty reserve fund as a capital reserve consisting of cash, direct obligations of the United States or the state of Michigan, certificates of deposit, or other investment instruments as permitted by the act and the secretary in the provisions of 34 C.F.R. S682.410. These provisions are adopted by reference in R 390.1491. The fund shall have a market value equal at all times to not less than 2% of the aggregate unpaid principal amount of all loans guaranteed by the authority.

History: 1979 AC; 1984 AACS; 1990 AACS.

R 390.1468 Rescinded.

History: 1979 AC; 1984 AACS; 1997 AACS.

PART 6. FORBEARANCE

R 390.1471 Agreements and approval.

Rule 71. A lender may enter into a forbearance agreement with a borrower based on terms and conditions prescribed by the act and the secretary as specified in the provisions of 34 C.F.R. S682.211. These provisions are adopted by reference in R 390.1491.

History: 1979 AC; 1984 AACS; 1990 AACS.

PART 7. LIMITATION, SUSPENSION, OR TERMINATION OF SCHOOL OR LENDER

PARTICIPATION

R 390.1481 Participating school standard of care; effect of failure to properly administer programs; effect of conviction or guilty plea of school owner or chief executive officer for misuse of loan funds.

Rule 81. (1) A participating school shall be subject to the highest standard of care and diligence in administering the educational loan programs and in accounting to the authority for the funds received under those programs.

(2) An institution's failure to properly administer the educational loan programs or to account for the funds it receives under those programs shall constitute grounds for the termination of the eligibility of the school to participate in the programs.

(3) If the owner of a participating school or the chief executive officer is convicted of, or pleads guilty to, a crime involving the unlawful acquisition, use, or expenditure of loan funds provided through the authority's educational loan programs, the authority shall consider that conviction as a violation of the participating school's duty to administer the loan programs with the highest standards of care and diligence and as an automatic ground for terminating the school's eligibility to participate in the authority's educational loan programs.

History: 1990 AACCS.

R 390.1482 Emergency action to stop issuance of commitments.

Rule 82. (1) The authority, through a designated official, may take emergency action to stop the issuance of guaranty commitments to a lender or for a participating school for any of the following reasons:

(a) The authority receives information which gives reason to believe that a lender or participating school is in violation of applicable laws, regulations, agreements, or limitations.

(b) The designated official determines that immediate action is necessary to prevent the likelihood of substantial losses by the authority, the federal government, students, or parents.

(c) The designated official determines that the likelihood of loss outweighs the importance of following the procedures for limitation, suspension, or termination.

(2) The designated official shall begin an emergency action by notifying a lender or participating school of the action and the basis for the action.

(3) The effective date of the action shall be the date the notice is mailed to a lender or participating school.

(4) The designated official shall provide a lender or participating school with an opportunity to demonstrate that the emergency action is unwarranted.

(5) An emergency action shall not be for more than 30 days, unless a limitation, suspension, or termination proceeding has begun before that time expires.

(6) If a limitation, suspension, or termination proceeding begins before the expiration of the 30-day period, the emergency action may be extended until completion of the proceeding.

History: 1990 AACCS.

R 390.1483 Lender limitation, suspension, or termination proceedings; effect.

Rule 83. (1) Limitation, suspension, or termination proceedings shall not affect a lender's responsibilities or rights to interest benefits, special allowance payments, and claim payments that are based on the

lender's prior participation in the educational loan programs, except as provided in subrule (3) of this rule and the provisions of R 390.1488.

(2) A lender limitation may result in any of the following:

(a) A limit on the number or total amount of loans that a lender may make, purchase, or hold.

(b) A limit on the number or total amount of loans that a lender may make to, or on behalf of, students at a particular school.

(c) Conditions required under the provisions of R 390.1487, the act, the secretary, and the authority.

(3) After the effective date of a suspension of a lender's eligibility, the authority shall not guarantee new loans for that lender during the period of suspension. The authority may also prohibit the lender from

making further disbursements on a loan for which a guaranty commitment has already been issued. The period of suspension shall not be for more than

60 days, unless 1 of the following conditions exists:

(a) The lender and the designated official agree to an extension where the lender has not requested a hearing.

(b) The designated official begins a limitation or termination proceeding.

(c) If the designated official begins a limitation or termination proceeding before the suspension period ends, the designated official may extend the suspension period until the completion of that proceeding, including any appeal to the executive director.

(4) After the effective date of a termination of a lender's eligibility, the authority shall not guarantee new loans made by that lender. The authority may also prohibit the lender from making further disbursements on a loan for which a guaranty commitment has already been issued.

History: 1990 AACCS.

R 390.1484 Participating school limitation, suspension, or termination; effect.

Rule 84. (1) Limitation, suspension, or termination proceedings shall not affect a participating school's responsibilities or rights that are based on the participating school's prior participation in the educational

loan programs, except as provided in subrule (4) of this rule and R 390.1489.

(2) A participating school limitation may result in any of the following:

(a) A limit on the number or percentage of students enrolled in the participating school who may receive educational loans.

(b) A limit, for a stated period of time, on the percentage of a participating school's total receipts from tuition and fees derived from the educational loan programs.

(c) A requirement that a participating school obtain a bond, in a specified amount, to assure its ability to meet its financial obligation to students who received educational loans.

(d) A hearing as required under the provisions of R 390.1487.

(3) A suspension shall remove a participating school's eligibility to participate in the educational loan programs for not more than 60 days, unless 1 of the following occurs:

(a) The participating school and the designated official agree to an extension.

(b) The designated official begins a limitation or termination proceeding.

(c) The designated official begins a limitation or termination proceeding before the suspension period ends. The designated official may extend the suspension period until the completion of that proceeding.

(4) A termination shall result in all of the following:

(a) End a school's eligibility to participate in the educational loan programs.

(b) Prohibit a school from receiving any loan proceeds, or from releasing to a student any loan check or loan proceeds, from a loan for which a guaranty commitment has already been issued.

(c) Prohibit a school from certifying new applications for educational loans.

(d) Prohibit further disbursement by a school that is a lender under the educational loan programs for which guaranty commitments have already been issued by the authority.

(e) Prohibit the authority from increasing any guaranty commitment on a loan for which the guaranty commitment has already been issued.

(f) Prohibit further guaranty commitments by the authority for loans to students to attend that school.

History: 1990 AACCS.

R 390.1485 Notice of limitation, suspension, or termination proceeding.

Rule 85. (1) The designated official shall begin a limitation, suspension, or termination proceeding by sending a lender or participating school a notice.

(2) The notice shall include all of the following:

(a) A statement of the designated official's intent to suspend the lender's or the participating school's eligibility for a period of not more than 60 days or limit or terminate the lender's or participating school's eligibility.

(b) A description of the consequences of a limitation, suspension, or termination.

(c) Identification of the alleged violations on which the proposed limitation, suspension, or termination is based.

(d) A statement of the limits which may be imposed, in the case of a limitation proceeding.

(e) A statement of the proposed effective date of the limitation, suspension, or termination, which shall not be less than 20 days after the notice is mailed.

(f) Information to the lender or the participating school that the limitation, suspension, or termination shall not take effect on the proposed effective date if the designated official receives, not less than

5 days before that date, a request for a hearing or written material showing why the limitation, suspension, or termination should not take effect.

(g) A request that the lender or participating school correct any alleged violation voluntarily.

History: 1990 AACCS.

R 390.1486 Submission of written material by lender or school; action by designated official.

Rule 86. If a lender or participating school does not request a hearing but, submits written material pertaining to the limitation, suspension, or termination, the designated official may consider the material and shall take either of the following actions:

(a) Dismiss the proposed limitation, suspension, or termination.

(b) Notify the lender or participating school of the effective date of the limitation, suspension, or termination.

History: 1990 AACCS.

R 390.1487 Hearing.

Rule 87. (1) If a lender or participating school requests a hearing within the required 5 days before the proposed effective date of the limitation, suspension, or termination, the designated official shall schedule a hearing.

(2) The hearing date shall not be less than 15 days after receipt of the request from the lender or the participating school.

(3) A proposed limitation, suspension, or termination shall not take effect until a hearing is held.

(4) The hearing shall be conducted and a decision rendered pursuant to the provisions of chapter 4 of Act No. 306 of the Public Acts of 1969, as amended, being S24.271 et seq. of the Michigan Compiled Laws.

(5) If a termination action is brought against a lender or a participating school and the hearing officer concludes that a limitation is more appropriate, the hearing officer may issue a decision imposing 1 or more limitations on a lender or a participating school rather than terminating the lender's or the participating school's eligibility.

History: 1990 AACCS.

R 390.1488 Participating school; corrective action.

Rule 88. (1) As part of a limitation or termination proceeding, the designated official or the executive director may require a participating school to take reasonable corrective action to remedy a violation of applicable laws, regulations, agreements, or limitations.

(2) The corrective action may include payment of any funds to the authority, the federal government, or recipients identified by the designated official. Payment

may include interest and special allowance that the lender or the participating school improperly received, withheld, disbursed, or caused to be disbursed.

History: 1990 AACCS.

R 390.1489 Request for removal of limitation.

Rule 89. (1) A lender or a participating school may request removal of a limitation imposed under these rules not less than 12 months after the effective date of the limitation.

(2) The request shall be in writing and shall show that the lender or the participating school has corrected any violations on which the limitation was based.

(3) Within 60 days after receiving the request the executive director shall take 1 of the following actions:

(a) Grant the request.

(b) Deny the request.

(c) Grant the request subject to other limitations.

(4) If the executive director denies the request or establishes other limitations, the executive director shall give the lender or the participating school, upon request, an opportunity to show why all limitations should be removed.

(5) A lender or a participating school shall be eligible to continue to participate in the educational loan programs, subject to any limitation imposed by the executive director under subrule (3)(c) of this rule, pending a decision by the executive director on a request made pursuant to the provisions of subrule (4) of this rule.

History: 1990 AACCS.

R 390.1490 Request for reinstatement of eligibility.

Rule 90. (1) A lender or school whose eligibility has been terminated may request reinstatement of its eligibility not less than 18 months after the effective date of termination.

(2) A request shall be in writing and shall demonstrate that both of the following provisions have been complied with:

(a) The lender or the school has corrected any violation on which the termination was based.

(b) The school meets all requirements for eligibility.

(3) Within 60 days after receiving a request for reinstatement, the executive director shall take 1 of the following actions:

(a) Grant the request.

(b) Deny the request.

(c) Grant the request subject to limitations.

(4) If the executive director denies the school's request or allows reinstatement subject to limitation, the executive director shall give the lender or school, upon request, an opportunity to show why its eligibility should be reinstated and all limitations removed.

(5) A lender or a school whose eligibility is reinstated subject to limitations imposed by the executive director under the provisions of subrule (3)(c) of this rule shall be eligible to participate, subject to those limitations, pending a decision by the executive director on a request made pursuant to the provisions of subrule (4) of this rule.

History: 1990 AACCS.

R 390.1491 Adoption of federal regulations by reference.

Rule 91. (1) The following provisions of 34 C.F.R. S682 are adopted herein by reference:

Sections 682.200, 682.202, 682.205 to 682.213, 682.300, 682.301, 682.401, 682.402, 682.404, 682.405, 682.410, 682.414, and 682.604 to 682.607.

(2) A copy of these provisions may be inspected at the Lansing office of the Michigan higher education assistance authority of the department of education. A copy may be obtained from the Department of Education, Higher Education Assistance Authority, Michigan Guaranty Agency, P.O. Box 30047, Lansing, Michigan 48909, at no cost. A copy may also be obtained from the United States Department of Education, Guaranteed Student Loan Branch, 400 Maryland Avenue, S.W., Room 4310, ROB 3, Washington, DC 20202, at no cost.

History: 1990 AACCS.