

261F.3 Prohibitions — report.

1. *Gift ban.* No officer, employee, or agent of a covered institution who is employed in the financial aid office of the institution, or who otherwise has direct responsibilities with respect to educational loans, shall solicit or accept any gift from a lender, guarantor, or servicer of educational loans. The attorney general shall investigate any reported violation of [this subsection](#) and shall annually submit a report to the general assembly by January 15 identifying all substantiated violations of [this subsection](#), including the lenders and covered institutions involved in each such violation, for the preceding year.

2. *Gifts to family members or others.* For purposes of [this section](#), a gift to a family member of an officer, employee, or agent of a covered institution, or a gift to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if either of the following applies:

a. The gift is given with the knowledge and acquiescence of the officer, employee, or agent.

b. The officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

3. *Contracting arrangements.* An officer, employee, or agent who is employed in the financial aid office of a covered institution, or who otherwise has direct responsibilities with respect to educational loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit including but not limited to the opportunity to purchase stock on other than free market terms, as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender.

4. *Revenue sharing arrangements.* A covered institution shall not enter into any revenue sharing arrangement with any lender.

5. *Prohibition on offers of funds for private loans.* A covered institution shall not request or accept from any lender any offer of funds, including any opportunity pool, to be used for private educational loans to borrowers in exchange for the covered institution providing concessions or promises to the lender with respect to such institution providing the lender with a specified number of loans, a specified loan volume, or a preferred lender arrangement for any loan made, insured, or guaranteed under Tit. IV of the federal Higher Education Act of 1965, as amended, and a lender shall not make any such offer. For purposes of [this subsection](#), "opportunity pool" means an educational loan made by a private lender to a borrower that is in any manner guaranteed by a covered institution, or that involves a payment, directly or indirectly, by such an institution of points, premiums, payments, additional interest, or other financial support to the lender for the purpose of that lender extending credit to the borrower.

6. *Participation on advisory councils.* An officer, employee, or agent who is employed in the financial aid office of a covered institution, or who otherwise has direct responsibilities with respect to educational loans, shall not serve on or otherwise participate with advisory councils of lenders or affiliates of lenders. Nothing in [this subsection](#) shall prohibit lenders from seeking advice from covered institutions or groups of covered institutions, including through telephonic or electronic means, or a meeting, in order to improve products and services for borrowers, provided there are no gifts or compensation including but not limited to transportation, lodging, or related expenses, provided by lenders in connection with seeking such advice from the institutions. Nothing in [this subsection](#) shall prohibit an officer, employee, or agent of a covered institution from serving on the board of directors of a lender if required by law.

7. *Exceptions.*

a. Nothing in [this section](#) shall be construed as prohibiting any of the following:

(1) An officer, employee, or agent of a covered institution who is not employed in the institution's financial aid office, or who does not otherwise have direct responsibilities with respect to educational loans, from paid or unpaid service on a board of directors of a lender, guarantor, or servicer of educational loans.

(2) An officer, employee, or agent of a covered institution who is not employed in the financial aid office but who has direct responsibility with respect to educational loans as a result of a position held at the covered institution, from paid or unpaid service on a board of directors of a lender, guarantor, or servicer of educational loans, provided that the covered

institution has a written conflict of interest policy that clearly sets forth that such an officer, employee, or agent must be recused from participating in any decision of the board with respect to any transaction regarding educational loans.

(3) An officer, employee, or agent of a lender, guarantor, or servicer of educational loans from serving on a board of directors or serving as a trustee of a covered institution, provided that the covered institution has a written conflict of interest policy that clearly sets forth the procedures to be followed in instances where such a board member's or trustee's personal or business interests with respect to educational loans may be advanced by an action of the board of directors or trustees, including a provision that such a board member or trustee may not participate in any decision to approve any transaction where such conflicting interests may be advanced.

b. Nothing in [this chapter](#) shall be construed to prohibit a covered institution from lowering educational loan costs for borrowers, including payments made by the covered institution to lending institutions on behalf of borrowers.

[2008 Acts, ch 1132, §5, 15](#)