

RISK & COMPLIANCE

Truth in Tuition Lending: Understanding Compliance with TILA

Flexible payment options can help ensure a reliable flow of tuition dollars — but disclosure requirements apply.



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The Federal Trade Commission (building above) is responsible for enforcing TILA.

The federal Truth in Lending Act and its sci-fi-sounding Regulation Z (which implements the statute) require that borrowers of consumer credit receive written information about the terms of a loan prior to being legally bound to repay it. Most people probably associate the concept of “truth in lending” with securing a mortgage or obtaining car financing. Independent schools often do not realize that TILA may apply to tuition payments, too. Under certain circumstances, tuition can meet the definition of “consumer credit,” as it covers the cost of education, which the law considers a “personal, family or household” expense.

Your school is likely subject to TILA if the following apply:

- A written agreement covers tuition payments (i.e., the enrollment contract) *and*
- Tuition is under \$54,600 (the 2017 threshold amount, adjusted annually) *and*
 - Families have the option of paying tuition in more than four installments *or*
 - The school assesses a finance charge.

A few of the law’s key concepts:

1. TILA applies to independent schools that “regularly extend consumer credit,” defined as establishing tuition payment plans for more than 25 students in the preceding year.
2. Payment plans that permit families to distribute tuition payments in four or more installments

throughout the school year generally fall under Regulation Z. However, plans that require tuition payments in advance generally do not, as families are paying before receiving the educational service and the school therefore is not extending credit.

3. Broadly speaking, a “finance charge” is any additional amount families must pay if they do not make one lump-sum tuition payment before the start of the school year. For example, if your school offers a discount (however small) to families who pay tuition in one payment, you are in effect levying a finance charge against families who pay in as few as two installments. Therefore, TILA applies.

Once you determine that TILA applies to your school, focus on the contents of your TILA disclosure (usually a one-page form, in a grid format) and your timing for issuing it to families.

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The purpose of TILA is to provide consumers with a meaningful way to compare different credit offerings. By the time families review their payment options, they may no longer be comparison-shopping between schools. Nonetheless, Regulation Z requires TILA disclosures to present several terms in a specific and uniform way, with certain terms printed in bold type (the easiest way to satisfy the

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requirement that certain terms be more conspicuous than others). Your school's TILA disclosure must define the following terms in order to help families understand the true cost of enrollment:

- Annual percentage rate (cost of credit expressed as a yearly percentage amount)
- Finance charge (cost of credit expressed in a dollar amount)
- Amount financed (dollar amount a family must pay to the school)
- Total payment amount (sum of all payments due to the school, including the basic tuition amount, plus any finance charges)
- Payment schedule (when installment payments are due)

The disclosure must include other details as well, such as identifying your school as the "creditor," and an indication as to whether the school can demand payment on an accelerated schedule. In other words, many of the required terms on the disclosure may not feel like a good fit for an independent school; nonetheless, it is important to attend to the technical details to comply with TILA.

TIMING

TILA compliance is really a two-step process: Learn who will be participating in an applicable plan, and then provide the disclosure.

Families are entitled to understand the cost of enrolling in a tuition payment plan before they sign the enrollment contract. However, since your school may not know which payment plan a family will select, nor their financial aid arrangements, you will need to tailor TILA disclosures individually.

There is some good news: If your school uses a third-party vendor to process tuition payments online, that company may have built the TILA disclosure process into its system architecture.

ENFORCEMENT

The Federal Trade Commission is responsible for enforcing TILA, and it has recently assessed fines in the thousands and in some cases millions of dollars against payday, automobile and consumer electronics lenders that ran afoul of Regulation Z. Independent

See a sample TILA disclosure, along with many other sample forms and policies, in the Human Resources/Employment library on NBOA.org.

schools could be responsible for several thousand dollars of penalties per family, and potentially much more, if they intentionally fail to comply with TILA. Focusing on the perceived or actual administrative burdens of compliance, some schools have decided to forego finance charges and installment plans to avoid the law altogether.

On the other hand, many independent schools will decide that complying with TILA is worth the effort to provide families with flexible payment options (thus helping to ensure a reliable flow of tuition dollars). Business officers are urged to consult with a qualified independent school attorney, accountant and/or other professional with relevant experience to ensure that their school's TILA disclosure includes required terms and is executed at the appropriate time during the enrollment process. **N**



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