

#	Subject	Summary of Change to Common Manual	Type of Update	Effective Date
1263	Transition to Three-Year Cohort Default Rates	<p><b>4.2 Administrative Capability Standards</b></p> <p><b>16.1 Overview of Cohort Default Rates and Terminology</b></p> <p><b>16.3 School Draft Cohort Default Rates and Challenges</b></p> <p><b>16.4 School Official Cohort Default Rates, Adjustments, and Appeals</b></p> <p><b>16.4.B School Appeals</b></p> <p><b>16.5 Consequences of High Official Cohort Default Rates for Schools</b></p> <p>Provides information on the transition from the two-year cohort default rate to a three-year cohort default rate. Beginning in calendar year 2012 with the publication of the official 2009 three-year cohort default rate, a school with a single-year cohort default rate of 30% or greater will be required to establish a default prevention task force to prepare and submit a plan to the Department that identifies factors, establishes steps to improve the default rate, and specifies actions that can improve repayment rates. A school with a three-year cohort default rate of 30% or greater for two consecutive years must revise its plan to implement additional measures and also may be subject to provisional certification.</p> <p>As a part of a school's administrative capability standards, in order to maintain eligibility, the school's official CDR must be:</p> <ul style="list-style-type: none"> <li>• No more than 40% for the most recent fiscal year for which cohort default rates have been issued.</li> <li>• Less than 25% for each of the three most recent fiscal years for which two-year cohort default rates have been issued.</li> <li>• As of 2014, less than 30% for at least two of the three most recent fiscal years for which three-year cohort default rates have been issued.</li> <li>• No more than 15% for Perkins Loans.</li> </ul> <p>Also a school may challenge a draft three-year cohort default rate on the basis of its participation rate index (PRI), as follows:</p> <ul style="list-style-type: none"> <li>• Challenge an anticipated loss of eligibility based on a three-year cohort default rate that exceeds 40%, if the school's PRI for that fiscal year was less than or equal to 0.06015.</li> <li>• Challenge an anticipated loss of eligibility based on three consecutive three-year cohort default rates of at least 30% but no more than 40%, if the school's PRI for any of the three years was less than or equal to 0.0625.</li> <li>• Challenge a potential provisional certification based on three-year cohort default rates of at least 30% but no more than 40% in two of the three most recent years, if the school's PRI for either of the two years was less than or equal to 0.0625.</li> </ul>	Federal	Expansion of the cohort default period from a two-year period to a three-year period beginning with fiscal year 2009.

# COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: March 15, 2012

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Mar 15

**SUBJECT:** Transition to Three-Year Cohort Default Rates

**AFFECTED SECTIONS:**

- 4.2 Administrative Capability Standards
- 16.1 Overview of Cohort Default Rates and Terminology
- 16.3 School Draft Cohort Default Rates and Challenges
- 16.4 School Official Cohort Default Rates, Adjustments, and Appeals
  - 16.4.B School Appeals
- 16.5 Consequences of High Official Cohort Default Rates For Schools

**POLICY INFORMATION:** 1263/Batch 185

**EFFECTIVE DATE/TRIGGER EVENT:** Expansion of the cohort default period from a two-year period to a three-year period beginning with fiscal year 2009.

**BASIS:**

HEA §435(a); §668.16(m)(1); §668.181; §668.200; §668.202; §668.204; §668.206; §668.214: *Federal Register* dated October 28, 2009, pp. 55638-55639; 2011 Cohort Default Rate Guide.

**CURRENT POLICY:**

Current policy does not address the transition from the two-year cohort default rate to a three-year cohort default rate.

**REVISED POLICY:**

Revised policy provides information on the transition from the two-year cohort default rate to a three-year cohort default rate. Beginning in calendar year 2012 with the publication of the official 2009 three-year cohort default rate, a school with a single-year cohort default rate of 30% or greater will be required to establish a default prevention task force to prepare and submit a plan to the Department that identifies factors, establishes steps to improve the default rate, and specifies actions that can improve repayment rates. A school with a three-year cohort default rate of 30% or greater for two consecutive years must revise its plans to implement additional measures and also may be subject to provisional certification.

As part of a school's administrative capability standards, in order to maintain eligibility, the school's official CDR must be:

- No more than 40% for the most recent fiscal year for which cohort default rates have been issued.
- Less than 25% for each of the three most recent fiscal years for which two-year cohort default rates have been issued.
- As of 2014, less than 30% for at least two of the three most recent fiscal years for which three-year cohort default rates have been issued.
- No more than 15% for Perkins Loans.

Revised policy also states that a school may challenge a draft three-year cohort default rate on the basis of its participation rate index (PRI), as follows:

- Challenge an anticipated loss of eligibility based on a three-year cohort default rate that exceeds 40%, if the school's PRI for that fiscal year was less than or equal to 0.06015.
- Challenge an anticipated loss of eligibility based on three consecutive three-year cohort default rates of at least 30% but no more than 40%, if the school's PRI for any of the three years was less than or equal to 0.0625.
- Challenge a potential provisional certification based on three-year cohort default rates of at least 30% but no more than 40% in two of the three most recent years, if the school's PRI for either of the two years was less than or equal to 0.0625.

**REASON FOR CHANGE:**

The Manual is being updated to comply with regulatory changes published in the October 28, 2009, *Federal Register*, Vol. 74, No. 207.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Section 4.2, page 18, column 1, by inserting a new fifth bullet, as follows:

- ...
- The school must participate in the electronic processes that the Department provides at no substantial charge to the school. These processes will be identified in notices published in the *Federal Register*. The Department expects to provide these notices annually. Schools are not restricted to using only software and services provided by the Department.  
[§668.16; §682.203(a)]
  - The school's cohort default rate:
    - Must be less than 25% for each of the three most recent fiscal years for which two-year rates have been issued.
    - Beginning in 2014, must be less than 30% for at least two of the three most recent fiscal years for which three-year rates have been issued.
    - Must not exceed 15% for Perkins loans.  
[HEA §435(a)(2)]
  - A school must annually report to the Department the amount of any reasonable expenses that were paid or provided by a private education loan lender or group of lenders to an agent
- ...

Revise Section 16.1, page 1, column 1, paragraph 5, as follows:

**16.1 Overview of Cohort Default Rates and Terminology**

FFELP cohort default rates--and a series of increasingly stringent school requirements and limitations based on those rates--were added to federal regulations in 1989. These provisions were introduced to reduce the overall default rate in the federal student loan programs. FFELP cohort default rates for lenders and loan holders were introduced in the 1992 Reauthorization of the Higher Education Act of 1965, as amended. In addition, default rate provisions were expanded in the Omnibus Budget Reconciliation Act of 1993. The dual-program cohort default rate was implemented July 1, 1996, for schools with borrowers entering repayment in both the FFELP and FDLP. (See Section 16.3) A provision in the Higher Education Opportunity Act of 2008 (HEOA) changed the cohort default rate formula by expanding the cohort default period from a two-year period to a three-year period beginning with fiscal year 2009. Until there are three years of three-year rates, there will be a transition period during which schools will receive both two-year and three-year rates. Sanctions based on a high cohort default rate during this period will be based on a school's official two-year rate. Beginning with the publication of the official cohort default rates in calendar year 2014, the Department will use the three-year measure to impose penalties on schools that have high cohort default rates.  
[§668.181; §668.206]

A school with a low official cohort default rate may qualify for specific regulatory exemptions, such as more flexible disbursement requirements. A school with persistently or excessively high official cohort default rates may lose FFELP or FDLP eligibility and may also become ineligible to participate in the Federal Pell Grant Program.

A school may challenge its draft cohort default rate, and may, in some cases, appeal or request an adjustment to its official cohort default rate. Detailed parameters for challenges, appeals, and adjustment requests are defined in federal regulations (subparts M and N of §668) and the Department's *Cohort Default Rate Guide*, and are also outlined in Sections 16.3 and 16.4 of this

Manual.

...

Revise Section 16.3, page 8, column 2, paragraph 2, by adding a new citation, as follows:

*Incorrect Data Challenge*

...

[§668.185(b); §668.204(b)]

Revise Section 16.3, page 8, column 2, paragraph 3, by adding a new bullet 3 and citations, as follows:

*Participation Rate Index (PRI) Challenge*

A school can use the PRI challenge to put the overall federal fiscal impact of its cohort default rate into perspective based on the low percentage of its students receiving FFELP or FDLP loans. (See section 16.1 for more information on the calculation of the PRI.) A school may submit a PRI challenge if its draft cohort default rate meets one of the following criteria:

- The two-year or three-year cohort default rate exceeds 40% and the school's PRI for that cohort's fiscal year is less than or equal to 0.06015.
- The two-year cohort default rate equals or exceeds 25% for the three most recent years for which rates have been calculated and the school's PRI for any of those fiscal years is less than or equal to 0.0375.
- The three-year cohort default rate equals or exceeds 30% for the three most recent years for which rates have been calculated and the school's PRI for any of those fiscal years is less than or equal to 0.0625.

[HEA §435(a)(2)(B); and §435(a)(8); §668.195; §668.214]

A school must send its PRI challenge directly to the Department within 45 days after the date on which the school receives its draft cohort default rate notification. If the draft cohort default rate was based on fewer than thirty borrowers entering repayment, the school may use either its draft cohort default rate or the cohort default rate calculated by using Formula B (see Section 16.2) in the PRI calculation.

[§668.185(c); §668.204(c)]

The Department will notify the school of its determination regarding the PRI challenge prior to the publication of official cohort default rates. If the challenge is successful, the school will not lose eligibility to participate in the FFELP, FDLP and Federal Pell Grant Program when its official cohort default rate is published, even if that rate exceeds the applicable regulatory threshold for participation in those programs. However, the successful challenge will not exempt the school from any other loss of eligibility.

[§668.185(c)(4) and (5); §668.204(c)(4) and (5)]

If the Department determines that the school qualifies for continued FFELP, FDLP or Federal Pell Grant Program eligibility based on its PRI challenge, it will notify the school of that determination prior to the publication of official cohort default rates. A successful challenge that is based on the draft cohort default rate does not preclude the school from any other loss of eligibility.

[§668.185(c)(4) and (5); §668.204(c)(4) and (5)]

Revise Section 16.4, page 9, column 2, paragraph 3, as follows:

**What Official Rates Mean for Schools**

Low official cohort default rates may qualify the school for exemption from selected disbursement requirements (see Subsection 7.7.B). The consequences for high cohort default rates differ for two-year rates and three-year rates.

### **Two-Year Rates**

If the school's official two-year cohort default rate is excessively high (most recent rate exceeds 40%), the school may lose eligibility to participate in the ~~FFELP~~ or FDLP. If the school's official two-year cohort default rates are persistently high (three most recent rates equal or exceed 25%), the school may lose its eligibility to participate in the FDLP and the Federal Pell Grant Program.  
[§668.187(a)(1)]

In addition, a school with an official two-year cohort default rate of 25% or more in the three most recent fiscal years for which rates are available may be subject to provisional certification of the school's Title IV program participation.  
[§668.16(m)(i); §668.187(a)(2)]

### **Three-Year Rates**

For the first year that a school's three-year cohort default rate is 30% or more, the school must establish a default prevention task force to prepare and submit a plan to the Department that identifies factors, contributing to the high default rate, establishes steps to improve the default rate, and specifies actions that can improve repayment rates.  
[HEA §435(a)(7)(A); §668.217(a)]

If the school's three-year cohort default rate is 30% or more for a second consecutive year, the default prevention task force must reevaluate and modify the plan to improve repayment rates.  
[HEA §435(a)(7)(B); §668.217(b)]

Except for a successful appeal, for fiscal year 2011 or later, if the school's official three-year cohort default rate is excessively high (i.e., its most recent rate exceeds 40%), the school will lose its eligibility to participate in the FDLP. If the school's official three-year cohort default rates are persistently high (i.e., its three most recent rates each equal or exceed 30%), the school will lose its eligibility to participate in the FDLP and the Federal Pell Grant Program.  
[§668.206(a)]

In addition, schools with an official three-year cohort default rate of 30% or more in two of the three most recent fiscal years for which rates are available may be subject to provisional certification of the school's Title IV program participation.  
[§668.16(m)(2)]

Revise Subsection 16.4.B, page 12, column 2, bullet 1, as follows:

#### **Participation Rate Index (PRI) Appeals**

The PRI puts into perspective the impact of the school's cohort default rate on the federal fiscal interest. Thus, a low PRI indicates that the overall impact of a school's students' . . .

- The school has one cohort default rate over 40% and the PRI for that cohort's fiscal year is less than or equal to 0.06015.  
[§668.195(a)(1); §668.204(c)(1)(i)]
- The school has three consecutive two-year cohort default rates of 25% or more and the PRI for any of the three cohorts' fiscal years is less than or equal to 0.0375.  
[HEA §435(A)(8); §668.195(a)(2)]
- The school has three consecutive three-year cohort default rates of 30% or more and the PRI for any of the three cohort's fiscal years is less than or equal to 0.0625.  
[§668.204(c)(1)(ii)]

Revise Section 16.5, page 14, column 2, paragraph 3 and adding a new paragraph 4, as follows:

A student who is enrolled at the school and has received the first disbursement of a ~~FFELP~~ Direct loan before the school loses ~~FFELP~~ Direct loan eligibility may receive any remaining disbursements of that loan if he or she is otherwise eligible. However, a student who is enrolled at the school but to

whom has not received the first disbursement of a FFELP or Direct loan has not been delivered (either directly or by credit to his account) by the date on which the school becomes ineligible may not receive that loan even if the lender has made the first disbursement has been made but the school has not yet delivered the funds to the student.

[§668.26(d)(3); §668.187; ~~§682.604 (b)(2)(iii)~~; §668.206]

#### Default Prevention Plans

Beginning with the official publication of three-year cohort default rates, a school whose three-year cohort default rate for a fiscal year is 30% or more must establish a default prevention task force to prepare a default prevention plan to:

- Identify the factors causing the school's rate to be 30% or more.
- Establish measurable objectives and steps to improve its default rate.
- Specify actions that can be taken to improve student loan repayment, including counseling regarding loan repayment options.

The school must submit the plan to the Department, and after reviewing the plan, the Department will offer technical assistance to the school to help improve the default rate.

If, for a second year, the school's default rate is 30% or more, the task force must review and amend the plan submitted earlier and send it to the Department for review. The Department may require the school to take additional actions that promote student loan repayment.

[HEA §435(a)(7); §668.217]

#### **PROPOSED LANGUAGE - COMMON BULLETIN:**

##### **Transition to Three-Year Cohort Default Rates**

The *Common Manual* is being revised to conform to final rule changes published in the *Federal Register* dated October 28, 2009, outlining the transition from the two-year cohort default rate to a three-year cohort default rate.

#### **GUARANTOR COMMENTS:**

None.

#### **IMPLICATIONS:**

*Borrower:*

None.

*School:*

A school in one of the previously exempted categories may find it necessary to enhance its default prevention efforts since the school is no longer exempt from the loss of eligibility to participate in certain Title IV programs because of a high cohort default rate.

*Lender/Servicer:*

None.

*Guarantor:*

A guarantor may need to amend its program review procedures.

*U.S. Department of Education:*

The Department may need to amend its program review procedures.

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**To be completed by the Policy Committee**

#### **POLICY CHANGE PROPOSED BY:**

CM Policy Committee

#### **DATE SUBMITTED TO CM POLICY COMMITTEE:**

June 12, 2010

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

March 8, 2012

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee  
CM Guarantor Designees  
Interested Industry Groups and Others  
CM Governing Board Representatives

**Comments Received From:**

AES/PHEAA, ASA, Great Lakes, MGA, NASFAA, NCHELP, NSLP, OCAP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

**Responses to Comments**

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Most of the commenters supported this proposal as written. Several commenters recommended punctuation or wordsmithing changes that were incorporated without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

**COMMENT:**

Two commenters suggested adding several additional regulatory cites as references.

**Response:**

The Committee agrees.

**Change:**

The Committee added the recommended regulatory cites accordingly.

**COMMENT:**

One commenter recommended additional strike out language in 16.5. page 14 column 2, paragraph 3 to clarify that the “making” of a disbursement of a Direct loan is its delivery by the school to the student; there is no longer a “disbursement” by an outside entity before the “delivery” by the school.

**Response:**

The Committee agrees.

**Change:**

The Committee added the recommended strike-outs and wordsmithing as follows:

A student who is enrolled at the school and has received the first disbursement of a ~~FFELP or~~ Direct loan before the school loses ~~FFELP~~ Direct loan eligibility may receive any remaining disbursements of that loan if he or she is otherwise eligible. However, a student who is enrolled at the school but to whom has not received the first disbursement of a ~~FFELP or~~ Direct loan has not been delivered (either directly or by credit to his account) by the date on which the school becomes ineligible may not receive that loan ~~even if the lender has made the first disbursement~~ has been made but the school ~~has not yet delivered the funds to the student.~~

[§668.26(d)(3); §668.187; ~~§682.604(b)(2)(iii)~~]

**COMMENT:**

One commenter requested further development of the policy language to provide more direction or suggestions for schools such as detailed descriptions of the elements that could be developed for the default prevention plan. This commenter also requested that the administrative capability standards in the proposal be separated from the trigger event as a separate proposal. They stated that the CDR standards have applied to schools for years, yet are being introduced in the administrative capabilities section of the Common Manual with this proposal. Relying on the publication of official FY 2009 dates as the trigger for this component of the policy implies that CDR’s will not become a measure of administrative capability until the final 2009 rates are published.

**Response:**

The Committee agrees.

**Change:**

The Effective Date/Trigger Event has been changed to:

“Expansion of the cohort default period from a two-year period to a three-year period beginning with fiscal year 2009.”

The Committee will add an entry to its pending log for further development of what the Default Prevention Plan might include and the separation of the administrative capability standards.

om/edited-as