

| # | Subject | Summary of Change to <i>Common Manual</i> | Type of Update | Effective Date |
|------|---------------------------------------|--|----------------|---|
| 1037 | Timely Payment of Federal Default Fee | <p><u>7.8 Processing the Federal Default Fee (Formerly the Guarantee Fee)</u></p> <p>States that if a federal default fee for a loan is not remitted within 45 calendar days after disbursement of the loan proceeds by the lender, the guarantor may cancel the guarantee on the loan.</p> | Guarantor | Federal default fees remitted by lenders for loan disbursements on or after July 1, 2008. |
| 1038 | Lender Recordkeeping Requirements | <p><u>3.4.A Recordkeeping Requirements</u> <u>15.5.G Paid-in-Full Loans</u></p> <p>Adds that the holder of an electronically signed MPN must retain the original MPN for at least 3 years after all the loans made on the MPN have been satisfied. Also adds the documentation that the Department may require to resolve a factual dispute on a loan that has been assigned to the Department, and expands the disbursement record requirement.</p> | Federal | <p>Electronically signed notes in existence as of July 1, 2008, and all electronically signed notes created on or after July 1, 2008.</p> <p>Assignments made on or after July 1, 2008. <i>This aligns with the suggested trigger event recommendation document submitted to the Department. If the department publishes guidance with a different triggering event, the Common Manual will immediately notify schools and lenders of the change.</i></p> |

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| 1039 | Permissible and Prohibited Activities | <p>3.4.C Prohibited Activities</p> <p>Amends certain existing lender prohibitions, such that a lender is not permitted to offer—directly or indirectly—points, premiums, payments, or other inducements to any school or other party to secure applications for FFELP loans or to secure FFELP loan volume.</p> <p>Clarifies certain prohibited lender activities, as including, but not being limited to, providing preferential rates for or access to the lender's other financial products, computer hardware or non-loan processing or non-financial aid-related software at below-market rental or purchase cost, or printing and distribution of college catalogs and other materials at reduced or no cost.</p> <p>Also adds a list of permissible lender activities.</p> | Federal | Lender activities that occur on or after July 1, 2008. |
| 1040 | Total and Permanent Disability | <p>5.4.A Conditional Discharge of a Prior Loan Due to Total and Permanent Disability</p> <p>Figure 11-2 Forbearance Eligibility Chart</p> <p>11.20.P Total and Permanent Disability</p> <p>13.1.D Total and Permanent Disability Claims</p> <p>13.8.F Total and Permanent Disability</p> <p>States that a borrower is not eligible for a total and permanent disability loan discharge if the borrower receives a new Title IV loan after the date <i>the physician completes and certifies the loan discharge application</i>. Adds revisions that state that a borrower's 3-year conditional discharge period is prospective from the date that the physician completes and signs the loan discharge application. If the lender receives the discharge application after the borrower's 90-day return time frame, the borrower must have the physician complete a new application and the lender must receive the application within 90 days of the physician's certification of the new</p> | Federal | <p>Total and permanent disability applications received by the lender on or after July 1, 2008.</p> <p>July 1, 2008, for administrative forbearance related to total and permanent disability.</p> |

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| | | <p>discharge application. Revised policy adds information regarding additional medical evidence that the borrower must provide to the Department, upon the Department's request, if the borrower's application does not conclusively prove that the borrower is disabled</p> <p>Also removes language that states that a lender may apply an "initial" administrative forbearance on the borrower's loan, not to exceed 60 days, from the date that a borrower initially advises the lender that he or she is totally and permanently disabled through the date that the lender receives the physician's certification of the disability or a letter from the physician stating that additional time is needed to make the disability determination.</p> | | |
| 1041 | <p>Return of Ineligible Borrower Loan Funds</p> <p>Deferred for Further Development</p> | <p><u>5.16 Ineligible Borrowers</u> <u>5.16.A Ineligibility Based on Borrower Error</u> <u>5.16.B Ineligibility Based on School Error</u> <u>8.9.B Return of Ineligible Borrower Loan Funds</u></p> <p>States that if FFELP loan funds were delivered to, or on behalf of, a student who did not begin attendance in the loan period, or payment period within the loan period, the borrower is ineligible for those funds. A student does not begin attendance if the school is unable to document the student's attendance at any class during a loan period, or during a payment period within the loan period.</p> <p>Clarifies that a borrower is ineligible for loan funds due to school error if a school knew before the school delivered loan proceeds to, or on behalf of, a student that the student would not begin attendance during the loan period, or a payment period for which the loan funds were intended (e.g., the student notified the school that he or she would not attend or the school expelled the student).</p> <p>Clarifies that the borrower is ineligible</p> | Federal | <p>School determinations that a student did not begin attendance on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.</p> |

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| | | <p>for loan funds due to borrower error if specific conditions are met. If the ineligible funds were the result of the borrower's error, the school must return to the lender all loan funds credited to the student's account at the school for the loan period or payment period, as applicable, that the student did not attend. The school must also return to the lender the amount of payments made directly by, or on behalf of, the student to the school for the loan period or payment period that the student did not attend, up to the total amount of the loan funds disbursed to the school.</p> <p>The school is not responsible for returning ineligible loan funds that a lender disbursed or a school delivered directly to a borrower who received loan funds due to the borrower's error, including funds that a lender disbursed directly to a student enrolled in a study-abroad or foreign school program.</p> <p>Establishes time frames within which the school must return loan funds for which the borrower is ineligible.</p> | | |
| 1042 | Annual Loan Limit Progression | <p>6.1 Defining an Academic Year Figure 6-2</p> <p>Provides that, for the purposes of determining the frequency with which a student may receive the annual loan limits, nonstandard term-based credit-hour programs are now divided into two categories: those with terms of substantially equal length, with each term containing no less than nine weeks of instructional time; and those with terms that are not substantially equal or that include terms that are not at least nine weeks long.</p> <p>Nonstandard term-based credit-hour programs with terms that meet these length requirements are now treated like standard term-based credit-hour programs for the purpose of determining the frequency of annual loan limits. A student enrolled in such a program enters a new academic year for annual loan limit purposes when the calendar time for the academic year has elapsed.</p> | Federal | Loans certified on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. |

| # | Subject | Summary of Change to <i>Common Manual</i> | Type of Update | Effective Date |
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| 1019 | <p>Maximum Stafford and PLUS Loan Periods</p> <p><i>This policy was originally distributed in Batch 148 and is being shared with the community for review a second time due to substantive changes made as a result of comments received.</i></p> | <p><u>6.2 Determining the Loan Period</u></p> <p>States that the maximum period for which a school may certify a Stafford or PLUS loan is an academic year, and eliminates the 12-month maximum.</p> <p>Clarifies that the maximum period of time for which a school may certify a loan is the calendar period of time in which a student is expected to successfully complete the credit or clock hours and the instructional weeks in the Title IV academic year.</p> | Federal | <p>Loan periods beginning on or after July 1, 2008. <i>This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i></p> |
| 1043 | Minimum Loan Period | <p><u>6.2 Determining the Loan Period</u></p> <p>Reduces the minimum loan period to a single term for a non-standard term-based credit-hour program with terms that are substantially equal in length and for which no term is less than nine weeks in length. Also provides that the minimum loan period for a student who transfers, or completes one program and begins another within an academic year, is the shorter of the remainder of the program or the remainder of the academic year associated with the previous program.</p> | Federal | <p>Loan periods beginning on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.</p> |
| 1044 | Payment Periods | <p><u>6.3 Determining Payment Periods</u></p> <p><u>6.4.B When Disbursements May Be Made</u></p> <p><u>8.7.B Delivering Second and Subsequent Disbursements</u></p> <p><u>9.5.A Return Amounts for Title IV Grant and Loan Programs</u></p> <p>States that the payment periods for a program measured in credit hours with standard terms or with non-standard terms that are substantially equal in length, for all Title IV programs, must correspond with the terms in the academic year. For all other types of academic programs, for FFELP funds, the loan period must be divided into two payment periods.</p> | Federal | <p>Disbursements delivered by the school on or after July 1, 2008.</p> |

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| | | <p>For the purpose of these payment period definitions, revised policy defines “substantially equal in length” and “successful completion,” and describes the effect of excused absences when determining whether a student has successfully completed the payment period in a clock hour program.</p> <p>Provides additional information about the payment period for a student who returns to the same program after 180 days or, at any time, either transfers into a different program at the same school or enrolls in another school.</p> | | |
| 1045 | Student Authorization for EFT Payment | <p><u>8.3 Required Authorizations</u> <u>8.7.H Delivery Methods</u> <u>Figure 8-1</u></p> <p>Removes the requirement for a school to obtain a borrower’s authorization to deposit FFELP loan proceeds into a borrower’s designated bank account. Revised policy also incorporates regulatory expansion in a school’s establishment of stored-value and prepaid debit cards.</p> | Federal | Funds deposited by EFT directly into a student’s or parent borrower’s bank account or stored-value card by a school on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. |
| 1046 | Return of Loan Funds | <p><u>8.9.A Return of Undelivered Loan Funds</u></p> <p>Provides that the school must return unclaimed FFELP loan funds to the lender. Permits the school to make subsequent attempts to deliver the funds for a period of up to 240 days, but if the borrower or student has not received or negotiated the funds by the end of that period, the school is required to return the loan funds to the FFELP lender. If the school chooses not to make additional attempts to deliver the funds, the loan funds must be returned to the FFELP lender within 45 days of the date the funds were returned or rejected.</p> | Federal | Loan funds delivered by the school on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. |
| 1047 | Economic Hardship Deferment | <p><u>11.4.A Eligibility Criteria—Economic Hardship</u> <u>Appendix G</u></p> <p>Amends the deferment eligibility requirement to reflect that the</p> | Federal | Economic Hardship deferment requests made on or after October 1, 2007. |

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| | | <p>borrower's monthly income may not exceed an amount equal to 150% of the poverty line applicable to the borrower's family size and updates the glossary definition accordingly.</p> | | |
| 1048 | Military Deferment | <p><u>11.8 Military Active Duty Student Service Deferment</u> <u>11.8.A Eligibility Criteria—Military Active Duty Student</u> <u>11.8.B Deferment Documentation—Military Active Duty Student</u> <u>11.8.C Length of Deferment—Military Active Duty Student</u> <u>11.8.D Simplified Deferment Processing</u> <u>11.9 Military Deferment</u> <u>11.9.A Eligibility Criteria—Military</u> <u>11.9.B Deferment Documentation—Military</u> <u>11.9.C Length of Deferment—Military</u> <u>Figure 11-1 Deferment Eligibility Chart</u> <u>Figure 11-1 Deferment Eligibility Chart</u></p> <p>Modifies the previous title “military deferment” to “military service” and adds a new section regarding the military active duty student deferment. This deferment is available for a period of up to 13 months to a borrower who is a member of the National Guard or Armed Forces Reserve (including a member who is in a retired status) and is called or ordered to active duty service while enrolled in an eligible school at the time of, or within 6 months prior to, his or her activation.</p> <p>Eliminates the time limit on military deferment and states that a military service deferment is available to a borrower who has an outstanding balance on any loan for all periods of active duty service that include October 1, 2007, or begin on or after that date.</p> <p>States that the military service deferment period is extended for an additional 180 days after the date the borrower is demobilized from active duty service.</p> | Federal | Deferment requests granted or extended by the lender on or after October 1, 2007. |

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| | | <p>Also states that a military service deferment may be granted to a borrower whose deferment eligibility expired due to the prior 3-year limitation, if that borrower was still serving on eligible active duty on or after October 1, 2007.</p> | | |
| 1049 | Definition of "School-Affiliated Organization" | <p><u>3.2 Schools Acting as Lenders and Eligible Lender Trustee Relationships</u> <u>Appendix G</u></p> <p>Adds a glossary definition that states that a school-affiliated organization is any organization that is directly or indirectly related to a school and includes, but is not limited to: alumni organizations, foundations, athletic organizations, or social, academic, or professional organizations.</p> | Correction | July 1, 2008. |

COMMON MANUAL - GUARANTOR POLICY PROPOSAL

Date: April 17, 2008

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| | DRAFT | Comments Due | |
| | FINAL | Consider at GB meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Timely Payment of Federal Default Fee

AFFECTED SECTIONS: 7.8 Processing the Federal Default Fee (Formerly the Guarantee Fee)

POLICY INFORMATION: 1037/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Federal default fees remitted by lenders for loan disbursements on or after July 1, 2008.

BASIS:
DCL FP-06-07.

CURRENT POLICY:
Current policy states that if a federal default fee for a loan is not remitted in the time frame established by the guarantor, the guarantor may cancel the guarantee on the loan.

REVISED POLICY:
Revised policy states that if a federal default fee for a loan is not remitted within 45 calendar days after disbursement of the loan proceeds by the lender, the guarantor may cancel the guarantee on the loan.

REASON FOR CHANGE:
This text is being revised based on *Dear Colleague Letter* FP-06-07, which requires the guarantor to deposit the federal default fee into the agency's Federal Fund immediately upon receipt but no later than 45 days after the loan proceeds have been disbursed by the lender.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 7.8, page 18, column 1, paragraph 1, as follows:

7.8 Processing the Federal Default Fee (Formerly the Guarantee Fee)

A loan guaranteed on or after July 1, 2006, is subject to a federal default fee equal to 1% of the loan's principal. A loan disbursed on or after July 1, 1994, for a period of enrollment that either includes or begins after that date, and for which the date of guarantee of principal is before July 1, 2006, is subject to a maximum 1% guarantee fee.

[HEA 428(b)(1)(H)(I) and (ii); §682.401(b)(10)(iv)(B)]

If the federal default fee (~~formerly guarantee fee~~) for a loan is not remitted ~~in the time frame established by the guarantor~~ by the lender within 45 calendar days after any disbursement of the loan proceeds, the guarantor may cancel the guarantee on the loan. If a guarantee is canceled, the loan loses eligibility for interest benefits and special allowance, and no claim will be paid if the borrower later defaults on the loan, dies, or becomes totally and permanently disabled. Once the guarantee is canceled for nonpayment of fees, the guarantor may choose not to reinstate it.

Generally, the lender will receive notification from the guarantor if fees are not paid ~~in a timely manner within the 45-day period~~ and if any loan guarantees are going to be canceled.

▲ Lenders may contact individual guarantors for more information on fee payment and reporting requirements. See Section 1.5 for contact information.

PROPOSED LANGUAGE - COMMON BULLETIN:

Timely Lender Payment of Federal Default Fee

The *Common Manual* has been revised to state that if the lender does not remit the federal default fee within 45 days after any disbursement of the loan proceeds, the guarantor may cancel the guarantee on the loan. If a guarantee is canceled, the loan loses eligibility for interest benefits and special allowance, and no claim will be paid if the borrower later defaults on the loan, dies, or becomes totally and permanently disabled. Once the guarantee is canceled for nonpayment of fees, the guarantor may choose not to reinstate it. Generally, the lender will receive notification from the guarantor if fees are not paid within the 45-day period and if any loan guarantees are going to be canceled.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

A lender/service may need to revise its processing time frames in order to comply with the maximum 45-calendar-day period, after disbursement of the loan proceeds, for remitting the federal default fee to the guarantor.

Guarantor:

A guarantor may need to revise its method for monitoring lender compliance with the maximum 45-calendar-day period after disbursement of the loan proceeds for receipt of the federal default fee. The guarantor may establish new policies regarding the cancellation of the loan's guarantee if the lender fails to remit the federal default fee in a timely manner. The guarantor may also need to develop policies to describe when and under what conditions the loan guarantee may be reinstated, if at all.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

USA Funds

DATE SUBMITTED TO CM POLICY COMMITTEE:

November 21, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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:

One commenter stated that non-payment of the federal default fee occurs regularly due to a sequence of events on a loan that are no fault of the lender/servicer or guarantor. Therefore, guarantors are asked to work with lenders to provide notice of non-payment before the 45th day. If the lender is notified that the fee has not been paid on or after the 45th day, the guarantee could already be canceled. To address this issue, the commenter offered the following text for consideration:

Generally, the lender will receive notification from the guarantor if fees are not paid within the 45-day period and if any loan guarantees are going to be cancelled. Guarantors are encouraged to provide lenders with timely notice of unpaid fees to ensure that the lender has sufficient time to pay the fees and correct any errors prior to the 45th calendar day after disbursement when the loan guarantee could be cancelled.

Lenders may contact individual guarantors for more information on fee payment and reporting requirements. See Section 1.5 for contact information.

The commenter noted that the word “encouraged” and not “required” will not have the effect of regulating guarantors and will, therefore, be compliant with *Common Manual* requirements.

Another commenter would like to have more discussion regarding the 45-day window because guarantors have various procedures for handling federal default fees with lenders. Some guarantors bill monthly but the bill is received with little or no time to review and remit payment within 45 days after disbursement. Other guarantors may bill less frequently than monthly.

Response:

The Committee is aware that the 45-day time frame may result in some operational issues for both lenders and guarantors. Therefore, the Committee encourages lenders and guarantors to work together to develop processes that facilitate payment within the 45-day period. The *Common Manual* does not in any way regulate the processes of guarantors as would be the case if language were inserted regarding the guarantor providing notices to lenders when fees remain unpaid for a length of time. However, since the policy is, itself, derivative of a federally imposed guarantor requirement, it is logical to assume that it will benefit guarantors by assisting them in complying with federal regulations. Lenders may contact individual guarantors for more information on fee payment and reporting requirements.

Change:

The text in Section 7.8 has been revised as follows:

Generally, the lender will receive notification from the guarantor if fees are not paid within the 45-day period and if any loan guarantees are going to be canceled.

▲ Lenders may contact individual guarantors for more information on fee payment and reporting requirements. See Section 1.5 for contact information.

COMMENT:

One commenter suggested deleting the parenthetical phrase “(formerly guarantee fee)” in the text of the second paragraph of Section 7.8 because it is redundant to restate what has already been noted in the section title.

Response:

The Committee concurs with the request.

Change:

The text of the second paragraph has been revised as follows:

If the federal default fee (~~formerly guarantee fee~~) for a loan is not remitted . . .

COMMENT:

One commenter suggested revising the text in the second paragraph of Section 7.8 by adding the following phrase because fees are billed and paid on a disbursement basis.

If the federal default fee (~~formerly guarantee fee~~) for any disbursement of a loan is not remitted by the lender within 45 calendar days after disbursement of the loan proceeds, the guarantor may cancel the guarantee on the loan.

If the change is accepted by the Committee, the commenter requested that the same change be made in the Common Bulletin Language.

Response:

The Committee concurs with the objective of the comment but suggests an alternate approach in order to avoid redundancy in the text of the subject sentence.

Change:

The text of the second paragraph has been revised as follows:

If the federal default fee (~~formerly guarantee fee~~) for a loan is not remitted by the lender within 45 calendar days after any disbursement of the loan proceeds, the guarantor may cancel the guarantee on the loan.

The same change has been made to the Common Bulletin Language.

ce/edited-tmh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

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|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB Meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Lender Recordkeeping Requirements

AFFECTED SECTIONS: 3.4.A Recordkeeping Requirements
15.5.G Paid-in-Full Loans

POLICY INFORMATION: 1038/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Electronically signed notes in existence as of July 1, 2008, and all electronically signed notes created on or after July 1, 2008.

Assignments made on or after July 1, 2008. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different triggering event, the Common Manual will immediately notify schools and lenders of the change.*

BASIS:

§682.414(a)(5)(iv)and (6); *Federal Register* Vol. 72, No. 211 dated November 1, 2007, p. 61968.

CURRENT POLICY:

Current policy states that the original or true and exact copy of the promissory note must be retained until the loan is paid in full or assigned to the Department. If the promissory note was signed electronically, the lender must store the promissory note electronically in a retrievable, coherent format. Documentation required for loans assigned to ED that have electronically signed promissory notes is not currently addressed.

REVISED POLICY:

Revised policy adds the requirement that the holder of an electronically signed promissory note or MPN must retain the original note for at least 3 years after the loan or all the loans made using the note have been satisfied. Revised policy also adds the documentation that the Department may require to resolve a factual dispute on a loan that has been assigned to the Department, and expands the disbursement record requirement.

REASON FOR CHANGE:

The *Common Manual* is being updated to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72., No. 211.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 3.4.A, page 6, column 2, paragraph 2, bullet 4, as follows:

Required Records

...

...

In addition, the lender must maintain the following documentation for each loan:

- A record of the borrower's requested loan amount for a loan made under a PLUS MPN, if the lender is the party responsible for obtaining this information.
- A record of any adjustments that the lender receives to the PLUS loan borrower's requested loan amount.
- A copy of the loan application, if a separate application was provided to the lender. [§682.414(a)(4)(ii)(A)]
- A copy of the signed promissory note. The original or a true and exact copy of the promissory note must be retained until the loan is paid in full or assigned to the Department. If the promissory note was signed electronically, the lender holder must store the original promissory note or MPN electronically in a retrievable, coherent format and must retain the original promissory note or MPN for at least 3 years after the loan or all the loans that were made using the note have been satisfied (i.e. the loans have been paid in full, canceled, or discharged in full). More information on promissory note retention is found under the subheading "Record Retention Time Frames" in this subsection. [§682.414(a)(4)(ii)(B) and (4)(iii); §682.414(a)(5)(ii) and (iv)]
- ...
- ~~Evidence of disbursement:~~ A record of each disbursement of loan proceeds. [§682.414(a)(4)(ii)(D)]

Loans Made with an Electronically Signed Promissory Note and Assigned to the Department

In order to resolve a factual dispute involving a loan that has been assigned to the Department, the Department may request a record, affidavit, certification, or evidence to resolve that dispute. The Department may also request this documentation for a loan that has been assigned and is included in a Title IV program audit sample or other similar purposes.

Upon the Department's request regarding a loan that has an electronically signed promissory note and has been assigned to the Department, the lender that created the original electronically signed promissory note must, within 10 business days, provide:

- An affidavit or certification regarding the creation and maintenance of the electronic records of the loan or loans in a form appropriate to ensure admissibility of the loan records in a legal proceeding. This affidavit or certification may be executed in a single record for multiple loans provided that this record is reliably associated with the specific loans to which it pertains.

If requested by the Department, the affidavit or certification must include each of the following:

- A description (such as a flow chart) of the steps the borrower followed to execute the promissory note.
- A copy of each screen as it would have appeared to the borrower when the borrower signed the promissory note electronically.
- A description of the field edits and security measures used to ensure the integrity of the data that was submitted electronically to the originating lender.
- A description of how the promissory note has been safe-guarded to ensure that it was not altered after it was executed.
- Documentation supporting the lender's authentication and electronic signature process.
- All other documentary and technical evidence requested by the Department to support

the validity or the authenticity of the electronically signed promissory note.

- Testimony by an authorized official or employee of the lender, if necessary to ensure admission of the electronic records of the loan or loans in the litigation or legal proceeding to enforce the loan or loans.

The holder of the original electronically signed promissory note is responsible for ensuring that all parties entitled to access to the electronic loan record, including the guarantor and the Department, have full and complete access to that record until all the loans made on the note have been satisfied.
[§682.414(a)(6)(i)]

Record Retention Time Frames

The preceding records for each loan must be retained for a period of not less than:

- 3 years after the date the loan is paid in full by the borrower.
[§682.414(a)(4)(iii)]
- 5 years after the date the lender receives payment in full from any other source.
[§682.414(a)(4)(iii)]

A lender that sells a loan to another lender remains subject to the 5-year minimum retention requirement for all documentation generated through the date it sells the loan. A lender that purchases a loan from another lender is subject to the 5-year minimum retention requirement for all documentation generated from the time of the loan's origination through the date the purchasing lender no longer holds the loan. The holder of the original promissory note must retain an electronically signed promissory note or MPN for at least 3 years after the loan or all the loans made using the note have been satisfied.

[§682.414(a)(4)(iii); §682.414(a)(5)(iv)]

When a loan is paid in full by the borrower, the lender must either return the original or a true and exact copy of the promissory note to the borrower, or notify the borrower that the loan is paid in full. A copy of the promissory note must be retained for a period of not less than 3 years after the date the loan is paid in full by the borrower, or not less than 5 years after the date the lender receives payment in full from any other source. In the case of an electronically signed promissory note, the holder must retain the original promissory note or MPN for at least 3 years after the loan or all the loans made using the note have been satisfied. Documentation of any paid-in-full notice sent to the borrower also must be retained for a period of not less than 3 years after the date the loan is paid in full by the borrower.

[§682.414(a)(5)(iii) and (iv)]

Revise Subsection 15.5.G, page 13, column 1, paragraph 2, as follows:

Paid-in-Full Loans

...

Lenders must retain a copy of the promissory note and other key loan documents—as well as a copy of the loan servicing history—for a period of not less than 3 years after the date on which the loan is paid in full by the borrower and not less than 5 years after the date the lender receives payment in full from any other source. In addition, the lender must report to the guarantor the paid-in-full status of the loan. See Subsection 3.4.A for information on recordkeeping and Section 3.5 for information on lender reporting.

[§682.414(a)(2); §682.414(a)(5)]

PROPOSED LANGUAGE - COMMON BULLETIN: Recordkeeping Requirements

The *Common Manual* has been revised by adding the requirement that the holder of an electronically signed promissory note or MPN must retain the original promissory note or MPN for at least 3 years after the loan or all the loans made on the note have been satisfied. The Manual is also revised to add the documentation that the Department may require of the lender that created the original electronically signed promissory note to resolve a factual dispute on a loan that has been assigned to the Department, and to expand the disbursement record requirement.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Servicer:

A lender/servicer may need to adjust its record retention policy and procedures to accommodate the new requirements of retaining an electronically signed promissory note for at least 3 years after all the loans made on the note have been satisfied. In addition, a lender/servicer may need to adjust its policy and procedures to retain the required documentation that may be requested by the guarantor for loans assigned to the Department and to retain expanded loan disbursement records.

Guarantor:

A guarantor may be required to revise its processes for obtaining and retaining post-default records and information from its lenders and for conveying the information to the Department for loans that are assigned. A guarantor may also need to adjust its program review procedures.

U.S. Department of Education:

The Department may need to adjust its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 12, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designee

Interested Industry Groups and Others

CM Governing Board Representatives

COMMENTS RECEIVED FROM:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Most of the commenters supported this proposal as written. Other commenters recommended wordsmithing changes or typographical corrections that made no substantive changes to the policy and were considered

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:

Three commenters noted that the words “MPN” and “promissory note” are used interchangeably throughout the proposal. Two of the commenters observed that Consolidation loans are also subject to these record keeping requirements but since a Master Promissory Note is not used for Consolidation loans, the preferred term throughout the proposal should be “promissory note” rather than “MPN.”

Response:

The Committee agrees in part. Some of the text refers to multiple loans on one note, so it would be appropriate to retain “MPN” in those instances. Otherwise, it would seem prudent, and more consistent if the term “promissory note” were used.

Change:

The term “promissory note” or “note” has replaced “MPN” where appropriate as suggested.

COMMENT:

Two commenters noted two instances under “Loans Made with an Electronically Signed Promissory Note and Assigned to the Department” where the policy required “lenders” to retain certain information. The commenters thought that the terms “holder” or “originator” may be more appropriate. Two other commenters asked that the phrase “guarantor or lender” replace “lender,” since guarantors are also subject to the documentation requirements.

One commenter made the following suggestion to the second paragraph:

“Upon the Department’s request regarding a loan that has an electronically signed MPN and has been assigned to the Department, the ~~lender that created~~ originator of the original electronically signed promissory note must provide:”

And the following suggestion to the 3rd sub-bullet under the first bullet in that Subsection:

“A description of the field edits and security measures used to ensure the integrity of the data that was submitted electronically to the ~~originating lender~~ originator of the original electronic record.”

Response:

The Committee disagrees. The Committee is aware that federal regulations include guarantor requirements, however, the *Common Manual* is published to help lenders more clearly understand common policy. Therefore, the Committee does not include guarantor requirements in the policies.

Change:

None.

COMMENT:

Two commenters also noted that under the heading “Loans Made with an Electronically Signed Promissory Note and Assigned to the Department” the words “within 10 business days” be added to the second paragraph as follows:

“...the lender that created the original electronically signed promissory note must, within 10 business days, provide:”

Response:

The Committee agrees.

Change:

The suggested wording change has been added to the text.

COMMENT:

One commenter observed that for the purposes of full and complete access to the electronic loan record, the regulatory language only requires that the holder must ensure access “until” all loans have been satisfied. The 3-year retention period refers to the retention of the electronically signed note, not to access. The commenter suggested the following wording:

“The holder of the original electronically signed promissory note is responsible for ensuring that all parties entitled to access to the electronic loan record, including the guarantor and the Department, have full and complete access to that record ~~for at least 3 years after~~ until all the loans made on the note have been satisfied.”

Response:

The Committee agrees.

Change:

The text in the last paragraph under “Loans Made with an Electronically Signed Promissory Note and Assigned to the Department,” has been revised per the above suggestion.

COMMENT:

One commenter requested under “Record Retention Time Frames,” the second paragraph, last sentence be revised as follows:

“The ~~purchasing lender~~ holder of the original electronically signed MPN must ~~also~~ retain an electronically signed promissory note or MPN for at least 3 years after the loan or all the loans made using the note have been satisfied.”

Response:

The Committee agrees that the word “holder” should be used instead of “purchasing lender.”

Change:

This sentence has been revised as follows:

“The ~~purchasing lender~~ holder of the original promissory note must ~~also~~ retain an electronically signed promissory note or MPN for at least 3 years after the loan or all the loans made using the note have been satisfied.”

COMMENT:

One commenter asked that the regulatory cite of §682.414(a)(5)(ii) be acknowledged in relation to the 4th bullet under “Required Records.”

Response:

The Committee agrees.

Change:

The regulatory cite has been updated accordingly.

COMMENT:

One commenter asked that a cross-reference to 3.4.A be inserted into Subsection 15.5.G (Paid-in-Full Loans), that will direct the reader back to this information.

Response:

The Committee agrees.

Change:

The suggested cross-reference has been added to Subsection 15.5.G.

COMMENT:

One commenter asked that the *Common Manual* Bulletin Language be updated with the “promissory note/MPN” and “holder” terminology changes.

Response:

The Committee agrees.

Change:

The Bulletin Language has been updated accordingly, reflecting the changes to the text.

COMMENT:

One commenter asked that the Guarantor Implications Statement be expanded with the following text:

Guarantor:

A guarantor may be required to revise its processes for obtaining and retaining post-default records and information from its lenders and for conveying the information to the Department for loans that are assigned.

Response:

The Committee agrees.

Change:

The suggested phrase has been added to the Guarantor Implications Statement.

djo/edited -aes

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Permissible and Prohibited Activities

AFFECTED SECTIONS: 3.4.C Prohibited Activities

POLICY INFORMATION: 1039/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Lender activities that occur on or after July 1, 2008.

BASIS:

§682.200(b) Lender (5).

CURRENT POLICY:

Current policy does not reflect the new prohibited and permitted activities imposed by the November 1, 2007, Final Rules for lenders participating in the FFELP.

REVISED POLICY:

Revised policy amends certain existing lender prohibitions, such that a lender is not permitted to offer—directly or indirectly—points, premiums, payments, or other inducements to any school or other party to secure applications for FFELP loans or to secure FFELP loan volume. These include but are not limited to:

- Payments or offerings of other benefits, including prizes or additional financial aid funds, to a prospective borrower in exchange for applying for or accepting a FFELP loan from the lender.
- Payments or other benefits to a school, any school-affiliated organization, or to any individual in exchange for FFELP loan applications, application referrals, or a specified volume or dollar amount of loans made, or placement on the school's list of recommended or suggested lenders.
- Payments or other benefits provided to a student at a school who acts as the lender's representative to secure FFELP loan applications from individual prospective borrowers.
- Payments or other benefits to a loan solicitor or sales representative of a lender who visits schools to solicit individual prospective borrowers to apply for FFELP loans from the lender.
- Payment to another lender or any other party of referral fees or processing fees, except those processing fees necessary to comply with federal or state law.
- Solicitation of an employee of a school or school-affiliated organization to serve on the lender's advisory board or committee and/or payment of costs incurred on behalf of an employee of the school or a school-affiliated organization to serve on a lender's advisory board or committee.
- Payment of conference or training registration, transportation, and lodging costs for an employee of a school or school-affiliated organization.
- Payment of entertainment expenses, including expenses for private hospitality suites, tickets to shows or sporting events, meals, alcoholic beverages, and any lodging, rental, transportation, and other gratuities related to lender-sponsored activities for employees of a school or a school-affiliated organization.
- Philanthropic activities, including providing scholarships, grants, restricted gifts, or financial contributions in exchange for FFELP loan applications or application referrals, or for a specified volume or dollar amount of FFELP loans made, or for placement on a school's list of recommended or suggested lenders.

- Staffing services to a school, except for services provided to participating foreign schools at the direction of the Department, as a third-party servicer or otherwise on more than a short-term, emergency, non-recurring basis to assist a school with financial aid-related functions. The term “emergency basis” for the purpose of providing staffing support means only in the instance of a state- or federally-declared natural disaster, a federally-declared national disaster, and other localized disasters and emergencies identified by the Department.
- In-person participation in a school's required entrance and exit counseling.

Revised policy also defines what is meant by “applications” in this subsection. In addition, “other benefits” is defined for purposes of clarifying prohibited lender activities, as including, but not being limited to, preferential rates for, or access to the lender's other financial products, computer hardware or non-loan processing or non-financial aid-related software at below-market rental or purchase cost, or printing and distribution of college catalogs and other materials at reduced or no cost.

Revised policy also adds a list of permissible lender activities, as follows. The lender may provide:

- Assistance to a school that is comparable to the kinds of assistance provided to a school by the Department under the Direct Lending program, as identified by the Department in public announcements, such as a notice in the *Federal Register*.
- Support of, and participation in, a school's or guarantor's student aid or financial literacy-related outreach activities, as long as the name of the entity that developed and paid for any materials is provided to the participants and the lender does not promote its student loan or other products.
- Meals, refreshments, and receptions that are reasonable in cost and scheduled in conjunction with training, meeting or conference events, if those meals, refreshments, or receptions are open to all training, meeting, or conference attendees.
- Toll-free numbers for use by the school or others to obtain information about FFELP loans and free data transmission service for the school to use in electronically submitting applicant loan information or student status information or confirmation data.
- A reduced origination fee or interest rate, or payment of the federal default fee on behalf of the FFELP borrower.
- A premium payment to another lender for the purchase of a loan.
- Other benefits to a borrower under a repayment incentive program that requires, at a minimum, one or more scheduled payments in order to receive or retain the benefit.
- Benefits under a loan forgiveness program for public service or other targeted purposes approved by the Department, provided these benefits are not marketed to secure loan applications or loan guarantees.
- Items of nominal value to schools, school-affiliated organizations, and to borrowers that are offered as a form of generalized marketing or advertising, or to create good will.
- Other services identified by the Department through a public announcement, such as a notice in the *Federal Register*.

Finally, revised policy also includes an explanation as to what is meant by “applications” in this subsection, identical to what is provided in the subsection on prohibited activities.

REASON FOR CHANGE:

This change is made to comply with regulatory changes published in the November 1, 2007, *Federal Register* Vol. 72, No. 211.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 3.4.C, page 9, column 1, paragraph 1, as follows:

3.4.C

Permitted and Prohibited Activities

Permitted Activities

A lender is permitted to engage in the following activities in carrying out its role in the FFELP and providing service to schools and FFELP borrowers. The lender may provide:

- Assistance to a school that is comparable to the kinds of assistance provided to a school by the Department under the Direct Lending program, as identified by the Department in public announcements, such as a notice in the *Federal Register*.
- Support of, and participation in, a school's or guarantor's student aid or financial literacy-related outreach activities, as long as the name of the entity that developed and paid for any materials is provided to the participants and the lender does not promote its student loan or other products.
- Meals, refreshments, and receptions that are reasonable in cost and scheduled in conjunction with training, meeting or conference events, if those meals, refreshments, or receptions are open to all training, meeting, or conference attendees.
- Toll-free numbers for use by a school or others to obtain information about FFELP loans.
- Free data transmission service for a school to use in electronically submitting applicant loan information or student status information or confirmation data.
- A reduced origination fee (when permitted by statute; see Subsection 3.5.A.).
- A reduced interest rate.
- Payment of the federal default fee on behalf of the FFELP borrower.
- A premium payment to another lender for the purchase of a loan.
- Other benefits to a borrower under a repayment incentive program that requires, at a minimum, one or more scheduled payments in order to receive or retain the benefit.
- Benefits under a loan forgiveness program for public service or other targeted purposes approved by the Department, provided these benefits are not marketed to secure loan applications or loan guarantees.
- Items of nominal value to schools, school-affiliated organizations, and to borrowers that are offered as a form of generalized marketing or advertising, or to create good will.
- Other services identified by the Department through a public announcement, such as a notice in the *Federal Register*.

[§682.200(b)]

The references to "applications" above includes the Free Application for Federal Student Aid (FAFSA), and FFELP Master Promissory Notes and application and promissory notes.

[§682.200(b) Lender (5)(iii)(B)]

Prohibited Activities

The following activities are prohibited by federal regulations and may result in a loss of the lender's FFELP eligibility:

- Receiving points, premiums, payments, additional interest, or any other form of compensation from another entity to obtain funds with which to make loans or to induce the lender to make loans either to a student or a parent borrower from a particular school or to any particular category of student or parent. Examples of such prohibited incentive payments include:
 - Cash payments made to a lender by or on behalf of a school.
[§682.212(b)(1)]
 - The maintenance of a compensating balance with a lender by or on behalf of a school.
[§682.212(b)(2)]
 - Payments to a lender by or on behalf of a school for servicing costs on loans that the school does not own.
[§682.212(b)(3)]
 - Payments to a lender by or on behalf of a school for unreasonably high servicing costs on loans owned by the school.
[§682.212(b)(4)]
 - Purchase of a lender's stock by or on behalf of a school.
[§682.212(b)(5)]
 - Payments ostensibly made for other purposes.
[§682.212(b)(6)]
- Refusing to make, purchase, consolidate, or refinance a loan because of the borrower's race, national origin, religion, sex, marital status, age, or disability.
- Offering—directly or indirectly—points, premiums, payments, or other inducements to any school or other party to secure ~~applicants~~ applications for FFELP loans or to secure FFELP loan volume, except that a lender is not prohibited from providing assistance to schools comparable to the kinds of assistance provided by the Department to schools under, or in furtherance of, the FDLP. This includes but is not limited to:
 - Payments or offerings of other benefits, including prizes or additional financial aid funds, to a prospective borrower in exchange for applying for or accepting a FFELP loan from the lender.
 - Payments or other benefits to a school, any school-affiliated organization or to any individual in exchange for FFELP loan applications, application referrals, or a specified volume or dollar amount of loans made, or placement on the school's list of recommended or suggested lenders.
 - Payments or other benefits provided to a student at a school who acts as the lender's representative to secure FFELP loan applications from individual prospective borrowers.
 - Payments or other benefits to a loan solicitor or sales representative of a

lender who visits schools to solicit individual prospective borrowers to apply for FFELP loans from the lender.

- Payment to another lender or any other party of referral fees or processing fees, except those processing fees necessary to comply with federal or state law.
 - Solicitation of an employee of a school or school-affiliated organization to serve on the lender's advisory board or committee and/or payment of costs incurred on behalf of an employee of the school or a school-affiliated organization to serve on a lender's advisory board or committee.
 - Payment of conference or training registration, transportation, and lodging costs for an employee of a school or school-affiliated organization.
 - Payment of entertainment expenses, including expenses for private hospitality suites, tickets to shows or sporting events, meals, alcoholic beverages, and any lodging, rental, transportation, and other gratuities related to lender-sponsored activities for employees of a school or a school-affiliated organization.
 - Philanthropic activities, including providing scholarships, grants, restricted gifts, or financial contributions in exchange for FFELP loan applications or application referrals, or for a specified volume or dollar amount of FFELP loans made, or for placement on a school's list of recommended or suggested lenders.
 - Staffing services to a school, except for services provided to participating foreign schools at the direction of the Department, as a third-party servicer or otherwise on more than a short-term, emergency, non-recurring basis to assist a school with financial aid-related functions. The term "emergency basis" for the purpose of providing staffing support means only in the instance of a state- or federally-declared natural disaster, a federally-declared national disaster, and other localized disasters and emergencies identified by the Department. [HEA 435(d)(5)(A); §682.200(b)]
- Participating in-person in a school's required entrance and exit counseling. [§682.200(b) Lender (5)(ii)(B)]
 - Conducting unsolicited mailings of student loan application forms to potential borrowers who had not previously borrowed student loans from that lender. [HEA 435(d)(5)(B); §682.200]
 - Offering loans—directly or indirectly—as an inducement to a prospective borrower to purchase an insurance policy or other product or service by the borrower or other person. [HEA 435(d)(5)(C); §682.200]
 - Engaging in fraudulent or misleading advertising with respect to its FFELP activities. [HEA 435(d)(5)(D); §682.200]
 - Discounting the sale or transfer of notes, or any interest in notes, if the underlying FFELP loans were made by a school or lender having common ownership with a school—except when purchased by ~~the Student Loan Marketing Association~~, a state agency functioning as a secondary market, or in other circumstances approved by the Department. [§682.212(c)]
 - Using a FFELP loan as collateral for any loan bearing aggregate interest and other charges

in excess of the sum of the applicable interest rate and the current special allowance rate—except to secure a loan from ~~the Student Loan Marketing Association~~, a state agency functioning as a secondary market, or in other circumstances approved by the Department.
[§682.212(d)]

The references to “applications” above includes the Free Application for Federal Student Aid (FAFSA) and FFELP Master Promissory Notes, and application and promissory notes.
[§682.200(b) *Lender (5)(iii)(B)*]

For purposes of clarifying prohibited lender activities, “other benefits” includes but is not limited to preferential rates for, or access to the lender’s other financial products, computer hardware or non-loan processing or non-financial aid-related software at below-market rental or purchase cost, or printing and distribution of college catalogs and other materials at reduced or no cost.
[§682.200(b) *Lender (5)(iii)(C)*]

These prohibitions do not preclude a lender—when buying loans that were originally made by a school—from obtaining a warranty from the seller to cover future reductions by the Department or a guarantor in computing the amount of loss payable on default claims caused by a seller’s or previous holder’s act or failure to act.

If warranted, the Department or a guarantor will notify a lender that an action is pending to suspend or terminate its eligibility to participate in the FFELP. The lender will be given an opportunity to appeal such an action or to present evidence that the activities in which the lender was engaged were provided for a reason unrelated to securing applications for FFELP loans or securing loan volume. For more information on termination actions, see Chapter 18.
[§682.705(c); §682.706(a) and (d); §682.707]

A lender is considered ineligible to participate in the FFELP if any principal employee or affiliate of the lender is debarred or suspended under Executive Order 12549 or the Federal Acquisitions Regulations.

**PROPOSED LANGUAGE - COMMON BULLETIN:
Permissible and Prohibited Activities**

The *Common Manual* has been revised to amend certain existing lender prohibitions, such that a lender is not permitted to offer—directly or indirectly—points, premiums, payments, or other inducements to any school or other party to secure applications for FFELP loans or to secure FFELP loan volume. This includes but is not limited to:

- Payments or offerings of other benefits, including prizes or additional financial aid funds, to a prospective borrower in exchange for applying for or accepting a FFELP loan from the lender.
- Payments or other benefits to a school, any school-affiliated organization or to any individual in exchange for FFELP loan applications, application referrals, or a specified volume or dollar amount of loans made, or placement on the school’s list of recommended or suggested lenders.
- Payments or other benefits provided to a student at a school who acts as the lender’s representative to secure FFELP loan applications from individual prospective borrowers.
- Payments or other benefits to a loan solicitor or sales representative of a lender who visits schools to solicit individual prospective borrowers to apply for FFELP loans from the lender.
- Payment to another lender or any other party of referral fees or processing fees, except those processing fees necessary to comply with federal or state law.
- Solicitation of an employee of a school or school-affiliated organization to serve on the lender’s advisory board or committee and/or payment of costs incurred on behalf of an employee of the school or a school-

affiliated organization to serve on a lender's advisory board or committee.

- Payment of conference or training registration, transportation, and lodging costs for an employee of a school or school-affiliated organization.
- Payment of entertainment expenses, including expenses for private hospitality suites, tickets to shows or sporting events, meals, alcoholic beverages, and any lodging, rental, transportation, and other gratuities related to lender-sponsored activities for employees of a school or a school-affiliated organization.
- Philanthropic activities, including providing scholarships, grants, restricted gifts, or financial contributions in exchange for FFELP loan applications or application referrals, or for a specified volume or dollar amount of FFELP loans made, or for placement on a school's list of recommended or suggested lenders.
- Staffing services to a school, except for services provided to participating foreign schools at the direction of the Department, as a third-party servicer or otherwise on more than a short-term, emergency, non-recurring basis to assist a school with financial aid-related functions. The term "emergency basis" for the purpose of providing staffing support means only in the instance of a state- or federally-declared natural disaster, a federally-declared national disaster, and other localized disasters and emergencies identified by the Department.
- In-person participation in a school's required entrance and exit counseling.

Revised policy also adds a list of permissible lender activities, as follows. The lender may provide:

- Assistance to a school that is comparable to the kinds of assistance provided to a school by the Department under the Direct Lending program, as identified by the Department in public announcements, such as a notice in the *Federal Register*.
- Support of, and participation in, a school's or guarantor's student aid or financial literacy-related outreach activities, as long as the name of the entity that developed and paid for any materials is provided to the participants and the lender does not promote its student loan or other products.
- Meals, refreshments, and receptions that are reasonable in cost and scheduled in conjunction with training, meeting or conference events, if those meals, refreshments, or receptions are open to all training, meeting, or conference attendees.
- Toll-free numbers for use by the school or others to obtain information about FFELP loans and free data transmission service for the school to use in electronically submitting applicant loan information or student status information or confirmation data.
- A reduced origination fee when permitted by statute.
- A reduced interest rate.
- Payment of the federal default fee on behalf of the FFELP borrower.
- A premium payment to another lender for the purchase of a loan.
- Other benefits to a borrower under a repayment incentive program that requires, at a minimum, one or more scheduled payments in order to receive or retain the benefit.
- Benefits under a loan forgiveness program for public service or other targeted purposes approved by the Department, provided these benefits are not marketed to secure loan applications or loan guarantees.
- Items of nominal value to schools, school-affiliated organizations, and to borrowers that are offered as a form of generalized marketing or advertising, or to create good will.

- Other services identified by the Department through a public announcement, such as a notice in the *Federal Register*.

The Manual has also been revised to define "applications" for this section to include the FAFSA, and FFELP Master Promissory Notes and application and promissory notes. In addition, the Manual has been revised to define "other benefits" for purposes of clarifying prohibited lender activities, as including but not limited to preferential rates for, or access to the lender's other financial products, computer hardware or non-loan processing or non-financial aid-related software at below market rental or purchase cost, or printing and distribution of college catalogs and other materials at reduced or no cost.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

A lender/service may need to amend their policies and procedures to ensure compliance.

Guarantor:

A guarantor may need to revise its program review procedures.

U.S. Department of Education:

The Department may need to revise its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

November 14, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC, and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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 requested that bullet 10 under the list of Permitted Activities in Subsection 3.4.C be revised as follows:

Other benefits to a borrower under a repayment incentive program that requires, at a minimum, one or more scheduled payments in order to receive or retain the benefit, ~~provided these benefits are not marketed to secure loan applications or loan guarantees.~~

The commenters stated that lenders are not prohibited from marketing repayment incentive programs under which the borrower must make successful payment to earn or retain the repayment benefit. The phrase “provided these benefits are not marketed to secure loan applications or loan guarantees” was added in the Final Rule only to modify the new provision regarding loan forgiveness programs for public service or other targeted purposes in response to comments made to the NPRM and that the two are separated by an “or” in the regulations. The intent, supported by the preamble discussion, was to stipulate that only the public service and other approved targeted loan forgiveness programs should not be marketed to secure loan applications or loan guarantees.

Response:

The Committee agrees.

Change:

The bullet has been revised as requested by the commenters.

COMMENT:

One commenter requested that bullet 6 under the list of Prohibited Activities in Subsection 3.4.C be revised as follows to more accurately reflect the regulations in §682.200 *Lender (5)(i)(C)*:

Offering loans – directly or indirectly – as an inducement to a prospective borrower to purchase an insurance policy or other product or service by the borrower or other person.

Response:

The Committee agrees.

Change:

The bullet has been revised as requested by the commenter.

COMMENT:

One commenter suggested revising bullet 2 under the list of Permitted Activities in Subsection 3.4.C as follows to be consistent with the wording in the November 1, 2007, Final Rule and include reference to the inability of a lender or guarantor to conduct or participate in school-required initial and exit counseling.

Support of, and participation in, a school’s or guarantor’s student aid or financial literacy related outreach activities, excluding in-person school-required initial or exit counseling, as long as the name of the entity that developed and paid for any materials is provided to the participants and the lender does not promote its student loan or other products.

Response:

While the Committee agrees with the commenter that adding this language would align the statement with the regulations outlining permitted activities, we feel it is more clear to list this exclusion in the list of prohibited activities and not to duplicate it in the list of permitted activities.

Change:

None.

COMMENT:

One commenter suggested revising bullet 4 under the list of Prohibited Activities as follows to more clearly provide the details of the change.

~~Participating in person in a school's required~~ Support of and participation in in-person, school-required
entrance and exit counseling.

Response:

The Committee disagrees. The addition of "Support of" implies that a lender cannot provide written or web-based entrance and exit counseling materials for a school to use during entrance and exit counseling sessions. The Committee believes the exclusion is limited to participating in in-person entrance and exit counseling sessions and that a lender continues to be able to provide written materials and support through web-based products.

Change:

None.

COMMENT:

One commenter suggested adding a definition for "applications" as noted in §682.200(b) *Lender* (5)(iii)(B) to this subsection since the regulation specifically provided this definition in relation to permitted activities and prohibited inducements.

Response:

The Committee agrees.

Change:

The following has been added under "Permitted Activities" and "Prohibited Inducements" in this Subsection:

The references to "applications" above includes the Free Application for Federal Student Aid (FAFSA) and FFELP Master Promissory Notes, and application and promissory notes. [§682.200(b) *Lender* (5)(iii)(B)]

nm-bg/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Total and Permanent Disability

AFFECTED SECTIONS: 5.4.A Conditional Discharge of a Prior Loan Due to Total and Permanent Disability
Figure 11-2 Forbearance Eligibility Chart
11.20.P Total and Permanent Disability
13.1.D Total and Permanent Disability Claims
13.8.F Total and Permanent Disability

POLICY INFORMATION: 1040/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Total and permanent disability applications received by the lender on or after July 1, 2008.

July 1, 2008, for administrative forbearance related to total and permanent disability.

BASIS:

§682.402(c); August 21, 2001, *Federal Register*, Vol. 66, No. 162; November 1, 2007, *Federal Register*, Vol. 72, No. 211, p. 61964.

CURRENT POLICY:

Current policy states that a borrower is not eligible for a total and permanent disability loan discharge if the borrower receives a new Title IV loan after the date *he or she became totally and permanently disabled* as certified by the physician. A borrower's 3-year conditional discharge period may be retroactive to the date the borrower became totally and permanently disabled. Current policy contains language describing a borrower's eligibility to receive loan discharge based on substantial deterioration of a pre-existing condition. A lender may file a discharge claim with the guarantor when it receives a completed discharge application if the borrower appears to be eligible for loan discharge. When a borrower receives a final disability loan discharge, any payments made on the loan(s) after the date the borrower became totally and permanently disabled are returned to the borrower.

Current policy also states that a lender may apply an administrative forbearance on the borrower's loans, not to exceed 60-days, from the date that a borrower initially advises the lender that he or she is totally and permanently disabled through the date that the lender receives the physician's certification of the disability or a letter from the physician stating that additional time is needed to make the disability determination.

REVISED POLICY:

Revised policy states that a borrower is not eligible for a total and permanent disability loan discharge if the borrower receives a new Title IV loan after the date *the physician completes and certifies the loan discharge application*. If a FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of such loan that are disbursed after the date of the physician's certification, must be returned to the holder within 120 days of the disbursement(s) to preserve the borrower's loan discharge eligibility. A borrower's 3-year conditional discharge period is prospective from the date that the physician completes and signs the loan discharge application; therefore language describing a borrower's eligibility to receive loan discharge based on substantial deterioration of a pre-existing condition is removed. A lender may file a discharge claim with the guarantor if the lender receives a complete and certified loan discharge application from the borrower within 90 days from the date the physician completes and certifies the loan discharge application. If the lender receives the discharge application after this 90-day time frame, the borrower must have the physician complete a new application and the borrower must submit the new application to the lender within 90 days of the physician's certification of the new discharge application. Revised policy adds information regarding additional medical

evidence that the borrower must provide to the Department, upon the Department's request, if the borrower's application does not conclusively prove that the borrower is disabled. As part of this review, or at any time during the application process, or, during or at the end of the conditional discharge period, the Department may arrange for an additional review of the borrower's condition by an independent physician at no expense to the borrower. When a borrower receives a final disability discharge, any payments made on the loan(s) after the date the physician completed and certified the loan discharge application are returned to the person who made the payments.

Revised policy also removes language that a lender may apply an "initial" administrative forbearance on the borrower's loan, not to exceed 60 days, from the date that a borrower initially advises the lender that he or she is totally and permanently disabled through the date that the lender receives the physician's certification of the disability or a letter from the physician stating that additional time is needed to make the disability determination.

REASON FOR CHANGE:

The *Common Manual* is being updated with total and permanent disability discharge provisions to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62005-62006.

The change to the initial administrative forbearance for total and permanent disability is to align the Manual's policy with current regulations. The ability for a lender to grant an "initial" administrative forbearance upon receiving reliable information that a borrower has become totally and permanently disabled, was removed by the Department's August 21, 2001, Technical Corrections. At that time, the industry understood that the technical corrections didn't capture all of the changes that needed to be made and Common Bulletin Language from Proposal 592 in Batch 92 advised lenders that guarantors would continue to permit a lender to grant an administrative forbearance if the lender receives reliable information indicating that a borrower has become totally and permanently disabled, not to exceed 60 days, until the lender received certification of the borrower's total and permanent disability. However, in the preamble language of the November 1, 2007, Final Rules, the Department indicates that it believes that requiring the cessation of collection activity is unnecessary until the loan holder actually receives the discharge application, or a written request from the physician for additional time to complete and certify the borrower's discharge application. Because this guidance is included in the preamble language, the effective date will correspond with the effective date of the final regulations.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 5.4.A, page 9, column 1, paragraph 2, as follows:

~~The If the borrower's receipt of receives a new Stafford, or PLUS loan under the Perkins, FFELP, or Direct Loan Program (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status) within 3 years from the date the physician completes and certifies the discharge application, terminates the borrower's conditional discharge is terminated and the loan(s) is reinstated to the status it held prior to the initial determination;. If a FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of such loan that are disbursed after the date of the physician's certification must be returned to the holder within 120 days of the disbursement date(s) to preserve the borrower's discharge eligibility. and If the borrower's conditional discharge is terminated, the~~ Department reinstates collection activities on any loan on which collection activity had been previously suspended based on an initial determination of total and permanent disability. (See sSubsection 13.8.F for more information regarding the total and permanent disability discharge and the glossary for the definition of "totally and permanently disabled.")

[§682.402(c)(44)(ii)(B) and (C)]

Revise Figure 11-2, Forbearance Eligibility Chart, page 28, row 5 under Administrative, as follows:

| | |
|---|---|
| Total and Permanent Disability ⁶ | Date lender receives reliable information to date lender receives a complete loan discharge application or other form(s) approved by the Department, not to exceed 60 days |
|---|---|

Date lender receives physician's written request for additional time to date lender receives a complete, documentation certified loan discharge application or other form(s) approved by the Department, if the borrower submits the certification to the lender within 90 days of the date the physician certified the application, not to exceed 60 days

Revise Subsection 11.20.P, page 32, column 2, paragraph 2, as follows:

11.20.P

Total and Permanent Disability

If the lender receives ~~reliable~~ information indicating that a borrower has become totally and permanently disabled, the lender ~~may grant a forbearance for a period not to exceed 60 days or until the date that the lender receives a complete loan discharge application or other form(s) approved by the Department, whichever is earlier.~~ must continue collection activities until it receives either the certification of total and permanent disability from a physician or a letter from a physician stating that the borrower has requested the certification and that the physician needs additional time to determine if the borrower is totally and permanently disabled.

If the lender ~~is advised by~~ receives a written request from the borrower's physician (who is a doctor of medicine or osteopathy and is legally authorized to practice in a state) that additional time is needed either to determine if the borrower is totally and permanently disabled or to complete the borrower's discharge documentation, the lender must grant an administrative forbearance to the borrower and, if applicable, the endorser. This period of required administrative forbearance, ~~which cannot exceed 60 days from the date the lender receives the physician's request for additional time, is in addition to the optional period of administrative forbearance discussed above.~~ The lender may not require the borrower to submit a request for the forbearance. For more information on the suspension of collection activities in the event of the total and permanent disability of a borrower, see ~~s~~Subsection 13.8.F.
[~~§682.211(f)(5); §682.402(c)(5)(i)~~]

Revise Subsection 13.1.D, page 5, column 2, paragraph 5, as follows:

Total and Permanent Disability Claims

For a total and permanent disability claim, the lender must submit—in addition to the preceding items 1 through 5—a completed Loan Discharge Application: Total and Permanent Disability or other form(s) approved by the Department. The lender must also submit a record of any payments received after the date, ~~as certified by the physician completed and certified the discharge application, that the borrower became unable to work and earn money.~~
[~~§682.402(c)(5)(vii); §682.402(g)(1)(iv)~~]

Revise Subsection 13.8.F, page 40, column 1, paragraph 1, as follows:

13.8.F

Total and Permanent Disability

If any party to a loan claims to be totally and permanently disabled, the lender must request that party to provide certification of the disability from a physician who is a doctor of medicine or osteopathy and is legally authorized to practice in a state. An eligible party includes any one of the following:

- A borrower.
- One of two comakers on a PLUS or Consolidation loan.

- An endorser, if the lender is pursuing collection activities against the endorser.

~~The lender may request that~~ The borrower's, comaker's, or endorser's representative may provide the physician's certification if the borrower, comaker, or endorser is unable to do so. The borrower, comaker, or endorser, or his or her representative, must submit a completed Loan Discharge Application: Total and Permanent Disability or other form(s) approved by the Department. The physician's certification must include the date state that the borrower, comaker, or endorser became is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. The borrower must submit the certification to the lender within 90 days of the date that the physician completed and certified the discharge application. If the lender receives the discharge application after this 90-day time frame, the borrower must have the physician complete a new application and the borrower must submit the application to the lender within 90 days of the physician's certification of the new discharge application.

[§682.402(c)(2)]

Suspending Collection

If a lender receives reliable information indicating that a borrower or one of two comakers on a PLUS or Consolidation loan has become totally and permanently disabled, the lender ~~may apply an administrative forbearance to the loan, not to exceed 60 days, until the lender receives certification of the total and permanent disability. If the lender does not grant the administrative forbearance, the lender~~ must continue collection activities until it receives the physician's certification—or until it receives a written request from the physician requesting additional time to determine whether the borrower or comaker is totally and permanently disabled. If the lender receives reliable information indicating that an endorser has become totally and permanently disabled, the lender may not apply an administrative forbearance to the PLUS loan ~~pending receipt of the required forms.~~

~~[§682.211(f)(10); §682.402(c)(35)(i)]~~

Revise Subsection 13.8.F, page 41, column 1, paragraph 2, as follows:

General Requirements for Total and Permanent Disability Loan Discharge

...

For these purposes, a borrower, comaker, or endorser is considered totally and permanently disabled if he or she is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. ~~A borrower, comaker, or endorser is not considered totally and permanently disabled on the basis of a condition that existed at the time the loan was made, unless that condition has substantially deteriorated to the point of total and permanent disability since the loan was made. In this situation, the physician must clearly note that the condition became totally and permanently disabling after the date on which the loan was made.~~

~~[§682.402(e)(1)(iii) 200(b)]~~

If a borrower, comaker, or endorser receives a new loan under the Perkins, FFELP, or Direct Loan Program (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status) within 3 years of the date the physician completed and certified the discharge application stating that he or she became is unable to work and earn money, the borrower, comaker, or endorser is not eligible for discharge on the loan on which he or she is a signatory or any loan made prior to that date. If a FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that will be or are disbursed after the date of the physician's certification must be canceled, or if the disbursement is made, must be returned to the holder within 120 days of the disbursement date(s) for the borrower to preserve his or her discharge eligibility. The This 3-year period, i.e., the conditional discharge period, begins on the date the borrower, comaker, or endorser

~~became unable to work and earn money, as certified by the physician~~ completes and certifies the discharge application. The lender must review its records for any new loan(s) or disbursements of prior loans made to the borrower, comaker, or endorser ~~on or after the date the physician certified the discharge application stating that he or she became~~ is totally and permanently disabled. If the lender's records indicate (or the lender is otherwise aware) that a new loan(s) was made during the 3-year conditional discharge period, the lender must deny the discharge and inform the borrower, comaker, or endorser. If any FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that are disbursed after the date of the physician's certification must be returned to the holder within 120 days of disbursement or the lender must deny the discharge and inform the borrower, comaker, or endorser. For information regarding a borrower's eligibility for a new loan(s) after the conditional period, see ~~§~~Section 5.4.
[§682.402(c)(14)(i)(B) & (C); §682.402(c)(5)(vi)(B)]

~~For a Consolidation loan made to a single borrower, the borrower must be certified totally and permanently disabled according to FFELP discharge criteria for all underlying loans—including any non-FFELP loans. In other words, all of the underlying loans would be eligible for discharge due to total and permanent disability had these loans not been consolidated. A borrower is considered totally and permanently disabled based on a condition that existed at the time the borrower's underlying loans were made only if the borrower's condition substantially deteriorated to the point that the borrower was rendered totally and permanently disabled after the loans were made. If requested, a borrower seeking to discharge a Consolidation loan obligation must provide the lender with the disbursement dates of the underlying loan(s), if that information is not available in the lender's servicing records.~~
[§682.402(c)(1)(iv)]

Revise Subsection 13.8.F, page 41, column 2, paragraph 3, as follows:

Conditional Discharge Due to Total and Permanent Disability

...

If the Department makes an initial determination that the borrower, comaker, or endorser is totally and permanently disabled, the Department sends notification to the borrower, comaker, or endorser that the loan—or the comaker's or endorser's obligation on the loan—is in a conditionally discharged status and that the conditional discharge period will last for up to 3 years after the date the physician completed and certified the discharge application ~~that he or she became totally and permanently disabled, as certified by the physician.~~ The Department's notification ~~specifies that all or part of the 3-year period may predate the Department's initial determination, and~~ identifies the following conditions that apply during the 3-year conditional discharge period:

- ...
- ...
- ...
- ...
- ...
- The disabled borrower, comaker, or endorser must provide the Department, upon request, with additional medical evidence if the Department determines that the borrower's, comaker's, or endorser's application does not conclusively prove that the borrower, comaker, or endorser is disabled. As part of this review or at any time through the end of the conditional discharge period, the Department may arrange for an additional review of the borrower's, comaker's, or endorser's condition by an

independent physician at no expense to the applicant.
[§682.402(c)(4)(v)]

- . . .
- If any FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that are disbursed after the date of the physician's certification must be returned to the holder within 120 days of the disbursement date(s) to preserve the borrower's discharge eligibility.
[§682.402(c)(4)(i)(C)]

Revise Subsection 13.8.F, subheading Notification Requirements after Claim Filing or Filing of a Partial Discharge Request, page 43, column 1, paragraph 3, as follows:

Notification Requirements after Claim Filing or Filing of a Partial Discharge Request

After a lender receives payment of a total and permanent disability claim, the lender must notify the borrower that the loan will be assigned to the Department for determination of discharge eligibility and no payments are due on the loan. The notification must also inform the borrower that, to remain eligible for final discharge, he or she cannot earn income from employment exceeding the poverty line for a family of two, receive any new Title IV loans (with the exception of a FFELP or Direct Consolidation loan that does not include loans to be discharged), and must ensure the full amount of any Title IV loan made on or after the date the physician completed and certified the discharge application is returned to the holder within 120 days of the disbursement date.
[§682.402(c)(5)(vi)]

After the lender receives payment of a total and permanent disability claim for a loan made solely to a single borrower or for a portion of a Consolidation loan attributable to a comaker, the lender must notify the borrower or comaker that the loan or a portion of the loan will be assigned to the Department for determination of eligibility for a total and permanent disability loan discharge. After the lender receives notification from the guarantor that the loan discharge application has been forwarded to the Department for a determination of total and permanent discharge eligibility, the lender must notify the PLUS loan borrower that the comaker's or endorser's discharge application has been forwarded to the Department.
[§682.402(c)(8)]

If the guarantor determines that the borrower, comaker, or endorser is not eligible for loan discharge, the guarantor will notify the lender with an explanation of the reason for the denial. The lender must notify the borrower, comaker, or endorser that the application for a disability discharge has been denied, provide the basis for the denial, and inform the borrower, comaker, or endorser that the lender will resume collection activities on the loan.
[§682.402(c)(7)]

Revise Subsection 13.8.F, page 43, column 2, paragraph 3, as follows:

Treatment of Payments

If the lender receives a payment from or on behalf of the borrower after a total and permanent disability claim has been filed the date the physician completed and certified the discharge application but before the lender receives the claim payment, the lender must hold the borrower's payment. After the lender receives the claim payment, the lender must forward the borrower payment to the guarantor.
[§682.402(c)(9)(vii)]

If the borrower satisfies the criteria for a total and permanent disability loan discharge during and at the end of the conditional discharge period, the balance of the loan is discharged at the end of the conditional discharge period and any payments received after the date that the

physician completed and certified the borrower's loan discharge application are returned by the Department to the person who made the payments on the loan.
[§682.402(c)(4)(iii)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Total and Permanent Disability Loan Discharge

The *Common Manual* has been revised to comply with the regulatory changes published in the *Federal Register* dated November 1, 2007, regarding borrower eligibility changes for a total and permanent disability loan discharge. If a borrower receives a new loan after the date the physician completes and certifies the loan discharge application, the borrower is not eligible for loan discharge. If any FFELP loan was certified prior to the date the physician certified the discharge application, then the proceeds of that loan that are disbursed after the date of the physician's certification must be returned to the holder within 120 days of the disbursement date(s) to preserve the borrower's discharge eligibility. A borrower's 3-year conditional discharge period is prospective from the date that the physician completes and signs the loan discharge application. Language describing a borrower's eligibility to receive loan discharge based on substantial deterioration of a pre-existing condition has been removed. A lender may file a loan discharge claim with the guarantor if the borrower submits a complete and certified loan discharge application to the lender within 90 days from the date the physician completes and certifies the loan discharge application. If the borrower submits the discharge application after this 90-day time frame, the borrower must have the physician complete a new application and the borrower must submit the new application to the lender within 90 days of the physician's certification of the new discharge application. A borrower must provide to the Department, upon the Department's request, additional medical evidence if the borrower's application does not conclusively prove that the borrower is disabled. As part of this review or at any time during the application process or during or at the end of the conditional discharge period, the Department may arrange for an additional review of the borrower's condition by an independent physician at no expense to the borrower. When a borrower receives a final disability discharge, any payments made on the discharged loan(s) after the date the physician completed and certified the loan discharge application are returned to the person who made the payments.

The Manual has also been updated to comply with the Technical Amendments published by the Department in the August 21, 2001, *Federal Register* that removes language allowing a lender to apply an administrative forbearance, not to exceed 60 days, from the date the borrower indicates they are totally and permanently disabled through the date that the lender receives the physician's certification of the disability or a letter from the physician stating that additional time is needed to make the disability determination. The Department indicates that the cessation of collection activity is unnecessary until the loan holder actually receives the discharge application, or until the lender receives a written request from the physician for additional time to complete and certify the borrower's discharge application.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who seeks loan discharge on the basis of total and permanent disability must submit to the lender a completed loan discharge application within 90 days of the date that the physician completes and certifies the discharge application. A borrower who receives a new loan after the date the physician completes and certifies the loan discharge application is not eligible to receive the benefit of loan discharge due to total and permanent disability. If any FFELP loan was certified prior to the date the physician certified the discharge application, the borrower must ensure that any proceeds of the loan that are disbursed after the date of the physician's certification are returned to the holder within 120 days of the disbursement date(s) to preserve the borrower's discharge eligibility. The borrower may be required to provide to the Department additional medical evidence.

School:

A school may need, upon the borrower's request, to expedite the return of loan funds to the applicable loan holder for a borrower who has applied for a total and permanent disability discharge. Schools may also need to update counseling materials.

Lender/Service:

A lender must not grant administrative forbearance on the basis of disability until the lender receives the

completed discharge application or the physician's request for additional time to complete the discharge application. If the borrower submits the discharge application after the 90-day time frame, the borrower must have the physician complete a new application and the borrower must submit the application to the lender within 90 days of the physician's certification of the new discharge application. A lender may need to update total and permanent disability discharge procedures and update counseling materials.

Guarantor:

A guarantor may need to update total and permanent disability discharge procedures, program review procedures, and counseling materials.

U.S. Department of Education:

The Department may need to update total and permanent disability discharge procedures and program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 12, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

COMMENTS RECEIVED FROM:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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:

One commenter stated that the revision statements do not accurately reflect the page numbers of the ECM.

Response:

The Committee checked the page numbers in the revisions statements and concluded that they do coincide with the page numbers in the July 2007, version of the ECM. It is our convention to use this 'base' document as a reference when drafting policies. The Committee believes that the commenter may have used an ICM version of the Manual which may change page numbers due to the addition of policies integrated throughout the year.

Change:

None.

COMMENT:

One commenter requested that the Basis include page numbers for all applicable language noted in the *Federal Register*.

Response:

The Committee uses a convention of including in the Basis the regulatory citations applicable to the proposal

subject matter rather than list all of the pages where those regulations are published in the *Federal Register*.

Change:

None.

COMMENT:

Three commenters suggested that the effective date for the administrative forbearance language being deleted should not be retroactive since *Common Manual* Governing Board approved bulletin language for Proposal 592, Batch 92 that states: “. . . Although technical changes to the regulations no longer explicitly support a suspension of payments, guarantors will continue to permit a lender to grant an administrative forbearance if the lender receives reliable information indicating that a borrower has become totally and permanently disabled. The lender may grant the borrower an administrative forbearance, not to exceed 60 days, until the lender receives certification of the borrower’s total and permanent disability.” The commenters further stated that a retroactive effective date of 2001 would cause lenders and servicers to be out of compliance if they followed the *Common Manual* guidance from the above mentioned proposal.

Response:

The Committee agrees with the commenters and appreciates the historical research provided.

Change:

The effective date has been changed to July 1, 2008. The Reason for Change statement has been revised accordingly.

COMMENT:

Three commenters recommended that the Committee should take into consideration the Q & A document developed by the NCHLP Operations DACS-CDDU workgroup in conjunction with the Department and revise the proposal accordingly.

Response:

The Committee understands the commenters’ concern regarding updating the proposal with clarifications provided by the industry workgroup working with the Department’s CDDU. Often, the community receives clarifying guidance on various subjects after final rules are published. However, the Committee is charged with updating the Manual with final regulations and then revising language when further guidance is provided by the Department. The Q & A document has not been published in any official manner nor has it been formally endorsed in any Department correspondence. Until there is some formal acknowledgment that the Department approves the text of that document and the policy clarifications contained in the text, the Policy Committee cannot develop policies from it as “federal” policies.

Change:

None.

COMMENT:

Three commenters recommended revising the policy to delete references to the physician’s *completion* of the discharge form. The commenters state that the form does not necessarily need to be complete before the 90-day time frame for the borrower to submit the physician’s certification, applying forbearance, or starting the 3-year conditional discharge period.

Response:

The Committee disagrees. The final regulations state in several locations that the borrower is considered totally and permanently disabled as of the date the physician completes and certifies the borrower’s application. While regulations may not be written with consistency, the Committee believes that the intent is that the form must be both complete and signed by the physician.

Change:

None.

COMMENT:

Three commenters note that the 90-day time frame should be revised to clarify that the borrower must submit

the certification to the lender within 90 days rather than the lender must receive the certification within 90 days.

Response:

The Committee agrees.

Change:

The proposal has been revised to reword the 90-day time frame to clarify that the borrower must submit the certification to the lender within 90 days.

COMMENT:

One commenter suggested revising language in Subsection 5.4.A :

"If the borrower receives a new loan under the Perkins, FFELP, or Direct Loan Program (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status) within 3 years of ~~after~~ the date the physician completes and certifies the discharge application, the borrower's conditional discharge is terminated."

The commenter states that this change will be consistent with language in Subsection 13.8.F. Another commenter suggested adding a phrase to the end of the sentence to state that the conditional discharge is terminated and the loan(s) is reinstated to the status it held prior to the initial determination.

Response:

The Committee agrees with the modifications.

Change:

Subsection 5.4.A has been revised as the commenters suggested with one modification. The phrase "within 3 years of" was changed to "within 3 years after."

COMMENT:

Two commenters suggested revising language to Figure 11-2 by removing new information regarding the 90-day time frame. The commenters also requests adding new language to Figure 11-2 and Subsection 11.20.P to address forbearance from the date the lender receives the certified discharge application to the date the lender determines that a borrower is not totally and permanently disabled.

Response:

The Committee disagrees with deleting language regarding the 90-day time frame, but understands that the language needs to be reworded to be consistent with our response in the above comment response related to the 90-day time frame. The Committee agrees to research the commenters' request to add new language to the figure and Subsection 11.20.P to address forbearance from the date the lender receives the discharge application to the date the lender determines that a borrower is not totally and permanently disabled. This information is currently noted under suspension of collection activity in Chapter 13. If warranted, the Committee will develop a future proposal that includes this information so that it can be disseminated for community comment.

Change:

The Figure has been revised to reword the 90-day time frame that the borrower has to submit the application to the lender.

COMMENT:

Two commenters noted that changes may need to be made to bullets listed under the Conditional Discharge Due to Total and Permanent Disability heading to remove some current bullets and a proposed bullet. The commenters indicated that while the information added is not necessarily incorrect, it may need to be included in another location regarding the terms and conditions, and not as part of a list of items included in the required notice to a borrower. The commenters also recommend adding regulatory citations for current bullets.

Response:

The Committee appreciates the commenters' suggestions regarding relocation of current information and new information. The Committee will research these suggestions, and if warranted, will develop a new proposal so

that we can disseminate it to the community for comment. Also, regarding the addition of regulatory citations for current bullets not included in this proposal, the Committee is making regulatory citation changes through a technical correction process and those changes will be incorporated into the annual print of the Manual.

Change:

None.

COMMENT:

Three commenters recommended changing information regarding payments received after the disability claim has been filed to conform to current regulations, as follows:

Treatment of Payments

If the lender receives a payment from or on behalf of the borrower after ~~a total and permanent disability claim has been filed~~ the date the physician completed and certified the discharge application but before the lender receives the claim payment, the lender must hold the borrower's payment. After the lender receives the claim payment, the lender must forward the borrower payment to the guarantor.
[§682.402(c)(~~54~~)(vii)]

If the borrower satisfies the criteria for a total and permanent disability loan discharge during and at the end of the conditional discharge period, the balance of the loan is discharged at the end of the conditional discharge period and any payments received after the date that the physician completed and certified the borrower's loan discharge application are returned by the Department to the person who made the payments on the loan.
[§682.402(c)(4)(iii)]

Response:

The Committee appreciates the commenters' thorough review of the policy and regulatory citations. The Committee agrees with the commenters' proposed language including the reference that the Department will return any payments received on the loan after the date that the physician completed and certified the borrower's loan discharge application, if the borrower's loan is discharged at the end of the conditional period.

Change:

The policy has been revised with the commenters' suggestions.

COMMENT:

One commenter noted that the endorser was inserted into proposed language under Suspending Collection. The commenter recommends removing references to the endorser since guidance previously published by the Department's CDDU states that collections should not be suspended on a PLUS loan borrower if the endorser becomes totally and permanently disabled. A second commenter questioned whether the endorser should be included in the first sentence of this paragraph since the endorser is mentioned elsewhere in the proposal.

Response:

The Committee agrees with the first commenter. The Committee also noticed that the last sentence of the same paragraph should not have been totally stricken.

Change:

The proposed language has been revised, as follows:

“ . . .certification—or until it receives a written request from the physician requesting additional time to determine whether the borrower, or comaker, ~~or endorser~~ is totally and permanently disabled. If the lender receives reliable information indicating that an endorser has become totally and permanently disabled, the lender may not apply an administrative forbearance to the PLUS loan ~~pending receipt of the required forms.~~

COMMENT:

One commenter suggested revising information under Conditional Discharge to be consistent when referencing a comaker and endorser.

Response:

The Committee agrees.

Change:

Bullet 6 under Conditional Discharge has been revised, as follows:

The disabled borrower, comaker, or endorser must provide the Department, upon request, with additional medical evidence if the Department determines that the borrower's, comaker's, or endorser's application does not conclusively prove that the borrower, comaker, or endorser is disabled. As part of this review or at any time during the application process or during or at the end of the conditional discharge period, the Department may arrange for an additional review of the borrower's, comaker's, or endorser's condition by an independent physician at no expense to the applicant.

[§682.402(c)(4)(v)]

COMMENT:

Three commenters recommended adding information to Subsection 13.8.F under Notification Requirements after Claim Filing or Filing of a Partial Discharge Request to address lender notification requirements.

Response:

The Committee agrees.

Change:

Subsection 13.8.F has been revised as follows:

"After a lender receives payment of a total and permanent disability claim, the lender must notify the borrower that the loan will be assigned to the Department for determination of discharge eligibility and no payments are due on the loan. The notification must also inform the borrower that, to remain eligible for final discharge, he or she cannot earn income from employment exceeding the poverty line for a family of two, receive any new Title IV loans (with the exception of a FFELP or Direct Consolidation loan that does not include loans to be discharged), and must ensure the full amount of any Title IV loan made on or after the date the physician completed and certified the discharge application is returned to the holder within 120 days of the disbursement date.

[§682.402(c)(5)(vi)]"

COMMENT:

One commenter suggested deleting a sentence in paragraph 3 under the General Requirements for Total and Permanent Disability Loan subheading, as follows:

" . . .If the lender's records indicate (or the lender is otherwise aware) that a new loan(s) was made during the 3-year conditional discharge period, the lender must deny the discharge and inform the borrower, comaker, or endorser."

The commenter suggests deleting the sentence because the conditional period is now prospective and the lender does not have a 3-year retroactive look-back period.

Response:

The Committee understands the commenter's concern. However, the previous sentence states that the lender must review its records to see if a new loan was made to the borrower. The sentence being suggested for deletion by the commenter states what the lender must do in that case. The Committee believes that the requirement still exists although it is now a very small window.

Change:

None.

ma/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB Meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Annual Loan Limit Progression

AFFECTED SECTIONS: 6.1 Defining an Academic Year
Figure 6-2

POLICY INFORMATION: 1042/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Loans certified on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

BASIS:

§682.603(g); Preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62051-62022.

CURRENT POLICY:

Current policy provides that the frequency of annual loan limits is based on the academic year and the method of measuring progress in the program in which the student is enrolled. A student enrolled in a standard term-based credit-hour program enters a new academic year for annual loan limit purposes when the calendar time for the academic year has elapsed. A student enrolled in any other type of program does not enter a new academic year for annual loan limit purposes until the student has successfully completed both the clock or credit hours *and* the number of weeks in the defined academic year.

REVISED POLICY:

Revised policy provides that, for the purposes of determining the frequency with which a student may receive the annual loan limits, nonstandard term-based credit-hour programs are now divided into two categories: those with terms of substantially equal length, with each term containing no less than nine weeks of instructional time; and those with terms that are not substantially equal or that include terms that are not at least nine weeks long.

Nonstandard term-based credit-hour programs with terms that meet these length requirements are now treated like standard term-based credit-hour programs for the purpose of determining the frequency of annual loan limits. A student enrolled in such a program enters a new academic year for annual loan limit purposes when the calendar time for the academic year has elapsed.

REASON FOR CHANGE:

This change is necessary to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62021-62022 and 62031.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 6.1, page 1, column 1, by inserting a new Subsection and paragraph 4, as follows:

NOTE: *This Section was previously altered by Policy Proposals 1018, Batch 148 and 1030, Batch 149.*

6.1.A

Minimum Length for an Academic Year Undergraduate Program of Study Measured in Credit Hours

The minimum length for an academic year varies, depending on the level of the program and the method of measuring progress:

- For an undergraduate program of study measured in clock hours, an academic year is a

period of at least 26 weeks of instructional time. During this period, a full-time student is expected to complete a minimum of 900 clock hours.
[HEA 481(a)(2); §668.3]

~~Undergraduate program of Study Measured in Credit Hours~~

- For an undergraduate program of study measured in credit hours, an academic year is a period of at least 30 weeks of instructional time. During this period, a full-time student is expected to complete a minimum of 24 semester or trimester hours, or 36 quarter hours.
[§668.3(a)]

The Department may allow a credit-hour program to have an academic year that is shorter than the 30-week minimum if all of the following criteria are met:

- The program results in a two-year associate degree or four-year bachelor's degree.
- The school obtains the approval of its accrediting agency and state licensing agency for the reduced academic year.
- The school submits a written request to the Department for a reduced academic year that is not less than 26 weeks. The request must include information identifying the program to which the reduced year will be applied and the number of weeks that will be included in the proposed reduced year. The school must demonstrate good cause for the requested reduction and provide any other information requested by the Department.
[§668.3(c)(1)]

If the Department approves the reduced academic year, that approval terminates when the school's Program Participation Agreement expires. The school may request an extension of the approval as part of the re-certification process.
[§668.3(c)(3)]

~~Graduate or Professional Program of Study~~

- For a graduate or professional program of study, an academic year is a period of at least 30 weeks of instructional time. While the Department regulates the amount of coursework that an undergraduate student is expected to complete in an academic year, it does not regulate the amount of coursework that a graduate or professional student is expected to complete in an academic year. For graduate and professional programs, the school is expected to establish academic standards to determine the amount of work that a full-time graduate or professional student is expected to complete within an academic year.
[§668.3(a)(c)(1) and (2); FSA Handbook, Vol. 3, chapter 1, page 3.2]

Revise Section 6.1, page 1, column 2, paragraph 3, by inserting a new Subsection heading, as follows:

6.1.B **Academic Year Categories**

Typically, there are two categories of academic year:

- A scheduled academic year (SAY)
- A borrower-based academic year (BBAY)

Revise Section 6.1, page 2, column 1, by inserting a new paragraph 4 under the subheading **Standard Term-Based, Credit-Hour Programs**, as follows:

A student enrolled in a standard term-based credit-hour program enters a new academic year for

annual loan limit purposes when the calendar time for the SAY or BBAY has elapsed, regardless of whether the student attends all of the terms or completes all of the credits in the academic year.
[§682.603(g)(1)]

Nonstandard Term-Based Programs with Substantially Equal Terms of At Least Nine Weeks of Instructional Time

For a program with nonstandard terms that are substantially equal, and no term in the loan period is less than nine weeks of instructional time in length, the student enters a new academic year for annual loan limit purposes when the calendar time for the academic year has elapsed. Terms are considered substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.
[§682.603(g)(1) and (4)]

Clock-Hour Programs, and Nonstandard Term-Based and Non-Term-Based Credit-Hour Programs, and Nonstandard Term-Based Credit-Hour Programs with Terms That Are Not Substantially Equal or Not At Least Nine Weeks of Instructional Time

For clock-hour programs, and nonstandard term-based and non-term-based credit-hour programs, and nonstandard term-based programs with terms that are not substantially equal or are not at least nine weeks of instructional time in length, the BBAY begins when the student enrolls and does not end until the student completes both the required number of weeks and the required number of clock or credit hours in the academic year. A student who does not attend on a full-time basis will take longer to complete the academic year than a full-time student.

...

A student enrolled in one of these types of programs enters a new academic year for annual loan limit purposes only after the student successfully completes both the weeks and the clock or credit hours in the academic year.
[§682.603(g)(2) and (3)]

Revise Section 6.1, page 3, column 2, paragraph 1, as follows:

Example: Transfer to a Clock-Hour-, Non-Term-Based, or Nonstandard Term-Based Program

A student received a base Stafford loan in the amount of \$2,000 as a grade level 3 student at School A for the loan period August 21, 2008~~2006~~, to December 20, 2008~~2006~~. The student then enrolled in School B, where he was classified as grade level 1 in a clock-hour, non-term-based credit-hour, or nonstandard term-based credit-hour program. School B wishes to certify a loan from his start date, January 5, 2009~~2007~~, through the end of the academic year at school A his initial academic year in the new program of study, August 20, 2007.

School B contacts School A and determines that the final academic year at School A ends May 11, 2009~~2007~~. Because School B's initial academic year begins prior to the end date of the final academic year at School A, School B may certify a base Stafford loan of no more than \$1500 (the student's base Stafford annual loan limit as a grade level 1 student at School B, \$3500, minus the \$2,000 received at School A) until the completion of the initial academic year at the new School A, May 11, 2009. After that date, the student enters a new academic year for annual loan limit purposes, and School B may certify loans for the next full academic year or for the remainder of the program, if less than a full academic year.

Revise Figure 6-2 as follows:

Frequency of Stafford Annual Loan Limits

Figure 6-2

| | SAY | BBAY |
|--|----------------|--|
| Standard Term-Based Credit-Hour Programs | ... | ... |
| <u>Nonstandard Term-Based Programs with Substantially Equal Terms of At Least Nine Weeks of Instructional Time</u> | * - | <u>BBAY must meet the minimum statutory requirements or equivalent</u> <u>Student enters a new academic year for annual loan limit purposes when the calendar time of the BBAY has elapsed</u> |
| Nonstandard Term-Based And Non-Term-Based Credit-Hour Programs, and Clock-Hour Programs, Non-Term-Based Credit-Hour Programs, and Nonstandard Term-Based Credit-Hour Programs with Terms that Are Not Substantially Equal or Not At Least Nine Weeks of Instructional Time | Not applicable | BBAY must meet the minimum statutory requirements or equivalent Student may not borrow additional loan for progress to next grade level until the student completes both the minimum number of weeks and credit/clock hours in an academic year |

*The use of the SAY in a nonstandard term-based program with substantially equal terms not less than nine weeks long has not been defined. This figure will be updated when further guidance is received.

PROPOSED LANGUAGE - COMMON BULLETIN:

Annual Loan Limit Progression

The *Common Manual* has been updated to reflect the annual loan limit progression requirements as outlined in the November 1, 2007, final rules. For the purposes of determining the frequency with which a student may receive the annual loan limits, nonstandard term-based credit-hour programs are now divided into two categories: those with terms of substantially equal length, with each term containing no less than nine weeks of instructional time; and those with terms that are not substantially equal or for which not all of the terms are at least nine weeks of instructional time in length.

Nonstandard term-based credit-hour programs whose terms meet these length requirements are now treated like standard term-based credit-hour programs for the purpose of determining the frequency of annual loan limits. A student enrolled in such a program enters a new academic year for annual loan limit purposes when the calendar time of the academic year has elapsed.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower enrolled in a nonstandard term-based credit-hour program whose terms are substantially equal in length, with each term containing at least nine weeks of instructional time, will become eligible for renewed annual loan limits when the calendar time associated with the academic year has elapsed.

School:

A school must classify its nonstandard term-based credit-hour programs differently, depending on whether the program's terms are substantially equal in length, with each term containing at least nine weeks of instructional time.

Lender/Service:

None.

Guarantor:

A guarantor may need to revise program review procedures.

U.S. Department of Education:

The Department may need to revise program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 12, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

COMMENTS RECEIVED FROM:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHelp, NSLP, OGSPL, SCCLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Most of the commenters supported this proposal as written. Other commenters recommended wordsmithing changes or typographical corrections that made no substantive changes to the policy and were considered 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:

One commenter suggested that the Basis include the reference to the November 1, 2007, *Federal Register*.

Response:

The Committee agrees that the discussion in the preamble to the November 1, 2007, final regulations does offer additional insight that is not immediately evident in the actual regulatory language.

Change:

The Basis has been changed as follows:

“§682.603(g); Preamble November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62021-62022.”

COMMENT:

One commenter suggested that page 62021 of the November 1, 2007, *Federal Register*, be included as a

reference in the Reason for Change section.

Response:

The Committee agrees.

Change:

The Reason for Change section has been changed as follows:

“ . . . published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62021-62022 and 62031.”

COMMENT:

One commenter suggested that the regulatory cite be expanded in Section 6.1, under the subheading “Clock-Hour Programs, Non-Term-Based Credit-Hour Programs, and Nonstandard Term-Based Programs with Terms That Are Not Substantially Equal or Are Not At Least Nine Weeks in Length.”

Response:

The Committee agrees.

Change:

The regulatory cite in Section 6.1 has been changed from §682.603(g)(2) to §682.603(g)(2) and (3).

COMMENT:

One commenter noticed that the existing regulatory cite in what is now Subsection 6.1.A, bullet 3, was incorrect. The commenter also suggested adding the FSA Handbook cite.

Response:

The Committee agrees.

Change:

The regulatory cite has been changed from §668.3(c)(1) and (2) to §668.3(a) and the FSA Handbook, Volume 3, chapter 1, page 3.2, has been added as a citation.

COMMENT:

Two commenters suggested that the headings found in Figure 6.2 be more consistent with the subheadings in 6.1.A.

Response:

The Committee agrees.

Change:

The following changes have been made to the headings in Figure 6.2:

“Nonstandard Term-Based Programs with Substantially Equal Terms ~~Not Less Than~~ of At Least Nine Weeks ~~Long of Instructional Time~~”

“Credit-Hour Programs, Non-Term Based Credit-Hour Programs, and Nonstandard Term-Based Credit-Hour Programs with Terms that Are Not Substantially Equal or Are ~~Less Than~~ Not At Least Nine Weeks of Instructional Time in Length”

dt-ke/edited -bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Maximum Stafford and PLUS Loan Periods

AFFECTED SECTIONS: 6.2 Determining the Loan Period

POLICY INFORMATION: 1019/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Loan periods beginning on or after July 1, 2008. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.*

BASIS: §682.603(g)(2)(i); preamble to the *Federal Register* dated November 1, 2007, Vol. 72, No. 211, pp. 61971-61972.

CURRENT POLICY: Current policy states that the maximum period for which a school may certify a Stafford or PLUS loan is a period longer than an academic year, not to exceed 12 months.

REVISED POLICY: Revised policy states that the maximum period for which a school may certify a Stafford or PLUS loan is an academic year, and eliminates the 12-month maximum.

Revised policy clarifies that the maximum period of time for which a school may certify a loan is the calendar period of time in which a student is expected to successfully complete the credit or clock hours and the instructional weeks in the Title IV academic year definition for a non-term credit-hour program, a clock-hour program, or a nonstandard term, credit-hour program that does not have substantially equal terms or has substantially equal terms that are not all at least nine weeks in length. For a student who attends such a program on at least a half-time but less than full-time basis, otherwise progresses in the program at a slower rate, or takes an approved leave of absence, the loan period may be longer than the loan period for a student attending the same program who progresses at a normal pace. Revised policy includes an example that illustrates this difference in maximum loan period length.

REASON FOR CHANGE: This change is required to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 61971-61972, and 62008.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: *This policy proposal was originally distributed in Batch 148.*

Revise Section 6.2, page 5, column 1, as follows:

**6.2
Determining the Loan Period**

The loan period is the period of enrollment for which a Stafford or PLUS loan is intended. The loan period must coincide with a bona fide academic term established by the school for which school charges are generally assessed (i.e., semester, trimester, quarter, length of the student's program, or the school's academic year).

[§682.200(b)]

The maximum period for which a school may certify a loan is an academic year. See Section 6.1 for more information about how the academic year is defined and used to determine and certify the appropriate loan amount for a student enrolled in a standard term-, nonstandard term-, or non-term-based credit-hour program, and for a clock-hour program.

The maximum period for which a school may certify a Stafford or PLUS loan is the calendar period of time in which the student is expected to successfully complete the credit or clock hours and the instructional weeks in the Title IV academic year definition for any of the following programs:

- A non-term credit-hour program.
- A clock-hour program.
- A nonstandard term, credit-hour program that does not have substantially equal terms.
- A nonstandard term, credit-hour program that has substantially equal terms that are not all at least nine weeks in length.

For a student who attends such a program on at least a half-time but less than full-time basis, otherwise progresses in the program at a slower rate, or takes an approved leave of absence, the loan period may be longer than the loan period for a student attending the same program who progresses at a normal pace.

Example: A school offers a non-term, credit-hour program of one academic year in length. The Title IV academic year definition for the program, and the program's length, is 24 semester credit hours and 40 instructional weeks, which requires the normal, full-time student 10 months to complete. For such a student, the loan period is 10 months in length (i.e., the calendar period required for the student to successfully complete the number of credit hours and instructional weeks in the program/academic year). However, for a student who enrolls in the program on a less than full-time basis (but at least half-time) the loan period may be 15 months, (i.e., the calendar period necessary for the student to successfully complete the number of credit hours and instructional weeks in the program/academic year at a slower pace).

[§682.603(g)(2)(i)]

...

- ...
- ...

The maximum loan period that a school may certify is:

- ~~An academic year.~~
~~[§682.603(f)(2)(ii)]~~
- ~~A period longer than an academic year not to exceed 12 months that corresponds to the period to which annual loan limits are applied.~~
~~[§682.603(f)(2)(i)]~~

**PROPOSED LANGUAGE - COMMON BULLETIN:
Maximum Stafford and PLUS Loan Periods**

The *Common Manual* has been revised to delete the 12-month maximum period for which a school may certify a Stafford or PLUS loan. The maximum period for which a school may certify a loan is an academic year. In a non-term credit-hour program, a clock-hour program, or a nonstandard term, credit-hour program that does not

have substantially equal terms or has substantially equal terms that are not all at least nine weeks in length, the maximum period for which a school may certify a loan is the calendar period of time in which the student is expected to successfully complete the credit or clock hours and the instructional weeks in the Title IV academic year definition for the program. For a student who attends such a program on at least a half-time but less than full-time basis, otherwise progresses in the program at a slower rate, or takes an approved leave of absence, the loan period may be longer than the loan period for a student attending the same program who progresses at a normal pace.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower attending a non-term program or certain nonstandard term programs may receive a loan for the calendar period required for the student to complete his or her academic year in instructional weeks and credit- or clock-hours, regardless of whether that calendar period exceeds 12 months.

School:

A school may certify a loan for the calendar period the student requires to complete the number of instructional weeks and credit- or clock-hours in a non-term program, or certain nonstandard term programs.

Lender/Service:

A lender may be required to modify systems and loan approval procedures.

Guarantor:

A guarantor may be required to modify systems, loan guarantee, and program review procedures.

U.S. Department of Education:

The Department may be required to modify program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

August 16, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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:

One commenter questioned whether Section 6.2 would be updated to reflect other final rule changes concerning the period of enrollment for which a loan may be certified, including the final rule change that permits a school to certify a loan for a single term that is not a final period of study in a substantially-equal, at-least-nine-week, nonstandard term program.

Response:

The commenter is correct in observing that additional Manual updates are necessary to incorporate all final rule changes concerning the period of enrollment for which a loan may be certified. The remaining changes relate to the minimum loan period. The Committee chose to deal with these changes separately from those that relate to the maximum loan period. The community may expect these additional Manual updates for review and comment in a proposal that will be distributed in Batch 150.

Change:

None.

COMMENT:

One commenter asked the Committee to note that the effective date/triggering event for this policy proposal is a recommended triggering event.

Response:

The Committee concurs.

Change:

The following additional text has been added to the effective date/triggering event:

This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.

COMMENT:

One commenter requested that the proposed policy clarify that, in programs that require the student to complete both the number of credit- or clock-hours and the number of instructional weeks in the academic year, the calendar period of time for which a loan may be certified for a student who progresses at a slower pace, or takes an approved absence, may be greater than the calendar period of time required by the normal, full-time student to complete his/her academic year.

Response:

The Committee agrees that this clarification enhances the Manual's value to school users that have nontraditional programs.

Change:

Proposed policy text in Section 6.2 concerning the maximum loan period has been enhanced as follows:

**6.2
Determining the Loan Period**

The loan period is the period of enrollment for which a Stafford or PLUS loan is intended. The loan period must coincide with a bona fide academic term established by the school for which school charges are generally assessed (i.e., semester, trimester, quarter, length of the student's program, or the school's academic year).
[§682.200(b)]

The maximum period for which a school may certify a Stafford or PLUS loan is the academic year. See Section 6.1 for more information about defining the academic year that is used to determine and certify the appropriate loan amount for a student enrolled in a standard term-, nonstandard term-, or non-term-based credit-hour program, and for a clock-hour program.

In a non-term credit-hour program, a clock-hour program, or a nonstandard term, credit-hour program that does not have substantially equal terms or has substantially equal terms that are not all at least nine weeks in length, the maximum period for which a school may certify a loan is the calendar period of time in which the student is expected to successfully complete the credit- or clock-hours and the instructional weeks in the Title IV academic year definition for the program. For a student who attends such a program on at least a half-time but less than full-time basis, otherwise progresses in the program at a slower rate, or takes an approved leave of absence, the loan period may be longer than the loan period for a student attending the same program who progresses at a normal pace.

Example: A school offers a non-term, credit-hour program of one academic year in length. The Title IV academic year definition for the program, and the program's length, is 24 semester credit hours and 40 instructional weeks, which requires the normal, full-time student 10 months to complete. For such a student, the loan period is 10 months in length, (i.e., the calendar period required for the student to successfully complete the number of credit hours and instructional weeks in the program/academic year). However, a student who enrolls in the program on a less than full-time basis (but at least half-time) may be 15 months, (i.e., the calendar period necessary for the student to successfully complete the number of credit hours and instructional weeks in the program/academic year at a slower pace).

Because of the substantive nature of the changes requested by the commenter, this policy proposal will be recirculated to the FFELP community for comment in Batch 150.

The Committee recirculated this proposal for community review in Batch 150 and received the following additional comments.

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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:

One commenter requested that both the Basis and the Reason for Change include all page numbers in which the maximum loan period final rule change is referenced in the November 1, 2007, *Federal Register*.

Response:

The Committee agrees, with the exception of the commenter's requested change to the Basis. The Committee declines to include p. 62008 of the *Federal Register* in the Basis since that citation is redundant to the regulatory citation 682.603(g)(2)(i) that appears on p. 62008.

Change:

The Reason for Change now reflects references to pp. 61971-61972 and p. 62008 in the November 1, 2007, *Federal Register*. The Basis now reflects references to pp. 61971-61972 of the *Federal Register*.

COMMENT:

One commenter recommended a bulleted format for paragraph 3 of the proposed policy text in Section 6.2, as follows:

In a non-term credit hour program, a clock-hour program, or a nonstandard term, credit hour program that does not have substantially equal terms or has substantially equal terms that are not all at least nine weeks in length, the maximum period for which a school may certify a Stafford or PLUS loan is

the calendar period of time in which the student is expected to successfully complete the credit or clock hours and the instructional weeks ~~in the Title IV academic year definition for the program~~ if the student is enrolled in any one of the following programs:

- A non-term credit-hour program.
- A clock-hour program.
- A nonstandard term, credit-hour program that does not have substantially equal terms.
- A nonstandard term, credit-hour program that has substantially equal terms but for which not all of the terms are at least nine weeks in length.

For a student who attends such a program. . .

Response:

The Committee thanks the commenter for this formatting recommendation, as it allows the reader to more easily grasp the characteristics of the programs for which the policy's clarification applies. The Committee agrees that it is useful to clarify that the proposed policy text applies to the maximum loan period for both Stafford and PLUS loans. However, the Committee believes that it is essential to retain the commenter's last, deleted phrase to clarify that the maximum loan period corresponds to the calendar period of time in which the student is expected to complete the clock or credit hours and instructional weeks *in the program's Title IV academic year definition*.

Change:

New paragraph 3 under Section 6.2 has been modified as follows:

~~In a non-term credit hour program, a clock-hour program, or a nonstandard term, credit hour program that does not have substantially equal terms or has substantially equal terms that are not all at least nine weeks in length,~~ The maximum period for which a school may certify a Stafford or PLUS loan is the calendar period of time in which the student is expected to successfully complete the credit or clock hours and the instructional weeks in the Title IV academic year definition for any of the following programs:

- A non-term credit-hour program.
- A clock-hour program.
- A nonstandard term, credit-hour program that does not have substantially equal terms.
- A nonstandard term, credit-hour program that has substantially equal terms that are not all at least nine weeks in length.

For a student who attends such a program. . .

jcs/edited-aes

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
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| | DRAFT | Comments Due | |
| | FINAL | Consider at GB Meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Minimum Loan Period

AFFECTED SECTIONS: 6.2 Determining the Loan Period

POLICY INFORMATION: 1043/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Loan periods beginning on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

BASIS:

§682.603(g)(1); preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62020-62021.

CURRENT POLICY:

Current policy provides that the minimum period for which a school may certify a loan is a single academic term for a program that is measured in credit hours and uses a semester, trimester, or quarter system. For all other types of programs, the minimum loan period is the lesser of the length of the student's program, the school's academic year, or the student's remaining period of enrollment for the program of study.

REVISED POLICY:

Revised policy reduces the minimum loan period to a single term for a non-standard term-based credit-hour program with terms that are substantially equal in length and for which no term is less than nine weeks in length. Revised policy also provides that the minimum loan period for a student who transfers, or completes one program and begins another within an academic year, is the shorter of the remainder of the program or the remainder of the academic year associated with the previous program.

REASON FOR CHANGE:

This change is necessary to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62020-62021, and 62031.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 6.2, page 5, column 1, as follows:

NOTE: This section was previously altered by Policy Proposal 1019, Batch 148.

**6.2
Determining the Loan Period**

The loan period is the period of enrollment for which a Stafford or PLUS loan is intended. The loan period must coincide with a bona fide academic term established by the school for which school charges are generally assessed (i.e., semester, trimester, quarter, length of the student's program, or the school's academic year).

The minimum loan period that a school may certify is:

- A single academic term (e.g., a semester or quarter) for: ~~schools-~~
 - A program that measures academic progress in credit hours and uses a semester, trimester, or quarter system.

- A program that has terms that are substantially equal in length and for which no term in the loan period is less than nine weeks in length.
[§682.603(g)(1)(i)(A)]
- The lesser of the length of the student's program at the school, the school's academic year, or the student's remaining period of enrollment for the program of study at the school, ~~whichever is least, for, schools-~~
 - A program that measures academic progress in clock hours (or in credit hours, but that does not use a semester, trimester, or quarter system).
 - A program that does not have terms that are substantially equal in length with no term less than nine weeks in length.
[§682.603(g)(1)(i)(B)]
- The shorter of the remaining portion of the program of study or the remaining portion of the original school's academic year if a student transfers to a school from another school, and the prior school certified or originated a loan for an academic year that overlaps the academic year at the new school. In this case, the new school may certify a loan for no more than the remaining balance of the student's annual loan limit (see Section 6.1).
[§682.603(g)(1)(ii)]
- The remainder of the current academic year for a student who completes one program and begins another program within an academic year at the same school. The school may certify an additional loan for an amount that does not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program (see Section 6.1) if each of the following criteria are met:
 - The student's last loan to complete that program was for a period of less than an academic year.
 - The student then begins a new program at the same school within the same academic year.
[§682.603(g)(1)(iii)]

The exception to this rule is the completion of a graduate program and beginning of an undergraduate program within an academic year. In this case, the undergraduate loan limit for the student's grade level applies, but amounts previously borrowed at the graduate level within the same academic year do not count against the undergraduate annual loan limit. The total amount awarded for the academic year may not exceed the higher (graduate/ professional) annual loan limit.

[07-08 FSA Handbook, Volume 3, Chapter 5, p. 3-88]

PROPOSED LANGUAGE - COMMON BULLETIN:

Minimum Loan Period

The *Common Manual* has been updated to reflect the reduced minimum loan period of a single term for a credit-hour program that has terms that are substantially equal in length and for which no term is less than nine weeks in length. Revised policy also provides that the minimum loan period for a student who transfers, or completes one program and begins another within an academic year, is the shorter of the remainder of the program or the remainder of the academic year associated with the previous program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower enrolled in a nonstandard term-based credit hour program with terms that are substantially equal in

length and for which no term is less than nine weeks in length may now have a single-term loan period. A borrower who changes schools or completes one program and begins another within an academic year may now have an initial loan period in the new program that ends when the academic year of the prior program would have ended.

School:

A school with a credit-hour program that has terms that are substantially equal in length and for which no term is less than nine weeks in length may now certify a single-term loan period for students in that program. Previously, the minimum loan period for such a program was the academic year, unless the student was in a final period of enrollment.

Lender/Service:

None.

Guarantor:

A guarantor may need to revise school program review procedures.

U.S. Department of Education:

The Department may need to revise school program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 2, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

COMMENTS RECEIVED FROM:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHelp, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Most of the commenters supported this proposal as written. Other commenters recommended wordsmithing changes or typographical corrections that made no substantive changes to the policy and were considered 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:

One commenter suggested a change in Section 6.2, bullet 2, to provide clarity and consistency within the Manual.

Response:

The Committee agrees.

Change:

The following change has been made to Section 6.2, bullet 2, as follows:

- The lesser of the length of the student's program at the school, the school's academic year, or the student's remaining period of enrollment for the program of study at the school, ~~whichever is least~~ for:

COMMENT:

One commenter suggested a change in Section 6.2, bullet 4, to provide additional clarity.

Response:

The Committee agrees that the commenter's suggestion to change the language in bullet 4 would add clarity. This change would also remove the first subbullet. However, the Committee disagrees that the remaining two subbullets should be removed. The Committee believes that these subbullets provide needed clarity to Section 6.2.

Change:

The following change has been made to Section 6.2, bullet 4, as follows:

- The remainder of the current academic year for a student who ~~transfers to complete~~ one program and begins another program within an academic year at the same school. The school may certify an additional ~~initial~~ loan for an amount that does not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program (see Section 6.1) if each of the following criteria are met:

~~— The student completes a program of study at the school.~~

ke-dt/edited-tmh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

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| | DRAFT | Comments Due | |
| | FINAL | Consider at GB Meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Payment Periods

AFFECTED SECTIONS: 6.3 Determining Payment Periods
6.4.B When Disbursements May Be Made
8.7.B Delivering Second and Subsequent Disbursements
9.5.A Return Amounts for Title IV Grant and Loan Programs

POLICY INFORMATION: 1044/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Disbursements delivered by the school on or after July 1, 2008.

BASIS: §668.4; §668.22(e); §682.604(c)(6); preamble to the *Federal Register* Vol. 72, No. 211, pp. 62016-62017.

CURRENT POLICY:
Current policy states that a school may choose to have more than two payment periods, and provides separate definitions for the payment period for a term-based credit-hour program, a standard term-based program offered in modules, a non-term-based credit-hour program, and for clock-hour programs. Current policy describes the effect of withdrawal and re-enrollment on the payment period, depending on the length of the student's absence from school.

Current policy outlines the earliest dates that a school may schedule a loan disbursement from a lender, based on the payment period, and the timing of the school's delivery of second and subsequent disbursements.

REVISED POLICY:
Revised policy states that the payment periods for a program measured in credit hours with standard terms or with non-standard terms that are substantially equal in length, for all Title IV programs, must correspond with the terms in the academic year. For all other types of academic programs, for FFELP funds, the loan period must be divided into two payment periods. The first payment period does not end until the student has successfully completed half of the credit or clock hours *and* half of the number of weeks of instructional time in the academic year, program, or remainder of the program, as applicable. The exception to this rule is that, if the student is in the final portion of a program, and the remaining portion is less than half of an academic year, that period represents only one payment period. However, loan funds for that period must still be delivered in multiple disbursements, unless the school qualifies for the low cohort default rate exemption from multiple disbursement.

If a school is unable to determine when a student has completed half the credit hours or clock hours in a program, academic year, or the remainder of a program, the student is considered to begin the second payment period at the later of:

- The date the student successfully completed one-half of the academic coursework in the program, academic year, or the remainder of the program.
- The date when the student successfully completed half of the number of weeks of instruction in the program, academic year, or the remainder of the program.

For the purpose of these payment period definitions, revised policy defines "substantially equal in length" and "successful completion," and describes the effect of excused absences when determining whether a student has successfully completed the payment period in a clock hour program.

If the loan period for a Stafford or PLUS loan consists of one payment period, revised policy states that the

school may deliver the second disbursement no earlier than the calendar midpoint between the first and last scheduled days of class in the loan period in a standard term program and a nonstandard term program that has substantially equal terms of at least nine weeks in length. However, in all other types of programs, a school may deliver the second disbursement of a loan made for a single payment period no earlier than the date the student successfully completes half of the credit or clock hours (or half of the academic coursework) *and* half of the weeks of instructional time in the loan period.

Revised policy provides additional information about the payment period for a student who returns to the same program after 180 days or, at any time, either transfers into a different program at the same school or enrolls in another school. A school may consider such a student to remain in the same payment period if all of the following apply:

- The student is continuously enrolled at the school.
- The coursework in the payment period the student is transferring out of is substantially similar to the coursework the student will be taking when he or she first transfers into the new program.
- The payment periods are substantially equal in length in weeks of instructional time and credit or clock hours.
- There are little or no changes in institutional charges associated with the payment period.
- The credits from the payment period the student is transferring out of are accepted toward the new program.

Revised policy further describes the effect of the new payment period definitions on the school's scheduling of loan disbursements from the lender, the timing of the school's delivery of second disbursements, and the use of the payment period in the Return of Title IV funds calculation for nonstandard term programs.

REASON FOR CHANGE:

This change is necessary to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62016 - 62017, 62025 - 62026, 62028, and 62031.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 6.3, page 5, column 2, paragraph 1, as follows:

**6.3
Determining Payment Periods**

The payment period is the basis on which a school must schedule and deliver disbursements for a particular loan period. The payment period begins on the first day of regularly scheduled classes. A payment period is determined by the structure of the school's academic program. ~~At a school that does not use standard terms, a payment period is measured in credit or clock hours completed by the student in relation to the length of the student's program of study.~~
[§668.4]

For the purpose of determining payment periods, the following definitions apply:

- Substantially equal in length - terms are substantially equal in length if no term in the program is more than two weeks of instructional time longer than any other term in that program.
- Successful completion - a student successfully completes credit hours or clock hours if the school considers the student to have passed the coursework associated with those hours.

6.3.A

Number of Payment Periods

A school may choose to have more than two payment periods in the academic year. In that case, the number of payment periods must correspond to portions of the academic year. For example, if a school chooses to have three payment periods, each payment period must correspond to one third of the academic year. If three payment periods are used and the program or its remaining portion is greater than one third but less than two thirds of the academic year, two payments are required, with each payment period covering one half of the remaining portion. If the remaining portion is greater than two thirds of the academic year but less than one academic year, three payments are required, each covering one third of the remaining portion. (See section 8.7 for information on loan delivery requirements during payment periods.)

~~§668.4(d)~~

6.3.B

Term-Based Credit-Hour Programs With Standard Terms or With Nonstandard Terms That Are Substantially Equal in Length

For an eligible program that measures progress in credit hours and has standard academic terms, or has nonstandard terms that are substantially equal in length, the payment period is the academic term (semester, trimester, quarter, or nonstandard term).

~~§668.4(a)~~

6.3.BG

Standard Term-Based Programs Offered in Modules

...

6.3.C

Credit-Hour Programs with Nonstandard Terms That Are Not Substantially Equal in Length

For an eligible program that measures progress in credit hours and has nonstandard terms that are not substantially equal in length, the payment period varies, depending on the length of the program, or the remaining portion of the program.

For an eligible program that is one academic year or less in length, the following applies:

- The first payment period is the period of time in which the student successfully completes half of the credit hours in the program and half of the number of weeks of instructional time in the program.
- The second payment period is the period of time in which the student successfully completes the remainder of the program.

For an eligible program that is more than one academic year in length, the following applies for the first academic year and for any subsequent full academic year:

- The first payment period is the period of time in which the student successfully completes half of the credit hours and half the number of weeks of instructional time in the academic year.
- The second payment period is the period of time in which the student successfully completes the remainder of the academic year.

For any remaining portion of an eligible program that is more than one-half of an academic year in length, but less than a complete academic year, the following applies:

- The first payment period is the period of time in which the student successfully completes half of the credit hours and half the number of weeks of instructional time in the remaining portion of the program.
- The second payment period is the period of time in which the student successfully completes the remainder of the program.

For any remaining portion of an eligible program that is less than one-half of an academic year in length, the payment period is the remainder of the program; however, loan funds must be delivered in at least two disbursements, unless the school is exempt from the multiple disbursement requirement as a result of a low cohort default rate (see Subsection 7.7.B).
[§668.4(b)]

6.3.D

Clock-Hour Programs or Non-Term-Based Credit-Hour Programs

For an eligible program that measures progress in clock hours, or a program that measures progress in credit hours and does not have academic terms, the payment period varies, depending on the length of the program or the remaining portion of the program.

For an eligible program that is one academic year or less in length, the following applies:

- The first payment period is the period of time in which the student successfully completes half the ~~number of clock hours or credit hours~~ and half the number of weeks of instructional time in the academic year or program.
[§668.4(~~cb~~)(1)(i)]
- The second payment period is the period of time in which the student successfully completes the remainder of the ~~academic year or program.~~
[§668.4(~~cb~~)(1)(ii)]

For an eligible program that is more than one academic year in length, the following applies for the first academic year and any subsequent full academic year:

- The first payment period is the period of time in which the student successfully completes half the ~~number of clock hours or credit hours~~ and half the number of weeks of instructional time in the academic year.
[§668.4(~~cb~~)(2)(i)(A)]
- The second payment period is the period of time in which the student successfully completes the remainder of the academic year.
[§668.4(~~cb~~)(2)(i)(B)]

For any remaining portion of an eligible program that is more than one-half of an academic year in length, but less than a complete academic year, the following applies:

- The first payment period is the period of time in which a student successfully completes half the ~~number of clock hours or credit hours~~ and half the number of weeks of instructional time remaining in the program.
[§668.4(~~cb~~)(2)(ii)(A)]
- The second payment period is the period of time in which the student completes the remainder of the program.
[§668.4(~~cb~~)(2)(ii)(B)]

For any remaining portion of an eligible program that is not more than one-half an academic year, the payment period is the remainder of that program; however, loan funds must be

delivered in at least two disbursements, unless the school is exempt from the multiple disbursement requirement as a result of a low cohort default rate (see Subsection 7.7.B).
[§668.4(c)(2)(iii)]

If an ~~an~~ school is unable to determine when a student has completed half the clock hours or credit hours in a program, academic year, or the remainder of a program, the student is considered to begin the second payment period of the program, academic year, or the remainder of a program at the later of:

- The date, as determined by the school, that the student has successfully completed one-half of the academic coursework in the program, academic year, or the remainder of the program.
[§668.4(c)(3)(i)]
- ~~The calendar midpoint between the first and last scheduled days of class of~~ The date when the student successfully completed half of the number of weeks of instruction in the program, academic year, or the remainder of the program.
[§668.4(c)(3)(ii)]

6.3.E Clock-Hour Programs

For an eligible program that is one academic year or less in length, the following applies:

- ~~The first payment period is the period of time in which the student completes half the number of clock hours in the academic year or program.~~
[§668.4(e)(1)(i)]
- ~~The second payment period is the period of time in which the student completes the remaining number of clock hours in the academic year or program.~~
[§668.4(e)(1)(ii)]

For an eligible program that is more than one academic year in length, for the first academic year and any subsequent full academic year, the following applies:

- ~~The first payment period is the period of time in which the student completes half the number of clock hours in the academic year.~~
[§668.4(e)(2)(i)(A)]
- ~~The second payment period is the period of time in which the student completes the remaining number of clock hours in the academic year.~~
[§668.4(e)(2)(i)(B)]

For any remaining portion of an eligible program that is more than one half an academic year, but less than a full academic year in length, the following applies:

- ~~The first payment period is the period of time in which the student completes half the number of clock hours in the program.~~
[§668.4(e)(2)(ii)(A)]
- ~~The second payment period is the period of time in which the student completes the remaining number of clock hours in the program.~~
[§668.4(e)(2)(ii)(B)]

For any remaining portion of an eligible program that is not more than one half of an academic year, the payment period is the remainder of the program.
[§668.4(e)(2)(iii)]

6.3.E

Excused Absences in Clock-Hour Programs

For the purposes of determining whether a student has successfully completed the clock hours in a payment period, an ~~institution~~ school may count an excused absence (an absence the student does not have to make up) if:

- The school has a written policy that permits excused absences.
- The number of excused absences under the written policy for purposes of determining payment periods does not exceed the lesser of:
 - : The school's accrediting agency's excused absence policy.
 - : The excused absence policy of any state agency that licenses or legally authorizes the school to operate in the state.
 - : Ten percent of the clock hours in the payment period.

[§668.4(e)]

6.3.F

Students Returning to a Non-Term Credit-Hour or Clock-Hour Program after a Withdrawal

If a student withdraws from a program but re-enters that same program within 180 days, the school is required to place the student in the same payment period in which the student was originally enrolled when the withdrawal occurred. The student is again eligible to receive any loan funds for which he or she was eligible prior to the withdrawal, including any funds that may have been returned by the school or student as part of the return of Title IV funds process.

[§668.4(fe)]

If, however, a student returns to the same program after 180 days or, at any time, either transfers into a different program at the same school, or enrolls in another school, the applicable school must calculate a new payment period for the remainder of the student's program based on how program progress is measured. For purposes of calculating payment periods only, the length of the program is the number of credit hours or clock hours and the number of weeks of instructional time, or the number of clock hours, that the student has remaining in the program he or she entered or re-entered. If the remaining hours (and weeks, if applicable) constitute one half of an academic year or less, the remaining hours constitute one payment period.

[§668.4(gf)(1) and (2)]

There is one exception to this rule: a school may consider a student who transfers to a different program at the same school to remain in the same payment period if all of the following conditions are met:

- The student is continuously enrolled at the school.
- The coursework in the payment period the student is transferring out of is substantially similar to the coursework the student will be taking when he or she first transfers into the new program.
- The payment periods are substantially equal in length in weeks of instructional time and credit or clock hours.
- There are little or no changes in institutional charges associated with the payment period

- The credits from the payment period the student is transferring out of are accepted toward the new program.
[§668.4(g)(3)]

Revise Subsection 6.4.B, page 9, column 1, paragraph 1, as follows:

6.4.B
When Disbursements May Be Scheduled Made

...
...
...

If the loan period for a Stafford or PLUS loan consists of one payment period, the school must schedule the second or subsequent disbursement so that the disbursement is delivered no earlier than:

- The calendar midpoint between the first and last scheduled days of class of the loan period in the following types of programs:
 - = A standard term, credit-hour program.
 - = A nonstandard term, credit-hour program in which all of the terms are at least nine weeks and substantially equal in length.
- The date the student successfully completes half of the credit or clock hours (or half of the academic coursework) and half of the weeks of instructional time in the loan period in the following types of programs:
 - = A nonstandard term, credit-hour program that does not have substantially equal terms.
 - = A nonstandard term, credit-hour program that has terms substantially equal in length, but are not all at least nine weeks in length.
 - = A non-term, credit-hour program.
 - = A clock-hour program.

If the loan period for a Stafford or PLUS loan consists of more than one payment period, the earliest date for which a second or subsequent disbursement from the lender may be scheduled is:

[§682.604(c)(6)(i) and (ii)]

- ...

Revise Subsection 8.7.B, page 10, column 1, paragraph 2, as follows:

One Payment Period

If the loan period consists of only one payment period, the school may not deliver a second or subsequent disbursement earlier than:

- The calendar midpoint between the first and last scheduled days of class for the loan period in the following types of programs:
 - = A standard term, credit-hour program.
 - = A nonstandard term, credit-hour program in which all of the terms are at least nine weeks and substantially equal in length.
- The date the student successfully completes half of the credit or clock hours (or half of the academic coursework) and half of the weeks of instructional time in the loan period in the following types of programs:
 - = A nonstandard term, credit-hour program that does not have substantially equal terms.
 - = A nonstandard term, credit-hour program that has terms substantially equal in length, but are not all at least nine weeks in length.
 - = A non-term, credit-hour program.
 - = A clock-hour program.

[§682.604(c)(6)(ii)]

Credit Hours—Standard or Substantially Equal Terms

The school may not deliver a second or subsequent disbursement earlier than 10 days before the first day of any payment period for an eligible program that measures academic progress in credit hours and that uses a standard semester, trimester, or quarter system, or for programs that do not use a standard semester, trimester, or quarter system but that use terms that are substantially equal in length for a loan period.

Terms are substantially equal in length if no term within the loan period is more than two weeks longer than any other term in that loan period.

~~§668.164(f)(4)~~ §682.604(c)(6)(i)]

Clock-Hour Programs or Credit-Hour Programs With No Terms or Unequal Terms

The school may not deliver a second or subsequent disbursement for an eligible program that measures academic progress in clock hours, or measures academic progress in credit hours and either does not use terms, or does not use terms that are substantially equal in length for a loan period, until the later of:

- The date the student successfully completes half of the credit or clock hours in ~~The calendar midpoint between the first and last scheduled days of class of the loan period.~~
[§682.604(c)(7)(6)(ii)(A)(B)]
- The date the student successfully completes one-half of the number of weeks of instructional time academic coursework in the loan period, ~~as determined by the school.~~
[§682.604(c)(6)(i) and (ii)]

Revise Subsection 9.5.A, page 11, column 1, paragraph 4, as follows:

Nonstandard Term Programs

Calculations for the return of Title IV funds may be based upon the period of enrollment, rather than the payment period. Schools must consistently use either the payment period or the period of enrollment as the basis for all calculations for the return of Title IV funds for the following

categories of students:
[§668.22(e)(5)(ii)(A) and (B)]

- Students who attend an educational program from the beginning of the period of enrollment or payment period.
[§668.22(e)(5)(ii)(B)(1)]
- Students who reenter the school during a period of enrollment or payment period.
[§668.22(e)(5)(ii)(B)(2)]
- Students who transfer into the school during a period of enrollment or a payment period.
[§668.22(e)(5)(ii)(B)(3)]

There are differences in the payment period definition for a nonstandard term, credit-hour program that has substantially equal terms and a nonstandard term, credit-hour program that does not have substantially equal terms. See Section 6.3 for more information about defining the payment period in these programs.

PROPOSED LANGUAGE - COMMON BULLETIN:

Payment Periods

The *Common Manual* has been revised to reflect the payment period definitions published in the November 1, 2007, final regulations. For a program measured in credit hours with standard terms or with non-standard terms that are substantially equal in length, payment periods must correspond to the terms in the academic year for all Title IV programs. For all other types of academic programs, for FFELP funds, the loan period must be divided into two payment periods. The first payment period does not end until the student has successfully completed half of the credit or clock hours *and* half of the number of weeks of instructional time in the academic year, program, or the remainder of the program, as applicable. The exception to this rule is that, if the student is in the final portion of a program, and the remaining portion is less than half of an academic year, that period represents only one payment period. However, loan funds for that period must still be delivered in multiple disbursements, unless the school qualifies for the low cohort default rate exemption from multiple disbursement.

If a school is unable to determine when a student has completed half the credit hours or clock hours in a program, academic year, or the remainder of a program, the student is considered to begin the second payment period at the later of:

- The date the student successfully completed one half of the academic coursework in the program, academic year, or the remainder of the program.
- The date when the student successfully completed half of the number of weeks of instruction in the program, academic year, or the remainder of the program.

For the purpose of these payment period definitions, revised policy defines “substantially equal” and “successfully completed,” and describes the effect of excused absences when determining whether a student has successfully completed the payment period in a clock hour program.

If the loan period for a Stafford or PLUS loan consists of one payment period, the school must schedule the second disbursement so that the disbursement is delivered no earlier than:

- The calendar midpoint between the first and last scheduled days of class of the loan period in the following types of programs:
 - A standard term, credit-hour program.
 - A substantially equal, nonstandard term, credit-hour program in which all of the terms are at least nine weeks in length.
- The date the student successfully completes half of the credit or clock hours (or half of the academic

coursework) *and* half of the weeks of instruction in the loan period in the following types of programs:

- A nonstandard term, credit-hour program that does not have substantially equal terms.
- A nonstandard term, credit-hour program that has substantially equal terms that are not all at least nine weeks in length.
- A non-term, credit-hour program.
- A clock-hour program.

If the loan period for a Stafford or PLUS loan consists of one payment period, revised policy states that the school may deliver the second disbursement no earlier than the calendar midpoint between the first and last scheduled days of class in the loan period in a standard term program and a nonstandard term program that has substantially equal terms of at least nine weeks in length. However, in all other types of programs, a school may deliver the second disbursement of a loan made for a single payment period no earlier than the date the student successfully completes half of the credit or clock hours (or half of the academic coursework) and half of the weeks of instructional time in the loan period.

Revised policy provides additional information about the payment period for a student who returns to the same program after 180 days or, at any time, either transfers into a different program at the same school or enrolls in another school. A school may consider such a student to remain in the same period if all of the following apply:

- The student is continuously enrolled at the school.
- The coursework in the payment period the student is transferring out of is substantially similar to the coursework the student will be taking when he or she first transfers into the new program.
- The payment periods are substantially equal in length in weeks of instructional time and credit or clock hours.
- There are little or no changes in institutional charges associated with the payment period.
- The credits from the payment period the student is transferring out of are accepted toward the new program.

Revised policy further describes the effect of the new payment period definitions on the school's scheduling of loan disbursements from the lender, the timing of the school's delivery of second disbursements, and the use of the payment period in the Return of Title IV funds calculation for nonstandard term programs.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may encounter a different standard for payment periods governing the number and timing of loan disbursements or the return to Title IV funds calculation.

School:

A school will be required to revise its procedures for determining payment periods for certain types of programs. This will result in revisions to the scheduling of loan disbursements from the lender, the delivery of second and subsequent disbursements, and the return of Title IV funds calculation.

Lender/Service:

None.

Guarantor:

A guarantor may need to revise program review procedures.

U.S. Department of Education:

The Department may need to revise program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

November 1, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designee

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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:

Several commenters requested to add citations from the *Federal Register* in the Basis and Reason for Change.

Response:

The Committee agrees, with the exception of *Federal Register* page numbers that reference regulatory language that is already cited in the Basis.

Change:

The Basis has been modified as follows:

§668.4; §668.22(e); 682.604~~(g)~~(c)(6); preamble to the *Federal Register* Vol. 72, No. 211, pp. 62016-62017.

Page number 62026 from the *Federal Register* has been added to the Reason for Change.

COMMENT:

Several commenters requested a modification to the second bullet of paragraph 7 in the proposed changes to Subsection 6.3.D, to align with regulatory language:

The date when half of the number of weeks of instruction in the program, academic year, or the remainder of the program have ~~elapsed~~ been successfully completed.

Response:

The Committee agrees.

Change:

The proposed policy text has been modified per the commenters' request.

COMMENT:

Several commenters requested a change in both the Revised Policy and Common Bulletin to align with the following proposed policy text:

If a school is unable to determine when a student has completed half the clock hours or credit hours in a program, academic year, or the remainder of a program, the student is considered to begin the second payment period of the program, academic year, or the remainder of a program at the later of:

- The date, as determined by the school, that the student has successfully completed one half of the academic coursework in the program, academic year, or the remainder of the program.
- The date when half of the number of weeks of instruction in the program, academic year, or the remainder of the program have been successfully completed.

The commenters indicated that the second condition of this requirement, relative to completion of one-half of the instructional weeks in the program, academic year, or remainder of the program, had been omitted from the Revised Policy and Common Bulletin.

Another commenter requested that the regulatory citation §682.4(c)(3)(i) be added to support the information in the second bullet noted above relative to the successful completion of half of the instructional weeks in the program, academic year, or remainder of the program.

Response:

The Committee agrees that information was inadvertently omitted from the Revised Policy and Common Bulletin.

However, the Committee does not agree that the aforementioned regulatory citation should be added to the proposed policy text. The Committee believes the commenter refers to §668.4(c)(3)(i), which supports the prior bullet relative to the successful completion of half of the academic coursework in the program, academic year, or remainder of the program. That citation is already present in the proposed policy text.

Change:

Paragraph 2 of the Revised Policy, and paragraph 2 of the Common Bulletin have been modified as follows:

If a school is unable to determine when a student has completed half the credit hours or clock hours in a program, academic year, or the remainder of a program, the student is considered to begin the second payment period at the later of:

- The date the student successfully completed one-half of the academic coursework in the program, academic year, or the remainder of the program.
- The date when the student successfully completed half of the number of weeks of instruction in the program, academic year, or the remainder of the program.

COMMENT:

Several commenters requested the addition of the citation [§668.4(g)(3)] to support the new bullets under Subsection 6.3.F.

Response:

The Committee agrees.

Change:

The citation has been added per the commenters' request.

COMMENT:

Two commenters requested a change to the regulatory citation associated with the information under “Credit Hours - Standard or Substantially Equal Terms” in Subsection 8.7.B.

Response:

The commenter requested that the regulatory citation reference the second delivery of loan funds for a loan made for a single payment period in a standard term or substantially equal nonstandard term program. The Committee believes that citation is not appropriate for the proposed policy text since it does not address the second delivery of funds for a single-term loan.

The Committee notes that the current citation, §682.604(c)(6)(i)(A), is nonexistent.

Change:

The above-noted citation has been corrected to reflect §682.604(c)(6)(i).

ke-jcs/edited-bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Student Authorization for EFT Payment

AFFECTED SECTIONS: 8.3 Required Authorizations
8.7.H Delivery Methods
Figure 8-1

POLICY INFORMATION: 1045/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Funds deposited by EFT directly into a student's or parent borrower's bank account or stored-value card by a school on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

BASIS:
§668.164(b); §668.164(c)(1)(iii); §668.164(c)(2) and (3).

CURRENT POLICY:
Current policy requires a school to obtain a borrower's authorization to deposit FFELP loan proceeds into the borrower's personal bank account.

REVISED POLICY:
Revised policy removes the requirement for a school to obtain a borrower's authorization to deposit FFELP loan proceeds into a borrower's designated bank account. Revised policy also incorporates regulatory expansion in a school's establishment of stored-value and prepaid debit cards.

REASON FOR CHANGE:
This change is required to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: These subsections were also updated by Proposal 1015, Batch 148

Revise Section 8.3, p. 4, column 1, paragraph 1, bullet 6, as follows:

8.3 Required Authorizations

A school must have written authorization from a student or parent borrower, as applicable, to perform the following activities:

- ...
- ...
- ~~Deliver Stafford or PLUS loan proceeds to the borrower's personal bank account.~~
[§668.165(b)(1)(i)]
- ...
- ...

• ...

Revise Figure 8-1, p. 5, as follows:

FFELP Written Notification/Authorization Requirements

Figure 8-1

...

| Activity | Additional Notification Required | Authorization Required |
|--|----------------------------------|-----------------------------------|
| ... | | |
| ... | | |
| ... | | |
| ... | | |
| Deliver loan proceeds to borrower's personal bank account [§668.165(b)(1)(+)] | No | <u>No</u> <u>Yes</u> ² |
| <u>Open a bank account on the borrower's behalf</u> [§668.164(c)(1)(ii)] | <u>Yes</u> | <u>Yes</u> |
| <u>Deliver loan proceeds to a borrower's stored-value card</u> [§668.164(d)(2)(ii)] | <u>Yes</u> | <u>Yes</u> |
| ... | | |

Revise Subsection 8.7.H, page 14, column 2, paragraph 2, as follows:

**8.7.H
Delivery Methods**

A school may deliver loan proceeds using any of the following methods:

- Crediting the proceeds to the student's account at the school.
[§668.164(d)]
- Initiating an electronic funds transfer (EFT) to a bank account designated by the student or parent borrower, ~~in which case the school must obtain authorization from the borrower, as applicable.~~ The bank account must be insured by the FDIC or the NCUSIF and may be a checking, savings, or similar account that underlies a stored-value card or other transaction device.
 - : A school may establish a policy that requires its students to provide bank account information or open an account at a bank of their choosing as long as this does not delay the disbursement of Title IV, HEA program funds. If the student does not comply with the policy, the school must disburse the funds to the student using another method.
 - : If a school opens a bank account on behalf of a student or parent, establishes

a process that the student or parent follows to open a bank account, or similarly assists the student or parent in opening a bank account, a school must establish a process for the student or parent to follow to open the account or to similarly assist the student or parent in opening the account. A school must obtain affirmative consent from the student or parent and must follow the same guidelines as those established for a stored-value card.

[\$668.164(c)(3)]

- Issuing a stored-value card to the student, in which case the school must obtain authorization from the student or parent borrower, as applicable, and the following conditions must be met:

[\$668.164(d)(1)(iv)(c)(3)]

- The value of the card must be convertible to cash and may not be limited to specific vendors.
- ~~The student must not incur any fees for using the card to withdraw the disbursement at that bank branch or at the ATMs of other banks, over a reasonable period of time. It would be reasonable to allow automated teller machine (ATM) withdrawals to be free, or to provide several free withdrawals per month. It would also be reasonable to charge a fee for use of an ATM that is not affiliated with the issuing bank, as long as ATMs from the issuing bank are conveniently located for the student.~~
- The student must have convenient access to a branch office of the bank, or an ATM of the bank or another bank. This branch must be located on the school's campus, school-owned or operated facilities, or, immediately adjacent to and accessible from the campus.
- The student must not be charged by either the school or affiliated bank for the issuing of a stored-value card. The student may be charged for a replacement card.
- The bank must have an individual account for each student that is insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF).
- ...
- ...
- ...
- ...
- ...
- ...

**PROPOSED LANGUAGE - COMMON BULLETIN:
Student Authorization and EFT**

The *Common Manual* has been revised to reflect that a school may credit a borrower's bank account with Title IV funds without obtaining the borrower's authorization. Additional language has also been incorporated to clarify that a school may require a student to supply bank account information for direct delivery of loan funds or may open a bank account on behalf of the student or borrower with their authorization. In cases where a stored-value or prepaid ATM card is used with these accounts, the school must ensure that the cards are widely

accepted and that students have convenient access to withdraw funds.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may be required by a school's policy to provide or open a bank account for the purpose of crediting Title IV funds.

School:

A school may establish policies to require students or parent borrowers to provide their bank account information or to open a bank account for the purpose of crediting Title IV funds.

Lender/Service:

None.

Guarantor:

A guarantor may be required to modify program review procedures.

U.S. Department of Education:

The Department may be required to modify program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 12, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

COMMENTS RECEIVED FROM:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Most of the commenters supported this proposal as written. Other commenters recommended wordsmithing changes or typographical corrections that made no substantive changes to the policy and were considered 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:

One commenter requested that the *Federal Register* page numbers be added to the citation in the Reason For Change Statement .

Response:

The Committee agrees.

Change:

The *Federal Register* page numbers were added to the Reason For Change as requested.

COMMENT:

Two commenters recommended deleting existing language in the bullet that discusses the ATM fees for using a card to withdraw funds. They pointed out that new regulatory provisions specify that the student is not to be charged for making ATM withdrawals made from the bank holding the account or from another bank. The new provisions also do not contain any stipulations regarding the number of withdrawals or the period of time over which they can be made.

These commenters also recommended updating the regulation cite under this bullet.

Response:

The Committee agrees. Current language within the bullet was based on GEN-05-16. Final regulations and preamble discussion in *Federal Register*, Vol. 72, No. 211, page 62019 does not provide this guidance. The Committee also agrees that the regulation cite should be updated.

Change:

8.7.H, Delivery Methods, 4th bullet has been revised as follows:

- Issuing a stored-value card to the student, in which case the school must obtain authorization from the student or parent borrower, as applicable, and the following conditions must be met:
[§668.164(d)(1)(iv)(c)(3)]
- The value of the card must be convertible ...
- The student must not incur any fees for using the card to withdraw the disbursement at that bank branch or at the ATMs of other banks over a reasonable period of time. ~~It would be reasonable to allow automated teller machine (ATM) withdrawals to be free, or to provide several free withdrawals per month. It would also be reasonable to charge a fee for use of an ATM that is not affiliated with the issuer's bank, as long as ATMs from the issuing bank are conveniently located for the student.~~

COMMENT:

One commenter requested word smithing and format changes to the sub-bullets under the second bullet in 8.7.H, Delivery Methods. They felt that the text as presented implied that a school is required to open a bank account on behalf of the student or parent in order to deposit funds into that account, which is not the case. They also felt that the material in the third bullet should be a sub-bullet under the preceding bullet as this language is a continuation of the previous sub-bullet in the regulatory cite and should not be separated as a distinct process.

Response:

The Committee agrees.

Change:

The language in the second and third bullets in 8.7.H Delivery Methods, has been revised as recommended.

COMMENT:

Two commenters proposed restructuring and policy changes to Subsection 8.7. H, Delivery Methods. They felt the proposed changes provided clarity and a more clear distinction between the two methods for delivering loan funds to students: crediting the student account or making a direct payment to the student or parent borrower. They stated that the material has now combined the concepts of direct payments to borrower's bank accounts and stored value cards and needs to be addressed separately.

Response:

The Committee agrees with the commenter and appreciates the restructuring suggestions provided. However, the Committee feels that this is outside the scope of this proposal. The Committee will add this to our policy log for further research and policy development.

Change:

None.

om/edited-bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB Meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Return of Loan Funds

AFFECTED SECTIONS: 8.9.A Return of Undelivered Loan Funds

POLICY INFORMATION: 1046/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Loan funds delivered by the school on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

BASIS:
§668.164(h).

CURRENT POLICY:
Current policy does not specify what a school must do with loan funds for which it makes timely attempts to deliver FFELP funds but the student or parent never receives the check or negotiates the EFT transaction.

REVISED POLICY:
Revised policy provides that the school must return the unclaimed FFELP loan funds to the lender. Revised policy permits the school to make subsequent attempts to deliver the funds for a period of up to 240 days, but if the borrower or student has not received or negotiated the funds by the end of that period, the school is required to return the loan funds to the FFELP lender. If the school chooses not to make additional attempts to deliver the funds, the loan funds must be returned to the FFELP lender within 45 days of the date the funds were returned or rejected.

REASON FOR CHANGE:
This change is being made based on regulatory changes in the *Federal Register* of November 1, 2007, Volume 72, Number 211, p. 62029.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 8.9.A, page 18, column 2, following paragraph 2, adding new text as follows:

. . . the school must either mail a check or initiate an electronic funds transfer to the lender by the close of business of the last date of the return period.
[Department of Education Policy Bulletin dated June 2, 1997]

If the school tries to deliver FFELP loan funds to a student or parent borrower who does not receive or fails to negotiate those funds, and the funds are unclaimed, the school must return the funds to the lender. Even if state laws or regulations would otherwise require the return of unclaimed funds to the state, loans disbursed under the FFELP and not claimed by the intended recipient must be returned to the FFELP lender.
[§668.164(h)(1)]

If the funds are delivered by individual check and the check is returned, or if the funds are delivered by EFT and the EFT transaction is rejected, the school may make additional attempts to deliver the funds. The school's subsequent attempts to deliver the funds must begin no later than 45 days after the funds were returned or rejected, as applicable. The school may continue to attempt to deliver the funds for a period of up to 240 days after the date of the initial delivery attempt. However, if efforts to deliver the funds are unsuccessful, the school must return the

undelivered funds to the lender no later than the end of that 240-day period.
[\$668.164(h)(2) and (3)]

If the school chooses not to make subsequent attempts to deliver the loan funds, the school must return the funds to the lender no later than 45 days after the loan funds were rejected or returned.
[\$668.164(h)(3)(i)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Returning Undeliverable FFELP Funds to the Lender

The *Common Manual* has been revised to include new regulations that state that the school must return the unclaimed FFELP loan funds to the lender, even if state laws or regulations would otherwise require the school to return unclaimed funds to the state. Revised policy also permits the school to make additional attempts to deliver the funds for a period of up to 240 days so long as the school's subsequent delivery attempts begin no more than 45 days after the funds were returned or rejected, as applicable. If the borrower or student has not received or negotiated the funds by the end of the 240-day period, the school is required to return the loan funds to the FFELP lender no later than the 240th day after the date of the initial delivery attempt. If the school chooses not to make additional attempts to deliver the funds, the loan funds must be returned to the FFELP lender within 45 days of the date the funds were returned or rejected.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

Schools must establish procedures to monitor the status of undelivered loan funds and ensure that their subsequent attempts at delivery are timely and that their time frame for returning the loan funds to the lender is compliant with the new regulation.

Lender/Service:

None.

Guarantor:

The guarantor may be required to amend program review procedures.

U.S. Department of Education:

The Department may be required to amend program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 15, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Most of the commenters supported this proposal as written. One commenter recommended wordsmithing, grammatical, or other non-substantive 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:

One commenter recommended more specific regulatory citations for the new text .

Response:

The Committee agrees.

Change:

The regulatory citations have been expanded as recommended.

om-bg/edited -bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB Meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Economic Hardship Deferment

AFFECTED SECTIONS: 11.4.A Eligibility Criteria—Economic Hardship
Appendix G

POLICY INFORMATION: 1047/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Economic Hardship deferment requests made on or after October 1, 2007.

BASIS:
§682.210(s)(6)(iii)(B).

CURRENT POLICY:
Current policy states that one of the eligibility criteria for an economic hardship deferment is that the borrower's monthly income does not exceed an amount equal to 100% of the poverty line for a family of two, as determined in accordance with Section 673(2) of the Community Service Block Grant Act.

REVISED POLICY:
Revised policy amends the eligibility requirement to reflect that the borrower's monthly income may not exceed an amount equal to 150% of the poverty line applicable to the borrower's family size and updates the glossary definition accordingly.

REASON FOR CHANGE:
The *Common Manual* is being updated to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72., No. 211.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 11.4.A, page 8, column 2, paragraph 3, number 3, as follows:

The borrower is working full time and has a monthly income that does not exceed the greater of (a) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938 or (b) an amount equal to ~~100%~~ 150% of the poverty line ~~for a family of two~~ applicable to the borrower's family size, as determined in accordance with Section 673(2) of the Community Service Block Grant Act (see *Note 1 below*).

Revise Appendix G, page 6, column 2, paragraph 5, as follows:

Economic Hardship: A period during which the borrower is working full time but is earning an amount that does not exceed the greater of the minimum wage or 150% of the poverty line ~~for a family of two~~ the borrower's family size. Economic hardship also exists if a borrower's monthly payments on federal education loans are equal to or greater than 20 percent of the borrower's monthly income, as defined in FFELP regulations.

PROPOSED LANGUAGE - COMMON BULLETIN:

Economic Hardship Deferment

The *Common Manual* has been revised to comply with the regulatory changes published in the *Federal Register* dated November 1, 2007, regarding eligibility requirements for the purposes of an economic hardship deferment. Text has been revised to incorporate the new standard that the borrower's monthly income may not exceed an amount equal to 150% of the poverty line applicable to the borrower's family size. The glossary definition of economic hardship has also been updated.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may be required to provide actual family size when applying for an economic hardship deferment.

School:

None.

Lender/Service:

A lender/service may need to revise its procedures to ensure a deferment is granted only when a borrower's income does not exceed this standard.

Guarantor:

A guarantor may need to revise its program review procedures to incorporate this new standard.

U.S. Department of Education:

The Department may need to revise its program review procedures to incorporate this new standard.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 2, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designee

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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:

One commenter asked that the Lender/Service implication statement be revised as follows:

“A lender/service may need to revise its procedures to ensure a deferment is granted only when a borrower's income does not exceed this standard.”

Response:

The Committee agrees.

Change:

The Lender/Service implications have been revised as noted above.

COMMENT:

One commenter noted that the portion of Subsection 11.4.A that is being revised is located on page 9 of Chapter 11, not page 8.

Response:

Common Manual convention is to use the ECM that is published annually as the base document for all policy proposals published during the following year. Though the placement of the text may have shifted in a subsequent ICM, the July 1, 2007 ECM lists this text as the last bullet on page 8 of Chapter 11.

Change:

None.

djo/edited - aes

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Military Deferment

AFFECTED SECTIONS:

- 11.8 Military Active Duty Student Service Deferment
- 11.8.A Eligibility Criteria—Military Active Duty Student
- 11.8.B Deferment Documentation—Military Active Duty Student
- 11.8.C Length of Deferment—Military Active Duty Student
- 11.8.D Simplified Deferment Processing
- 11.9 Military Deferment
- 11.9.A Eligibility Criteria—Military
- 11.9.B Deferment Documentation—Military
- 11.9.C Length of Deferment—Military

Figure 11-1 Deferment Eligibility Chart

POLICY INFORMATION: 1048/ Batch 150

EFFECTIVE DATE/TRIGGER EVENT: Deferment requests granted or extended by the lender on or after October 1, 2007.

BASIS:

Preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 61962-61963; §682.210(t) and (u); *Dear Colleague Letter* FP-08-01.

CURRENT POLICY:

Current policy does not contain language regarding a military active duty student deferment.

Current policy states that a military deferment is loan-specific and is available only on a Stafford or PLUS loan(s) first disbursed on or after July 1, 2001, or on a Consolidation loan(s) when all Title IV loans included in the Consolidation loan were first disbursed on or after July 1, 2001. In addition, current policy states that a borrower must meet the qualifications for this deferment on or after July 1, 2001, and stipulates that the military deferment ends on the earlier of the date that is no later than 3 years after the date on which it began, or the date on which the borrower's qualifying service is certified to end or actually ends.

REVISED POLICY:

Revised policy modifies the previous title "military deferment" to "military service" and adds a new section regarding the military active duty student deferment. This deferment is available for a period of up to 13 months to a borrower who is a member of the National Guard or Armed Forces Reserve (including a member who is in a retired status) and is called or ordered to active duty service while enrolled in an eligible school at the time of, or within 6 months prior to, his or her activation.

Revised policy eliminates the time limit on military deferment and states that a military service deferment is available to a borrower who has an outstanding balance on any loan for all periods of active duty service that include October 1, 2007, or begin on or after that date.

Revised policy states that the military service deferment period is extended for an additional 180 days after the date the borrower is demobilized from active duty service. The additional 180-day deferment extension is available to a borrower each time the borrower is demobilized from qualifying active duty service and does not require a separate deferment request.

Revised policy also states that a military service deferment may be granted to a borrower whose deferment eligibility expired due to the prior 3-year limitation, if that borrower was still serving on eligible active duty on or after October 1, 2007. The deferment may be applied to the borrower's eligible loan(s) retroactively from the date

the prior deferment expired until the end of the borrower's active duty service. A lender may grant expanded deferment benefits without receiving a new deferment request from the borrower or borrower's representative. If a deferment is granted in this manner, the lender must notify the borrower of the additional benefits and provide the borrower the opportunity to decline the deferment.

Revised policy states that if a borrower is eligible for both a military service deferment and a military active duty student deferment, the 180-day extended military service deferment and the 13-month active duty student deferment periods will apply concurrently.

Revised policy updates Figure 11-1, Deferment Eligibility Chart, to reflect these changes. In addition, this proposal renumbers Sections 11.9 through 11.19 as Sections 11.10 through 11.20, respectively.

REASON FOR CHANGE:

The *Common Manual* is being updated to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 61962-61963.

PROPOSED LANGUAGE - COMMON MANUAL:

Add new Section 11.8, page 14, column 2, as follows:

11.8
Military Active Duty Student Deferment

A military active duty student deferment is available to a borrower who is a member of the National Guard or Armed Forces Reserve (including a member in a retired status), and is called or ordered to active duty service (eligible national or state duty) while enrolled at least half-time in an eligible school at the time of, or within 6 months prior to, his or her activation.
[§682.210(u)(1); DCL FP-08-01]

11.8.A
Eligibility Criteria—Military Active Duty Student

This deferment is available to a borrower who is called or ordered to active duty and:

- Is a member of the National Guard or Armed Forces Reserve, including a member who was in a retired status when activated.
- Was enrolled on at least a half-time basis in a program of study at an eligible school at the time of, or within 6 months prior to, being called or ordered to active duty.
[§682.210(u)(1); DCL FP-08-01]

Definitions Applicable to Military Active Duty Student Deferment

In the context of the military active duty student deferment, the following definitions apply:

- Active duty means serving in full-time duty in the active military service of the U.S. for at least 30 consecutive days, including active state duty for members of the National Guard, for either of the following:
 - = Activities authorized by the governor, and approved by the President or Secretary of Defense, that are supported by federal funds.
 - = Activities authorized by the governor based on state statute or policy that are supported by state funds.

Active duty does not include:

- = Training or attendance at a service school.

- = Employment in a full-time, permanent position in the National Guard unless that position is reassigned as part of a Title 32 call to state active duty service.

[§682.210(u)(2); DCL FP-08-01]

11.8.B

Deferment Documentation—Military Active Duty Student

A borrower must request the deferment and provide the lender with documentation of his or her duty status. The documentation must show that the borrower was a member of the National Guard or Reserves (including a member in a retired status), and establish an end-of-military service date and the borrower's enrollment status at an eligible school at the time of, or within six months prior to, military activation.

[§682.210(u)(1)(ii)]

If the borrower has already received a military service deferment (see Section 11.9), a lender may grant a military active duty student deferment without an additional request from the borrower if the lender has all the required documentation of eligibility. If a deferment is granted in this manner, the lender must notify the borrower of the deferment and provide the borrower the opportunity to decline the deferment.

[§682.210(u)(4); DCL FP-08-01]

The lender may also grant a borrower a deferment using the simplified deferment processing outlined in Subsection 11.8.D.

11.8.C

Length of Deferment—Military Active Duty Student

A borrower who meets the eligibility criteria outlined in 11.8.A may receive a deferment for up to 13 months following the completion of active duty military service. The deferment ends on the earlier of the date of the borrower's re-enrollment in school on at least a half-time basis, or the date the 13-month period ends.

A borrower who is eligible for both the military active duty student deferment and the military service deferment outlined in 11.9 that provides for a 180-day extended deferment period, can only receive these benefits concurrently and not consecutively (i.e., the maximum benefit is limited to 13 months).

[§682.210(u)(1); DCL FP-08-01]

11.8.D

Simplified Deferment Processing

A lender may grant an eligible borrower a military active duty student deferment based on information that the borrower has been granted a military active duty student deferment by another FFELP loan holder or the Department (for a Direct loan) for the same time period. The borrower must request the deferment either verbally or in writing, but does not have to provide a completed military deferment request form.

In granting the deferment in this manner, the lender may rely in good faith on the information obtained from the other FFELP loan holder, the Department, or an authoritative electronic database maintained and authorized by the Department, unless the lender has information indicating that the borrower does not qualify for the military active duty student deferment. The lender must resolve any discrepant information before granting a military active duty student deferment in this manner.

If the lender grants the military active duty student deferment using this simplified process, the lender must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the

deferment and continue to make payments on the loan.
[§682.210(s)(iii) - (v); §682.210(t)(7)]

Revise Section 11.8., page 14, column 2, paragraph 4, as follows:

11.89
Military Service Deferment

A military service deferment is available ~~for to~~ a borrower's ~~loan(s) that is first disbursed on or after July 1, 2001,~~ while the borrower is serving on active duty during a war or other military operation, or national emergency, or while the borrower is performing qualifying National Guard duty during a war or other military operation, or a national emergency.
[§682.210(t)(1); §HEA 428(b)(1)(M); DCL GEN-06-02; DCL FP-08-01]

Revise Section 11.8, page 14, column 2, paragraph 4, as follows:

11.89
Military Service Deferment

...

Payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment are not refunded.
[§682.210(t)(5)]

Revise Subsection 11.8.A, page 15, column 1, paragraph 1, as follows:

11.89.A
Eligibility Criteria —Military Service

~~The military deferment is loan specific. This deferment is available only for a borrower's Stafford and PLUS loans first disbursed on or after July 1, 2001, and for Consolidation loan(s) when all Title IV loans included in the Consolidation loan were first disbursed on or after July 1, 2001. The borrower must meet the qualifications after July 1, 2001.~~

This deferment is available to Stafford, PLUS and Consolidation loan borrowers only for all periods that include October 1, 2007, or begin on or after that date, during which a borrower is serving in one of the following capacities:

- On active duty during a war or other military operation, or a national emergency.
- On qualifying National Guard duty during a war or other military operation, or a national emergency.
[§HEA 428(b)(1)(M); §682.210(t)(1) - (4); DCL GEN-06-02; DCL GEN-08-01]

Definitions Applicable to Military Service Deferment

In the context of the military service deferment, the following definitions apply:

...

...

Revise Subsection 11.8.B, page 15, column 2, paragraph 3, as follows:

Note: This subsection was previously revised in Proposal 1008 of Batch 147.

11.89.B

Deferment Documentation—Military Service

Note: As of the printing of the manual, the Department has not approved a common Military Deferment Request form.

A borrower or a borrower's representative must request the deferment and provide the lender with documentation of ~~his or her~~ the borrower's active duty status. The documentation must include a copy of the borrower's military orders, or written statement from the borrower's commanding or personnel officer that the borrower is serving on active duty during a war or other military operation, or a national emergency, or that the borrower is performing qualifying National Guard duty during a war or other military operation, or a national emergency, as those terms are defined in ~~Subsection 11.89.A.~~ The lender may also grant a borrower a deferment using the simplified deferment processing outlined in Subsection 11.9.D. [§HEA 428(b)(1)(M); §682.210(t)(7); DCL GEN-06-02; DCL FP-08-01]

If a borrower's military deferment eligibility expired due to the previous 3-year limitation and the borrower was still serving on qualifying active duty service on or after October 1, 2007, a lender may grant expanded deferment benefits without receiving a new deferment request from the borrower or borrower's representative. If a deferment is granted in this manner, the lender must notify the borrower of the additional benefits and provide the borrower the opportunity to decline the deferment.
[DCL GEN-08-01]

Revise Subsection 11.8.C, page 16, column 1, paragraph 1, as follows:

11.89.C **Length of Deferment**

The deferment begins on the date the condition entitling the borrower to the deferment first existed, as determined by the lender. The deferment ends ~~on the earlier of the date that is no later than 3 years after the date on which it began, or the date on which the borrower's~~ qualifying service is certified to end or actually ends.
[HEA 428(b)(1)(M); §682.210(t); DCL GEN-06-02]

For a borrower whose qualifying service includes October 1, 2007, or begins on or after that date, the deferment is extended for an additional 180 days after the date the borrower is demobilized from that qualifying service. The additional 180-day deferment is available to a borrower each time a borrower is demobilized from qualifying active duty service. The additional 180-day deferment period may not be granted unless the lender receives documentation of the date the borrower was demobilized from qualifying service.
[§682.210(t)(2); DCL FP-08-01]

Revise Sections 11.9 through 11.19, by renumbering as Sections 11.10 through 11.20, respectively.

Revise Figure 11-1, Deferment Eligibility Chart, as follows:

See attached chart.

PROPOSED LANGUAGE - COMMON BULLETIN: **Military Deferment**

The *Common Manual* has been revised to comply with the regulatory changes published in the *Federal Register* dated November 1, 2007, that relate to military active duty student deferments and military service deferments.

A new section has been added to the Manual regarding the military active duty student deferment. This deferment is available for a period of up to 13 months following the completion of active duty military service to a borrower who is a member of the National Guard or Armed Forces Reserve (including a member in retired status), and is called or ordered to active duty service while enrolled on at least a half-time basis in an eligible school at the time of, or within 6 months prior to, his or her activation.

The current military service deferment has been revised to eliminate the limitations originally placed on this deferment. It is no longer a loan-based deferment and is borrower based. In addition, the 3-year limitation has been removed. It is now available to a borrower who has an outstanding balance on any loan that was in repayment on October 1, 2007, for *all* periods of active duty service that include that date or begin on or after that date. A military service deferment may be granted to a borrower whose deferment eligibility expired due to the prior 3-year limitation, if that borrower was still serving on eligible active duty on or after October 1, 2007. The deferment may be applied to the borrower's eligible loan(s) retroactively from the date the prior deferment expired until the end of the borrower's active duty service.

The military service deferment period for a borrower whose qualifying service includes October 1, 2007, or begins on or after that date, is extended for 180 days after the date the borrower is demobilized from active duty service. The additional 180-day deferment is available to a borrower each time the borrower is demobilized from qualifying active duty service. A lender may grant expanded deferment benefits without receiving a new deferment request from the borrower or borrower's representative. If a deferment is granted in this manner, the lender must notify the borrower of the additional benefits and provide the borrower the opportunity to decline the deferment.

If a borrower is eligible for both a military service deferment and a military active duty student deferment, the 180-day extended military service deferment and the 13-month active duty student deferment periods will apply concurrently.

With the addition of a new Section 11.8 (Military Active Duty Student Deferment), Sections 11.9 through 11.19 have been renumbered as Sections 11.10 through 11.20, respectively. Lastly, the Deferment Eligibility Chart (Figure 11-1) has been revised to reflect these changes.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who was originally granted a military service deferment for a limited amount of time (up to 3 years) may receive deferment benefits indefinitely. A borrower who is eligible for a military service deferment will receive an additional 180-day deferment period after demobilization. A borrower now has the ability to have a representative request a deferment on his or her behalf.

A borrower who is called or ordered to active duty service, including a member of the services in retired status, and is enrolled at an eligible school may receive a deferment for up to 13 months following the completion of active duty military service or until the borrower re-enrolls in school.

School:

A school will be able to counsel borrowers about the military active duty student and military service deferments.

Lender:

A lender is able to extend military service deferment benefits to all eligible borrowers rather than only to borrowers who had loans made on or after July 1, 2001. Also, a lender is able to extend military deferment benefits that were originally set to expire within 3 years or that did already expire. A lender is able to extend military service deferment benefits to borrowers for an additional 180 days following a borrower's date of demobilization. A lender is able to receive a request for a military service deferment from a borrower's representative.

A lender is able to grant eligible borrowers a military active duty service deferment for up to 13 months following the completion of active duty military service.

Guarantor:

A guarantor may be required to adjust program review procedures.

U.S. Department of Education:
The Department may need to adjust program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

November 1, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 10, 2008

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC, and Wachovia.

Responses to Comments

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were considered 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 revising Section 11.8 and Subsection 11.8.C to clarify that a borrower must return to school "on at least a half-time basis" in order for the military active duty student deferment to end prior to the 13-month time frame. The commenter noted that if a borrower were to return to school less than half-time, the borrower would continue to be eligible for the military active duty student deferment.

Response:

The Committee agrees.

Change:

The half-time requirement has been added to Section 11.8 and Subsection 11.8.C as suggested.

COMMENT:

One commenter suggested that the following addition be made to Subsection 11.9.A to clarify that a borrower is able to defer all Title IV loan types.

This deferment is available to borrowers of all Title IV loan types for all periods that include October 1, 2007, or begin on or after that date, during which a borrower is serving in one of the following capacities:

Response:

The Committee agrees with the commenter that this deferment is available for all Title IV loan types, but since the focus of the *Common Manual* is policies related to FFELP loans our preference is to reference only Stafford, PLUS and Consolidation loans in the policy. The *Common Manual* does not outline the other deferments that are available through other Title IV loan programs, and mentions other Title IV programs only when it enhances the context or improves the reader's understanding of the FFELP provisions by comparison or contrast.

Change:

The following change to paragraph 2 in Subsection 11.9.A:

This deferment is available to Stafford, PLUS and Consolidation loan borrowers for all periods that include October 1, 2007, or begin on or after that date, during which a borrower is serving in one of the following capacities:

COMMENT:

Two commenters noted that footnote #11 of the Deferment Eligibility Chart needs to be revised to remove reference to “during a war or other military operation or national emergency” since this is not a requirement. Also, the commenters suggested adding reference to the requirement that the borrower must have been enrolled at least half-time prior to being activated.

Response:

The Committee agrees and thanks the commenters for their careful review of the Deferment Eligibility Chart.

Change:

Footnote #11 of the Deferment Eligibility Chart has been revised as follows:

¹¹A deferment may be granted to a borrower called to active National or State duty ~~during a war or other military operation or national emergency~~ who is a member of the National Guard or Reserves (including retired members) and who was enrolled at least half time at an eligible school at the time of, or within 6 months prior to, being activated.

In making this revision, the Committee noticed another change to the chart is needed. The heading “Borrower-Based Deferments” has been removed based on the fact that the military service deferment is no longer loan-based, thus eliminating the need to distinguish between deferments that are borrower-based versus loan-based.

COMMENT:

One commenter suggested adding the caveat to Section 11.9 that payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment are not refunded, per §682.210(t)(5) and FP-08-01.

Response:

The Committee agrees.

Change:

Section 11.9 has been revised to add the following paragraph:

Payments made by or on behalf of a borrower during a period for which the borrower qualified for a military service deferment are not refunded.
[§682.210(t)(5)]

COMMENT:

One commenter suggested adding the following clarification to paragraph 1, sentence 2 of Subsection 11.8.B:

The documentation must show that the borrower was a member of the National Guard or Reserves (including a member in a retired status), and establish an end-of-military service date and the borrower's enrollment status at an eligible school at the time of, or within six months, prior to military activation.

Response:

The Committee agrees.

Change:

Subsection 11.8.B, paragraph 1, sentence 2 has been revised as suggested by the commenter.

COMMENT:

One commenter suggested striking new Subsection 11.8.D stating that the simplified deferment process is not applicable to military deferments. The commenter stated that the *Federal Register* that provides for a lender to grant a deferment based on another lender's granting of a like deferment applies that ability to deferments provided for in §682.210(s)(3) - (s)(6), and that none of the military deferment provisions are included in that range.

Response:

The Committee disagrees. The ability for a lender to use the simplified deferment process for the military service deferment and for the for the military active duty student deferment is located in §682.210(t)(7) and §682.210(u)(4), respectively. Both regulations state that a lender may grant a borrower a military service deferment (or military active duty student deferment) under the procedures specified in paragraphs (s)(1)(iii) through (s)(1)(v) of §682.210. By virtue of the cross-reference, the simplified deferment process may be used by lenders in granting the military deferments. The Committee does, however, acknowledge that the simplified deferment process is not available for processing the old Armed Forces deferment for borrowers who may be eligible for that deferment based on their military status.

Change:

None.

sf-nm/edited-rl

Deferment Eligibility Chart

Figure 11-1

See Section H.4 for information about a statutory or regulatory waiver authorized by the HEROES Act that may impact these requirements.

| Form | Deferment Type | Time Limit | Stafford and SLS Loans | | | PLUS Loans | | | | Consolidation Loans | |
|----------------------------------|--|------------|------------------------|---|----------------------------------|----------------------|---------------------|---|----------------------------------|----------------------------------|----------------------------------|
| | | | Pre 7/1/87 Borrower | New ¹ Borrower 7/1/87 to 6/30/93 | New ² Borrower 7/1/93 | Loans Before 8/15/83 | Pre 7/1/87 Borrower | New ¹ Borrower 7/1/87 to 6/30/93 | New ² Borrower 7/1/93 | Pre 7/1/93 Borrower ⁸ | New Borrower 7/1/93 ⁹ |
| Borrower-Based Deferments | | | | | | | | | | | |
| SCH | In-School: Full Time | None | • | • | • | • | • | • | • | • | • |
| | In-School: Half Time ⁷ | None | | • | • | | | • | • | • | • |
| EDU | Graduate Fellowship | None | • | • | • | • | • | • | • | • | • |
| | Rehabilitation Training | None | • | • | • | • | • | • | • | • | • |
| | Teacher Shortage | 3 Years | | • | | | | | | | |
| | Internship/Residency Training | 2 Years | • | • | | • | | | | | |
| TDIS | Temporary Total Disability ³ | 3 Years | • | • | | • | • | • | | • | |
| PUB | Armed Forces or Public Health Services ⁴ | 3 Years | • | • | | • | | | | | |
| | National Oceanic and Atmospheric Administration Corps ⁴ | 3 Years | | • | | | | | | | |
| | Peace Corp. ACTION Program and Tax-Exempt Organization Volunteer | 3 Years | • | • | | • | | | | | |
| UNEM | Unemployment | 2 Years | • | • | | • | • | • | | • | |
| | Unemployment | 3 Years | | | • | | | | • | | • |
| PLWM | Parental Leave ⁵ | 6 Months | • | • | | | | | | | |
| | Mother Entering/Reentering Workforce | 1 Year | | • | | | | | | | |
| HRD | Economic Hardship | 3 Years | | | • | | | | • | | • |
| PLUS ⁶ | In School: Full Time | None | | | | | | • | | | |
| | In School: Half Time | None | | | | | | • | | | |
| | Rehabilitation Training | None | | | | • | • | • | | | |
| MIL | Military Service ¹⁰ | None | • | • | • | • | • | • | • | • | • |
| | Military Active Duty Student ¹¹ | None | • | • | • | • | • | • | • | • | • |

¹ "New Borrower" 7/1/87 to 6/30/93: A borrower whose first FFELP loan was made on or after July 1, 1987, and before July 1, 1993, or who had an outstanding balance on a loan obtained on or after July 1, 1987, and before July 1, 1993, when he or she obtained a loan on or after July 1, 1993, or who had no outstanding balance on a Federal Consolidation loan made before July 1, 1993, that repaid a loan first disbursed before July 1, 1987.

² "New borrower" 7/1/93: A borrower whose outstanding FFELP loans were all made on or after July 1, 1993, and when he or her first FFELP loan was made on or after July 1, 1993, had no outstanding FFELP loans that were made before July 1, 1993.

³ A deferment may be granted during periods when the borrower is temporarily totally disabled or during which the borrower is unable to secure employment because the borrower is caring for a dependent (including the borrower's spouse) who is temporarily totally disabled.

⁴ Borrowers are eligible for a combined maximum of three years of deferment for service in NOAA, PHS, and Armed Forces.

⁵ A parental leave deferment may be granted to a borrower in periods of no more than 6 months each time the borrower qualifies.

⁶ Deferment for parent borrower during which the dependent student for whom the parent obtained a PLUS loan meets the deferment eligibility requirements.

⁷ A borrower who received a Federal Consolidation loan before July 1, 1993, that repaid a loan made before July 1, 1987, or who had an outstanding balance on a FFELP loan obtained prior to July 1, 1987, when the Federal Consolidation loan was obtained, is eligible for in-school deferment only if the borrower attends schools full-time.

⁸ A borrower with a Federal Consolidation loan made before July 1, 1993, or a borrower who receives a Consolidation loan on or after July 1, 1993, who has any outstanding FFELP loan(s) at the time of consolidation that was first disbursed before July 1, 1993.

⁹ A borrower who receives a Federal Consolidation loan made on or after July 1, 1993, who has no outstanding FFELP loans at the time of consolidation that were made on or before July 1, 1993.

¹⁰ A deferment may be granted to a borrower who is serving on active duty during a war or other military operation or national emergency (including qualifying National Guard duty).

¹¹ A deferment may be granted to a borrower called to active National or State duty who is a member of the National Guard or Reserves (including retired members) and who was enrolled at least half time at an eligible school at the time of, or within 6 months prior to, being activated.

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: April 17, 2008

| | | | |
|---|----------|------------------------|--------|
| | DRAFT | Comments Due | |
| | FINAL | Consider at GB meeting | |
| X | APPROVED | with no changes | Apr 17 |

SUBJECT: Definition of "School-Affiliated Organization"

AFFECTED SECTIONS: 3.2 Schools Acting as Lenders and Eligible Lender Trustee Relationships
Appendix G

POLICY INFORMATION: 1049/Batch 150

EFFECTIVE DATE/TRIGGER EVENT: July 1, 2008.

BASIS:

§682.200; preamble to the *Federal Register* dated November 1, 2007, pp. 61979.

CURRENT POLICY:

Current Manual text in Section 3.2 provides a definition for "school-affiliated organization" but that definition is not included in the glossary.

REVISED POLICY:

Revised policy adds a glossary definition that states that a school-affiliated organization is any organization that is directly or indirectly related to a school and includes, but is not limited to: alumni organizations, foundations, athletic organizations, or social, academic, or professional organizations. Corresponding text in Subsection 3.2 has also been updated to mirror the language in the new glossary definition.

REASON FOR CHANGE:

To provide a glossary definition of the term "school-affiliated organization" that aligns Manual text with language in Section 3.2.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Appendix G, page 17, column 2, after paragraph 2 as follows:

School-Affiliated Organization: Any organization that is directly or indirectly related to a school, and includes, but is not limited to, alumni organizations, foundations, athletic organizations, and social, academic, and professional organizations.

Revise Section 3.2, page 3, column 2, bullet 1, as follows:

Note: This text was previously revised in Proposal 1016/Batch 148, Eligible Lender Trustee (ELT) Relationships.

- A "school-affiliated organization" is defined as any organization that is directly or indirectly ~~connected~~ related to the school, and includes, but is not limited to, an alumni organization, foundation, athletics organization, ~~or~~ and social, academic, ~~or~~ and professional organizations.

PROPOSED LANGUAGE - COMMON BULLETIN:

"School-Affiliated Organization" Definition

The definition for school-affiliated organization has been added to Appendix G stating that a school-affiliated organization is any organization that is directly or indirectly related to a school including, but not limited to: alumni organizations, foundations, athletic organizations, or social, academic, or professional organizations. Corresponding text in Section 3.2 has also been updated to mirror the language of the new glossary definition.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 6, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 17, 2008

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, VSAC and Wachovia.

Responses to Comments

Most of the commenters supported this proposal as written. One commenter recommended wordsmithing, grammatical, or other non-substantive 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:

One commenter recommended revising the text in Section 3.2, page 3 column 2, bullet 1 to correspond with the new glossary definition, as well as adding a note that this language was previously revised in Proposal 1016, Batch 148.

Response:

The Committee agrees.

Change:

A directional statement has been added and the text revised in Section 3.2, page 3, column 2, bullet 1, as

follows:

Note: This text was previously revised in Proposal 1016/Batch 148, Eligible Lender Trustee (ELT) Relationships.

A "school-affiliated organization" is defined as any organization that is directly or indirectly ~~connected~~ related to the school, including but not limited to, an alumni organization, foundation, athletic organizations, ~~or~~ and social, academic, ~~or~~ and professional organizations.

om/edited-bb