

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1079	Social Security Number on Individual Checks and Master Check Transmittals	<p><u>7.7.C</u> <u>Disbursement by Individual Check</u> <u>7.7.D</u> <u>Disbursement by Electronic Funds Transfer (EFT) or Master Check</u></p> <p>Removes the requirement that the lender provide any SSN(s) on an individual check and affords the lender alternative methods by which sufficient information is provided with or on the check to ensure that the school can efficiently match the check with the correct student or borrower to facilitate timely delivery.</p> <p>Removes the requirement that the master check roster always include the SSN for the dependent student for a parent PLUS loan by affording the lender the option to include <i>either</i> the student's SSN or other reliable identifying information.</p>	Guarantor	Loan disbursement checks issued by the lender on or after July 1, 2009, unless implemented earlier by the lender or the guarantor.
1080	Child Care Forgiveness	<p><u>2.3.C</u> <u>Common Forms</u> <u>Figure 11-2</u> <u>Forbearance Eligibility Chart</u> <u>11.24.C</u> <u>National Service, Loan Forgiveness, or Department of Defense Repayment</u> <u>Chapter 13</u> <u>Claim Filing, Discharge, and Forgiveness</u> <u>13.9</u> <u>Forgiveness</u> <u>13.9.A</u> <u>Loan Forgiveness Demonstration Program for Child Care Providers</u> <u>13.9.B</u> <u>Teacher Loan Forgiveness Program</u> <u>Appendix D.9</u> <u>Other Department Contact Information</u> <u>Appendix G</u> <u>Glossary</u></p> <p>Removes references throughout the Manual to the Child Care Providers Loan Forgiveness program, and renumbers the Teacher Loan Forgiveness Program as Subsection 13.9.A.</p>	Federal	August 14, 2008.

1081	Revised Notice of Assignment, Sale, or Transfer	<p><u>3.4.B</u> <u>Loan Assignment, Sale, or Transfer</u></p> <p>Amends the Manual to require that the notification that the lender or holder sends to the borrower when the loan is assigned, sold, or transferred to another lender or holder also include the effective date of the transaction and the date on which the current holder will stop accepting payments, and the date on which the new loan holder will begin accepting payments.</p>	Federal	Loans assigned, sold, or transferred by the lender or holder on or after August 14, 2008.
1082	Permitted and Prohibited Activities	<p><u>3.4.C</u> <u>Permitted and Prohibited Activities</u></p> <p>Specifies that the assistance a lender may provide to a school is limited to technical assistance comparable to the kinds of technical assistance provided to a school by the Department under the Federal Direct Loan Program (FDLP).</p> <p>Amends the activities a lender is prohibited from providing to a school based on the provisions of Higher Education Opportunity Act (HEOA).</p>	Federal	Lender activities that occur on or after August 14, 2008.
1083	Student Consumer Information	<p><u>4.4.B</u> <u>Consumer Information</u></p> <p>Adds to the Manual consumer information that a school must disclose to a student based on the provisions of the HEOA.</p> <p>Deletes from the Manual consumer information-related requirements that a school is no longer required to disclose to student borrowers.</p> <p>Clarifies that foreign schools are exempt from the requirement to publish an annual security report.</p> <p>Incorporates clarifications that are intended to be non-substantive in nature and align the Manual's text with existing regulatory language.</p>	Federal	<p>August 14, 2008.</p> <p><i>If the Department publishes guidance with a different triggering event, the Common Manual will immediately notify the FFELP community of the change.</i></p> <p>The deletion of the requirement to retain a signed consumer information disclosure in the student's file is retroactive to the implementation of the <i>Common Manual</i>.</p>
1084	Extenuating Circumstances in Adverse Credit Determinations	<p><u>7.1.B</u> <u>Creditworthiness</u></p> <p>Provides that in addition to the four examples of extenuating circumstances, a lender may approve a PLUS loan for an applicant with adverse credit if he or she is or has been 180 days or less delinquent, during the period beginning</p>	Federal	Effective for loans first disbursed on or after July 1, 2008, for extenuating circumstances existing between January 1, 2007

		on January 1, 2007, and ending on December 31, 2009, on mortgage loan payments or on medical bill payments for the applicant or the applicant's family.		and December 31, 2009.
1085	Capitalizing Interest on PLUS Loans Withdrawn and moved to considered based on community comments	10.10 <u>Capitalizing Accrued Interest Permitted Capitalization</u> 10.10.A <u>Capitalization</u> 10.10.B <u>Frequency</u> Provides that for a PLUS loan first disbursed on or after July 1, 2008, the lender must capitalize unpaid interest if the borrower does not pay the interest. Interest may be capitalized no more frequently than quarterly.	Federal	PLUS loans first disbursed by the lender on or after July 1, 2008.
1086	PLUS In-School and Post-Enrollment Deferment	11.6 <u>In-School Deferment and Summer Bridge Eligibility Criteria—In-School</u> 11.6.A States that a PLUS loan borrower who meets the conditions required for an in-school deferment may defer all of his or her PLUS, Stafford, or Consolidation loans, as applicable. In addition, a parent PLUS borrower may request an in-school deferment of his or her PLUS loans, first disbursed on or after July 1, 2008, based on the in-school status of the student for which the loan was made.	Federal	PLUS loans first disbursed on or after July 1, 2008.
1087	In-School Deferment from NSLDS Data	11.6.B <u>Deferment Documentation—In-School</u> Requires the lender, at the request of a school, to use data on the NSLDS to process a borrower's in-school deferment.	Federal	In-school deferments granted by the lender on or after August 14, 2008.
1088	Loan Forgiveness for Service in Areas of National Need	13.9.B <u>Loan Forgiveness for Service in Areas of National Need</u> Adds information regarding Loan Forgiveness for Service in Areas of National Need that was added as a result the HEOA.	Federal	School, academic, or calendar year of full-time employment completed after August 14, 2008.
1089	Loan Repayment for Civil Legal Assistance Attorneys	13.9.C <u>Loan Repayment for Civil Legal Assistance Attorneys</u> Adds information regarding Loan Repayment for Civil Legal Assistance Attorneys that was added as a result of the HEOA.	Federal	August 14, 2008.

COMMON MANUAL - GUARANTOR POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: Social Security Number on Individual Checks and Master Check Transmittals

AFFECTED SECTIONS: 7.7.C Disbursement by Individual Check
7.7.D Disbursement by Electronic Funds Transfer (EFT) or Master Check

POLICY INFORMATION: 1079/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: Loan disbursement checks issued by the lender on or after July 1, 2009, unless implemented earlier by the lender or the guarantor.

BASIS:
None.

CURRENT POLICY:
Current policy requires the lender to include the student's and/or borrowers' Social Security number (SSN) on a Stafford or PLUS individual check. Current policy requires the lender that is issuing a master check to include both the borrower's SSN and, in the case of a parent PLUS loan, the SSN of the dependent student.

REVISED POLICY:
Revised policy removes the requirement that the lender provide any SSN(s) on an individual check and affords the lender alternative methods by which it can provide sufficient information with or on the check to ensure that the school can efficiently match the check with the correct student or borrower to facilitate timely delivery. Revised policy also removes the requirement that the master check roster always include the SSN for the dependent student for a parent PLUS loan by affording the lender the option to include *either* the student's SSN or other reliable identifying information.

REASON FOR CHANGE:
Changes in federal and state privacy laws limit the use of the SSN; thus, requiring the SSN on individual checks may put some lenders in jeopardy of violating other non-FFELP rules. The lender must continue to provide sufficient identifying information on the check to ensure that the school may efficiently match the disbursement with the appropriate student.

Federal regulations regarding master checks require the lender to include the borrower's SSN on the master check roster, but there is no FFELP regulatory requirement that the lender also include the student's SSN. Lenders that choose to include the student's SSN on the master check roster may encounter conflicts with applicable state and/or federal laws.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 7.7.C, page 13, column 2, paragraph 2, as follows:

7.7.C Disbursement by Individual Check

A Stafford loan disbursed by an individual check must be made payable to the student or made copayable to the student and the school. A PLUS loan disbursed by an individual check must be made copayable to the borrower and the school. The lender must provide both the borrower's name and Social Security number on the loan check, and student's names and Social Security number for parent PLUS loans. The lender also must provide sufficient identifying information on the individual check to ensure that the school may efficiently match

the check to the appropriate student. Such information may include the borrower's and/or student's Social Security number; a student identifier assigned by the school or lender, and communicated to the other party, or other reliable identifying information. The lender must send an individual checks for a Stafford or and PLUS loan borrowers directly to the school, except in the case of a student enrolled at an eligible foreign school (see Subsection 7.7.E). [§682.207(b)(1)(ii)(A); §682.207(b)(1)(v)(B)(2) and (3)]

Revise Subsection 7.7.D, page 14, column 1, paragraph 3, as follows:

For proceeds disbursed by EFT or master check, the lender must provide the school with a roster (transmittal) listing each borrower's name; and Social Security number (SSN), the gross amount of the disbursement, and the net amount of the disbursement after the ~~guarantee~~ federal default and origination fees are deducted, as applicable. For a parent PLUS loans, the roster also must include the name and SSN or other reliable identifying information ~~Social Security number~~ of the student for whom the parent is borrowing. This information may be provided to the school electronically or by fax, overnight mail, or courier. [§682.207(b)(1)(v)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Social Security Numbers on Individual Checks and Master Check Transmittals

The *Common Manual* has been revised to remove the requirement that the lender provide the borrower's and/or the student's Social Security number (SSN) on an individual check. The Manual continues to require that the lender provide sufficient identifying information on the check to ensure that the school may efficiently match the check to the appropriate student. Such information may include the borrower's and/or student's SSN, a student identifier assigned by the school or lender and communicated to the other party, or other reliable identifying information.

In addition, for a lender that issues master checks, the lender is required by federal regulation to include the borrower's name and SSN, but in the case of a parent PLUS Loan, there is no federal requirement that the lender include the dependent student's SSN. Manual language has been revised to permit the lender to use alternate identifiers for the dependent student on the master check transmittal as well.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower or dependent student may be exposed to less risk of identity theft by removing the requirement that the lender provide the SSN.

School:

A school may establish processes with its lenders to use alternate identifiers in some instances in the loan disbursement and delivery process.

Lender/Service:

A lender/service may establish processes with its schools to use alternate identifiers in some instances in the loan disbursement and delivery process.

Guarantor:

A guarantor may be required to revise its program review procedures.

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:
October 23, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
February 12, 2009

PROPOSAL DISTRIBUTED TO:
CM Policy Committee
CM Guarantor Designee
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received from:
AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Other commenters recommended wordsmithing changes that made no substantive changes to the policy but that added clarity and consistency to the proposed language. 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 changes to the final sentence in Subsection 7.7.D, amending the statement regarding the lender's sending of individual disbursement checks to students enrolled in foreign schools to include a reference to certain disbursement rule exceptions in Subsection 7.7.C.

Response:

The cited paragraph contains a cross-reference to another *Common Manual* subsection and that cite itself contains additional subsection cross-references to Subsection 7.7.C. The Committee does not believe that adding another cite to the sentence will add substantively to the clarity of the policy itself.

Change:

None.

bg/edited - kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: Elimination of the Child Care Provider Loan Forgiveness Program

AFFECTED SECTIONS:

2.3.C	Common Forms
Figure 11-2	Forbearance Eligibility Chart
11.24.C	National Service, Loan Forgiveness, or Department of Defense Repayment
Chapter 13	Claim Filing, Discharge, and Forgiveness
13.9	Forgiveness
13.9.A	Loan Forgiveness Demonstration Program for Child Care Providers
13.9.B	Teacher Loan Forgiveness Program
Appendix D.9	Other Department Contact Information
Appendix G	Glossary

POLICY INFORMATION: 1080/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: August 14, 2008.

BASIS:

HEA §428K, as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:

Current policy describes the Child Care Provider Loan Forgiveness Program as a demonstration program.

REVISED POLICY:

Revise policy removes references throughout the *Common Manual* to the Child Care Provider Loan Forgiveness Program. In addition, revised policy renumbers the subsection on the Teacher Loan Forgiveness Program as Subsection 13.9.A. Information on this change will be placed into the History Appendix during the annual Appendix H update.

REASON FOR CHANGE:

This change is made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 2.3.C, page 14, column 1, under Loan Discharge/Forgiveness Forms, as follows:

Loan Discharge/Forgiveness Forms

- Loan Discharge Application: School Closure
- Loan Discharge Application: False Certification of Ability to Benefit
- Loan Discharge Application: False Certification (Disqualifying Status)
- Loan Discharge Application: Unauthorized Signature/Unauthorized Payment
- Loan Discharge Application: Total and Permanent Disability
- Loan Discharge Application: Unpaid Refund
- Loan Discharge Application: Spouse and Parents of September 11, 2001 Victims
- Teacher Loan Forgiveness Application
- Teacher Loan Forgiveness Forbearance Form
- ~~Child Care Provider Loan Forgiveness Application for Renewal Benefits~~
- ~~Child Care Provider Loan Forgiveness Forbearance Form~~

Revise Figure 11-2, page 30, as follows:

Mandatory	
Medical or Dental Internship/Residency ^{2,3}	12-month increments (or a lesser period equal to actual period during which the borrower is eligible); no maximum
Department of Defense Student Loan Repayment Programs ³	
National Service ^{2,3}	
Child Care Provider Loan Forgiveness ^{2,9} <i>Note: Contingent upon funding by Congress.</i>	Period while borrower maintains forgiveness eligibility. 12-month increments
Debt Exceeds Monthly Income ^{4,5}	12-month increments; 3 years maximum
Teacher Loan Forgiveness ^{2,3}	Period while borrower maintains forgiveness eligibility. 12-month increments

Note: For detailed information about each forbearance situation, refer to the applicable subsection.

¹ Lender must document the borrower's request, the reason for the forbearance, and the terms of the forbearance agreement.

² For borrowers only.

³ A request and supporting documentation from the authorized official(s) indicating the beginning and ending dates, and a verbal or written agreement are required.

⁴ A request is required.

⁵ A request and supporting documentation of monthly income and monthly payments on Title IV education loan obligations, and a verbal or written agreement are required.

⁶ Lender must notify the borrower (or individual or endorser, if applicable) and document the beginning and ending dates and reason for the forbearance in borrower history record.

⁷ Notice from the Department or guarantor is required.

⁸ Documentation showing borrower is subject to a military mobilization is required.

~~⁹ A request and a completed FFELP Child Care Provider Loan Forgiveness Forbearance Form are required.~~

Revise Subsection 11.24.C, page 40, column 2, paragraph 1, bullet 2, as follows:

**11.24.C
National Service, Loan Forgiveness, or Department of Defense Repayment**

The lender must grant forbearance in yearly increments—or a lesser period equal to the actual period during which the borrower is eligible—for any period during which the borrower meets one of the following criteria:

- ...
- ~~Performs service that would qualify the borrower for forgiveness under the Child Care Provider Loan Forgiveness Program (see Subsection 13.9.A), unless the borrower has been granted a deferment for that period of service. Before granting a forbearance to a borrower, the lender must receive a completed FFELP Child Care Provider Loan Forgiveness Forbearance Form.~~

~~For additional information, refer to pages 39263-39265 of the *Federal Register* dated July 27, 2001, and pages 55385-55387 of the *Federal Register* dated August 29, 2002.~~

- ...

Revise Chapter 13, page 1, column 1, paragraph 1, as follows:

Chapter 13 describes the policies governing filing a claim with a guarantor and requesting loan discharge or loan forgiveness. This chapter discusses the policies related to and the documentation required for default claims, as well as for the various loan discharge types—closed school, death of a borrower or student for whom a PLUS loan was obtained, false certification, total and permanent disability, and unpaid refund. Bankruptcy claim filing procedures are also covered, as well as a description of the procedures for the Teacher Loan Forgiveness Program and the Loan Demonstration Program for Child Care Providers.

Revise Section 13.9, page 54, column 1, paragraph 1, as follows:

13.9 Forgiveness

Loan forgiveness is the release of a borrower's or any comaker's, as applicable, obligation to repay his or her loan, either in whole or in part, as a result of public service provided by the borrower or comaker. Congress has authorized two programs that provide loan forgiveness to qualified FFELP borrowers. Both of these programs and their corresponding borrower eligibility criteria are outlined in this section.

Delete Subsection 13.9.A, pages 54 to 55, as follows:

~~13.9.A Loan Forgiveness Demonstration Program for Child Care Providers~~

~~The Loan Forgiveness Demonstration Program for Child Care Providers is intended to bring more highly trained individuals into the early child care profession and to retain those providers for longer periods of time. Loan forgiveness under this demonstration program is contingent upon the availability of annual appropriations. Under this program, the Department repays up to 100% of a borrower's eligible Stafford loan obligations. For the purpose of this program, the term "child care services" is defined as activities and services provided for the education and care of children from birth through age 5.~~

~~A borrower must meet the following criteria to qualify for this forgiveness program:~~

- ~~• The borrower must be a "new borrower" on or after October 8, 1998.
{HEA §428K(c)}~~
- ~~• The borrower's eligible loan(s) must have been made before the beginning of the borrower's qualifying child care service.~~
- ~~• The borrower must have received an associate's or bachelor's degree in early childhood education after October 7, 1998. This field is defined as education in the areas of early child education, child care, or any other educational area related to child care that the Department determines to be appropriate.
{HEA §428K(c)(1)}~~
- ~~• The borrower must obtain employment in a child care facility, defined as a facility, including a home, that provides child care services and meets the applicable state of local government licensing, certification, approval, or registration requirements, if any.~~
- ~~• The borrower must work full time as a child care provider in a low-income community for at least 2 consecutive years immediately preceding the year during which forgiveness is requested. A low-income community is defined as one in which at least 70% of households within the community earn less than 85% of the state's median household income.
{HEA §428K(c)(1) and (2)}~~

If the borrower qualifies, the Department will pay—on a first-come, first-served basis, subject to the availability of funds—a percentage of the total amount of all eligible loans (excluding PLUS and Consolidation Loans) at the rate of:

~~20% after completion of the 2nd year
20% after completion of the 3rd year
30% after completion of the 4th year
30% after completion of the 5th year~~

The Department will also pay a proportionate amount of the interest that accrues each year. ~~{HEA §428K(d)(1) and (3)}~~

If an individual not participating in this program returns to school, after initially graduating from school, to obtain an associate or baccalaureate degree in early childhood education, the student may apply to the Department for repayment under this forgiveness program of qualified loans received for a maximum of two academic years when the student returned to school. Repayment by the Department will be made in accordance with the preceding rate schedule.

~~{HEA §428K(d)(4)}~~

The Department will give loan repayment priority to borrowers who received forgiveness in the prior year. No borrower may, for the same service, receive a benefit under both this Loan Forgiveness Program for Child Care Providers and subtitle D of Title I of the National and Community Service Act of 1990.

~~{HEA §428K(c)(3)(B)}~~

Qualified borrower may request loan forgiveness at the end of the second and each subsequent year of eligible child care employment by submitting a completed Child Care Provider Loan Forgiveness Application to the Department and providing any supporting documentation the Department requires. The Department will determine the borrower's eligibility and notify the borrower of the amount that is being forgiven (see Appendix D for Department of Education contact information specific to this program). During the period of eligible employment, a borrower may request a forbearance by submitting a completed Child Care Provider Loan Forgiveness Forbearance Form to the lender (see Subsection 11.24.C). The lender must grant the borrower a forbearance unless the borrower qualifies for a deferment.

~~{HEA §428K(d)(1) and (f)}~~

Receipt of a benefit under this program does not entitle the borrower to a refund of payments made on the loan.

~~{HEA §428K(d)(2); Federal Register dated August 29, 2002}~~

Renumber Subsection 13.9.B, page 55, column 1, as follows:

13.9.BA
Teacher Loan Forgiveness Program

Revise Section D.9, page 3, column 2, paragraph 1, as follows:

~~Child Care Provider Loan Forgiveness Program~~

~~Borrowers apply for child care provider loan forgiveness directly with the Department of Education. The program is contingent upon the availability of annual appropriations. For more information, see Subsection 13.9.A.~~

~~The Department has set up a support desk to answer borrower questions about the program at (888) 562-7002. Borrowers send their completed forgiveness applications to:~~

~~Child Care Provider Loan Forgiveness Program
PO Box 4639
Utica, NY 13504-4639~~

Revise Appendix G, page 9, column 2, paragraph 1, as follows:

Forgiveness: The release of a borrower or any comaker, as applicable, from all or a portion of his or her loan obligation ~~due to~~ as a result of public service provided by the borrower or comaker, qualifying child care service or qualifying teaching service as authorized by Title IV, Part B of the Higher Education Act, as amended. See Section 13.9.

PROPOSED LANGUAGE - COMMON BULLETIN:

Elimination of the Child Care Provider Loan Forgiveness Program

The Higher Education Opportunity Act (HEOA), P.L. 110-315, eliminated the Child Care Provider Loan Forgiveness Program. Text regarding this program will be moved to the History Appendix during the annual update of Appendix H.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower can no longer apply for new benefits under the Child Care Provider Loan Forgiveness Program.

School:

None.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

The Department no longer needs to review new applications under the Child Care Provider Loan Forgiveness Program.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

June 27, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designee

Interested Industry Groups and Others

CM Governing Board Representatives

COMMENTS RECEIVED FROM:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC.

RESPONSES TO COMMENTS

Many commenters supported this proposal as written. Other commenters recommended punctuation or wordsmithing 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 pointed out that new text in the glossary definition of forgiveness was not underlined. One of the commenters also wanted the incomplete sentence in the glossary definition to be made into a complete sentence. The other commenter noted that the period in the middle of the sentence should be changed to a comma.

Response:

The Committee appreciates the commenters' careful review. We have underlined the new text in the glossary definition and added a comma before the incomplete phrase so that it is one sentence as intended.

Change:

The new text in the glossary definition for forgiveness has been underlined. The new definition as it will appear in the next Manual is as follows:

Forgiveness: The release of a borrower or any comaker, as applicable, from all or a portion of his or her loan obligation as a result of public service provided by the borrower or comaker, as authorized by Title IV, Part B of the Higher Education Act, as amended. See Section 13.9.

COMMENT:

One commenter suggested that in addition to the changes proposed in this proposal, that changes be made to the overall *Common Manual* Table of Contents, to the Chapter 13 Table of Contents, and to the Index as needed.

Response:

The Committee agrees that these changes are needed, but these changes are not policy related, therefore they do not belong in the Policy Proposal itself. They are formatting related changes that are performed during the prepress activities for the Manual's updates.

Change:

None.

SM/edited - chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: Revised Notice of Assignment, Sale, or Transfer

AFFECTED SECTIONS: 3.4.B Loan Assignment, Sale, or Transfer

POLICY INFORMATION: 1081/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: Loans assigned, sold, or transferred by the lender or holder on or after August 14, 2008.

BASIS:

HEA §428(b)(2)(F)(i), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy does not include the additional disclosures required by the HEOA.

REVISED POLICY:

Revised policy requires that the notification that the lender or holder sends to the borrower when the loan is assigned, sold, or transferred to another lender or holder also include the effective date of the transaction, the date on which the current holder or servicer will stop accepting payments, and the date on which the new holder or servicer will begin accepting payments.

REASON FOR CHANGE:

This change is made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 3.4.B, page 8, column 2, paragraph 4, as follows:

Both the buying and selling holders must notify the borrower—either jointly or separately—of a loan's assignment, sale, or transfer~~sale~~. This notification must include the following information:

[§682.208(e)(1)(i)]

- The identity of the buying lender and/or the new servicer.
[§682.208(e)(1)(ii)]
- The address to which the borrower's subsequent payments and communications should be sent.
[§682.208(e)(1)(iii)]
- The telephone numbers of both the buying and selling lenders—or, if either lender utilizes a ~~loan~~ servicer, the telephone number of each servicer.
[682.208(e)(1)(iv)]
- The effective date of the loan's assignment, sale, or transfer.
[HEA §428(b)(2)(F)(i)(V)]
- The date on which the current holder or servicer will stop accepting payments and the date on which the new holder or servicer will begin accepting payments.
[HEA §428(b)(2)(F)(i)(VI) and (VII)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Revised Notice of Assignment, Sale, or Transfer

The *Common Manual* has been revised to require that the notification that the lender or holder sends to the borrower when the loan is assigned, sold, or transferred to another lender or holder also include the effective date of the transaction, the date on which the current holder or servicer will stop accepting payments and the date that the new holder or servicer will begin accepting payments.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may receive additional information in the loan assignment, sale, or transfer notification that the lender is required to send.

School:

None.

Lender/Servicer:

A lender may be required to amend the notice it sends to the borrower when a loan is assigned, sold, or transferred.

Guarantor:

A guarantor may be required to amend its program review procedures.

U.S. Department of Education:

The Department may be required to amend 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 28, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

All commenters supported this proposal as written. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

bg/edited - kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With Changes	Feb 19

SUBJECT: Permitted and Prohibited Activities

AFFECTED SECTIONS: 3.4.C Permitted and Prohibited Activities

POLICY INFORMATION: 1082/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: Lender activities that occur on or after August 14, 2008.

BASIS:

HEA §435(d)(5) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-12-08/FP-08-10.

CURRENT POLICY:

Current policy does not reflect the permitted and prohibited activities for lenders as revised by the HEOA.

REVISED POLICY:

Revised policy specifies that the assistance a lender may provide to a school is limited to technical assistance comparable to the kinds of technical assistance provided to a school by the Department under the Federal Direct Loan Program (FDLP).

Revised policy also amends certain existing lender prohibitions. In addition to retaining the prohibition against the offering—directly or indirectly—of points, premiums, payments, and other inducements, a lender is not permitted to offer—directly or indirectly—prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements to any school or employee of the school to secure applications for FFELP loans or to secure FFELP loan volume. Payments have been defined to specifically include payments for referrals and for processing or finder fees. Revisions have also been made to the following prohibited activities:

- Payments or other benefits provided to a student at a postsecondary school who acts as a lender's representative to secure FFELP loan applications from individual prospective borrowers, *unless* the student is also employed by the lender for other purposes and the student has made all appropriate disclosures regarding employment with the lender.
- Compensating a school financial aid office employee or a school employee who has responsibilities with respect to the school's student loans or other financial aid for service on an advisory board, commission, or group established by a lender or group of lenders, *except that* a lender may now reimburse such an employee for reasonable expenses incurred in that service.

Revised policy adds a prohibition against entering into any type of consulting arrangement or other contract, with an employee in the financial aid office of a school or an employee who has responsibilities with respect to student loans or other financial aid at the school, to provide services to the lender. In addition, revised policy clarifies that the prohibition against unsolicited mailings applies to both electronic and traditional postal service delivery and to mailings to students and families of students enrolled in either secondary or postsecondary schools, unless the lender has previously made a FFELP loan to the student or the student's parent.

Revised policy also prohibits a lender from performing for a school or paying, on behalf of a school, another person to perform any function that the school is required to perform under any Title IV program. However, text was revised to state that a lender may participate in person in a school's required exit counseling as long as the school's staff is in control of the counseling, whether in person or via electronic capabilities, and such counseling does not promote the products or services of any specific lender.

REASON FOR CHANGE:

The purpose of the change is to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 3.4.C, page 9, column 1, paragraph 4, 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:

- Technical Assistance to a school that is comparable to the kinds of technical assistance provided to a school by the Department under the Federal Direct Lending Loan Program, as identified by the Department in public announcements, such as a notice in the *Federal Register*.
[HEA §435(d)(5); §682.200(b) definition of *lender* (5)(ii)(A)]
- Exit counseling services, as long as the school's staff is in control of the counseling, whether in person or via electronic capabilities, and such counseling does not promote the products and services of any specific lender.
[HEA §435(d)(5)(G)]
- ...

Revise Subsection 3.4.C, page 10, column 1, paragraph 2, as follows:

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...
 - ...
 - ...
 - ...
 - ...
 - ...
 - ...
- 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 (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements to any school or other party any employee of the school to secure applications for FFELP loans or to secure FFELP loan volume. This includes but is not limited to:
 - ...
 - ...

- Payments or other benefits provided to a student at a postsecondary school who acts as a lender's representative to secure FFELP loan applications from individual prospective borrowers, unless the student is also employed by the lender for other purposes and the student has made all appropriate disclosures regarding employment with the lender.
[HEA §435(d)(5)(G); §682.200(b) definition of *lender* (5)(i)(A)(3)]
- ...
- ...
- 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. Compensating a school financial aid office employee or a school employee who has responsibilities with respect to the school's student loans or other financial aid for service on an advisory board, commission, or group established by a lender or group of lenders, except that a lender may reimburse such an employee for reasonable expenses incurred in that service.
[HEA §435(d)(5)(D)]
- ...
- ...
- ...
- ...
- Performing for a school or paying, on behalf of a school, another person to perform any function that the school is required to perform under any Title IV program. A lender may participate Participating in person in a school's required entrance and exit counseling as long as the school's staff is in control of the counseling, whether in person or via electronic capabilities, and such counseling does not promote the products or services of any specific lender.
[HEA §435(d)(5)(E) and (F); HEA §487(e)(2)(B)(ii)(IV); §682.200(b) definition of *lender* (5)(ii)(B)]
- Conducting unsolicited mailings, by mail or electronically, of student loan application forms to potential borrowers including (i.e., students enrolled in secondary or postsecondary schools and their family members), unless the lender has previously made a FFELP loan to the student or the student's parent who had not previously borrowed student loans from that lender.
[HEA §435(d)(5)(B); §682.200(b) definition of *lender* (5)(i)(B)]
- Entering into any type of consulting arrangement or other contract, with an employee in the financial aid office of a school or an employee who has responsibilities with respect to student loans or other financial aid at the school, to provide services to the lender.
[HEA §435(d)(5)(C)]
- Offering FFELP 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)(G); §682.200(b) definition of *lender* (5)(i)(c)]
- Engaging in fraudulent or misleading advertising with respect to its FFELP activities.
[HEA §435(d)(5)(D); §682.200(b) definition of *lender* (5)(i)(D)]
- ...

• ...

PROPOSED LANGUAGE - COMMON BULLETIN:

Revisions in Permitted and Prohibited Activities

The *Common Manual* has been revised to limit the assistance that a lender may provide to a school to technical assistance comparable to the kinds of technical assistance provided to a school by the Department under the Federal Direct Loan Program.

Revised policy also amends certain existing lender prohibitions. In addition to retaining the prohibition against the offering—directly or indirectly—of points, premiums, payments, and other inducements, a lender is not permitted to offer—directly or indirectly—prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements to any school or employee of the school to secure applications for FFELP loans or to secure FFELP loan volume. Payments have been defined to specifically include payments for referrals and for processing or finder fees. Revisions have also been made to the following prohibited activities:

- Payments or other benefits provided to a student at a postsecondary school who acts as a lender's representative to secure FFELP loan applications from individual prospective borrowers, *unless* the student is also employed by the lender for other purposes and the student has made all appropriate disclosures regarding employment with the lender.
- Compensating a school financial aid office employee or a school employee who has responsibilities with respect to the school's student loans or other financial aid for service on an advisory board, commission, or group established by a lender or group of lenders, *except that* a lender may reimburse such an employee for reasonable expenses incurred in that service.

Revised policy adds a prohibition against entering into any type of consulting arrangement or other contract, with an employee in the financial aid office of a school or an employee who has responsibilities with respect to student loans or other financial aid at the school, to provide services to the lender. In addition, revised policy clarifies that the prohibition against unsolicited mailings applies to mailings made by mail or electronically and to mailings to students and families of students enrolled in secondary or postsecondary schools, unless the lender has previously made a FFELP loan to the student or the student's parent.

Revised policy also prohibits a lender from performing for a school or paying, on behalf of a school, another person to perform any function that the school is required to perform under any Title IV program. However, text was revised to state that a lender may participate in person in a school's required exit counseling as long as the school's staff is in control of the counseling, whether in person or via electronic capabilities, and such counseling does not promote the products or services of any specific lender.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

A school should be aware of services that a lender is permitted to offer to the school.

Lender/Service:

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

Guarantor:

A guarantor may be required to revise 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:
September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
February 12, 2009

PROPOSAL DISTRIBUTED TO:
CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received From:
AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSPL, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds and VSAC.

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 suggested the following revision to the third bullet in Subsection 3.4.C under *Prohibited Activities*:

- Offering—directly or indirectly—points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements to any school, any employee of the school, ~~or other party~~ to secure applications for FFELP loans or to secure FFELP loan volume. This includes but is not limited to:

The rationale for the request is to provide consistency with the text of the HEOA.

Response:

The Committee agrees with the suggested change.

Change:

The third bullet has been revised as follows:

- Offering—directly or indirectly—points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements to any school or ~~other party~~ any employee of the school to secure applications for FFELP loans or to secure FFELP loan volume. This includes but is not limited to:

COMMENT:

Three commenters offered the following revisions to the fifth bullet in Subsection 3.4.C under *Prohibited Activities*:

- Conducting unsolicited mailings, by mail or electronically, of student loan application forms to potential borrowers, including students enrolled in secondary or postsecondary schools or their family members, who had not previously borrowed FFELP loans from that lender. However, unsolicited FFELP loan applications can be sent to potential borrowers who have previously borrowed a FFELP loan from the lender.

The rationale for the first revision is to expand the prohibition on unsolicited loan applications being sent to family members, such as PLUS applications being sent to prospective parent borrowers. The rationale for the second revision is to include the permission to send unsolicited loan applications to borrowers who have a previous borrowing relationship with the lender.

Response:

The Committee agrees with the suggested revision to include the clarifying phrase, “or their family members” and with the clarification that lenders are permitted to send unsolicited loan application to borrowers with whom they have a previous FFELP borrowing relationship.

Change:

The fifth bullet in Subsection 3.4.C has been revised as follows:

- Conducting unsolicited mailings, by mail or electronically, of student loan application forms to potential borrowers ~~including (i.e., students enrolled in secondary or postsecondary schools and their family members), unless the lender has previously made a FFELP loan to the student or the student’s parent who had not previously borrowed FFELP loans from that lender.~~

COMMENT:

Two commenters suggested that the last sentence of the third paragraph in Revised Policy be changed as follows:

In addition, revised policy clarifies that the prohibition against unsolicited mailings applies to both electronic and traditional postal service delivery and to mailings to students and families of students enrolled in either secondary or postsecondary schools who have not previously borrowed a loan from the lender ~~are first-time FFELP borrowers.~~

Response:

The Committee agrees with and thanks the commenters for the suggested change.

Change:

The last sentence of the third paragraph in Revised Policy was changed as requested. In addition, the last sentence of the third paragraph in the Common Bulletin language was changed as follows:

In addition, revised policy clarifies that the prohibition against unsolicited mailings applies to mailings made by mail or electronically and to mailings to students and families of students enrolled in secondary or postsecondary schools who have not previously borrowed a FFELP loan from the lender ~~are first-time FFELP borrowers.~~

COMMENT:

One commenter suggested that the fourth bullet in Subsection 3.4.C under *Prohibited Activities* be revised as follows:

- Performing for a school or paying, on behalf of a school, another person to perform any function that the school is required to perform under any Title IV program. A lender may participate in person in a school’s required exit counseling as long as the school’s staff are in control of the counseling, (whether in person or via electronic capabilities), and such counseling does not promote the products or services of any specific lender. [HEA §435(d)(5)(E) and (F), §682.200(b) definition of *lender* (5)(ii)(B); HEA §487(e)(2)(B)(ii)(IV)]

The rationale for the suggested revision is to provide complete information regarding the circumstances under which a lender may participate in person in a school’s required exit counseling.

Another commenter suggested that exit counseling be added to Subsection 3.4.C under *Prohibited Activities*.

A third commenter suggested that exit counseling be added to Subsection 3.4.C under *Permitted Activities*.

Response:

The Committee agrees that exit counseling needs to be included in Subsection 3.4.C. The Committee also agrees that the suggested revisions in text provide information regarding the constraints under which a school may accept exit counseling from a lender.

Change:

The change has been made as follows:

- Performing for a school or paying, on behalf of a school, another person to perform any function that the school is required to perform under any Title IV program. A lender may participate in person in a school's required exit counseling as long as the school's staff is in control of the counseling, whether in person or via electronic capabilities, and such counseling does not promote the products or services of any specific lender. [HEA §435(d)(5)(E) and (F); HEA §487(e)(2)(B)(ii)(IV); §682.200(b) definition of *lender* (5)(ii)(B)]

COMMENT:

Two commenters suggested that the third sub-bullet under the third bullet in Subsection 3.4.C under *Prohibited Activities* be revised as follows:

- Payments or other benefits provided to a student at a postsecondary school who acts as a lender's representative to secure applications for Title IV loans ~~aid~~ from individual prospective borrowers, unless the student is also employed by the lender for other purposes and the lender has made all appropriate disclosures regarding the student's employment.

The rationale for the suggested revision is to ensure that the *Common Manual* language mirrors the law. A student representative cannot be paid by a lender for securing Title IV loan applications. As currently worded, the policy language is too broad in referring to Title IV "aid," which encompasses such things as grants.

Response:

Although the language in statute refers to "applications under this title", *Dear Colleague Letter* GEN-08-12 refers to "FFEL loan application". Since the Committee agrees that the latter is more appropriate, the Committee will change the *Common Manual* text to mirror the DCL.

Change:

The change has been made as follows:

- Payments or other benefits provided to a student at a postsecondary school who acts as a lender's representative to secure FFELP loan applications ~~for Title IV aid~~ from individual prospective borrowers, unless the student is also employed by the lender for other purposes and the lender has made all appropriate disclosures regarding the student's employment.

COMMENT:

One commenter noted, as follows, that the text in the third sub-bullet under the third bullet in Subsection 3.4.C under *Prohibited Activities* should refer to the student, as opposed to the lender, making the disclosure concerning employment:

- Payments or other benefits provided to a student at a postsecondary school who acts as a lender's representative to secure FFELP loan applications from individual prospective borrowers, unless the student is also employed by the lender for other purposes and the student ~~lender~~ has made all appropriate disclosures regarding the student's employment.

Response:

The Committee agrees with and thanks the commenter for the suggested change.

Change:

The change has been made as follows:

- Payments or other benefits provided to a student at a postsecondary school who acts as a lender's representative to secure FFELP loan applications from individual prospective

borrowers, unless the student is also employed by the lender for other purposes and the student lender has made all appropriate disclosures regarding ~~the student's employment~~ with the lender.

In addition, corresponding changes were made in revised policy and in the Common Bulletin language.

COMMENT:

Two commenters suggested revisions to the text in the sixth bullet in Subsection 3.4.C under *Prohibited Activities* as follows:

- Entering into any type of consulting arrangement or other contract to provide services, with an employee in the financial aid office of a school or an employee who has responsibilities with respect to student loans or other financial aid at the school, ~~to provide services to the lender.~~
[HEA §435(d)(5)(eC)]

The rationale for the proposed change in text is to provide clarity.

Response:

The Committee believes that the existing location for the phrase “to provide services” provides better clarity than the position suggested by the commenter. However, the Committee agrees with the suggested revision in the citation.

Change:

The citation has been changed as requested.

ce/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: Student Consumer Information

AFFECTED SECTIONS: 4.4.B Consumer Information

POLICY INFORMATION: 1083/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: August 14, 2008.

If the Department publishes guidance with a different triggering event, the Common Manual will immediately notify the FFELP community of the change.

The deletion of the requirement to retain a signed consumer information disclosure in the student's file is retroactive to the implementation of the *Common Manual*.

BASIS:

HEA §485(a), (e), (f), (h), (i), and (j) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12; Student Right to Know and Campus Security Act (P.L. 101-542); DCL GEN-90-41.

CURRENT POLICY:

Current policy does not include student consumer information disclosure requirements brought about by the HEOA.

Current policy states that a school must disclose its consumer information to a student in a format that enables the student to read and sign the disclosure. The school must keep a copy of the completed disclosure in the student's file.

REVISED POLICY:

Revised policy adds the following student consumer information that a school must disclose:

- The terms and conditions of any FFELP, FDLP, or Federal Perkins loan that a student receives.
- Any plans the school has to improve its academic programs.
- The school's policies on unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who use the school's information technology system to engage in unauthorized distribution of copyrighted materials. Annually, a school must explicitly inform students that a student may be subject to civil and criminal penalties for unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing.
- Student body diversity at the school, including information on the percentage of enrolled, full-time students who are male, female, receive a Federal Pell grant, and are a self-identified member of a major racial or ethnic group.
- From data gathered through alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement (as applicable), state data systems, or other relevant sources:
 - Information about employment placement and the types of employment obtained by graduates of the school's degree or certificate programs.
 - The types of graduate and professional education in which graduates of the school's four-year degree programs enrolled.

- At a school that maintains on-campus student housing facilities, the school's annual fire safety report and its campus fire safety practices and standards.
- The school's current campus policies regarding immediate emergency response and evacuation, including the use of electronic and cellular communication (if appropriate).
- The retention rate of certificate- or degree-seeking, first-time, full-time undergraduate students entering the school.
- The school's policies regarding vaccinations.
- The school's transfer-of-credit policy including, at a minimum, the criteria the school uses regarding the transfer of credit earned at another school and a list of other schools with whom the school has established an articulation agreement. An articulation agreement is an agreement among schools that specifies the acceptability of transfer courses toward meeting specific degree or program requirements. The Department may not require a school to establish a particular policy, procedure, or practice regarding transfer of credit.
- At a school that provides on-campus housing, the school's missing student notification policy for students who reside in on-campus housing. This policy must inform each such student of all of the following:
 - A student may confidentially register contact information for an individual the school will contact no later than 24 hours after the school determines that the student is missing.
 - The school must notify a custodial parent or guardian no later than 24 hours after the school determines that a student who is under 18 years of age, and not an emancipated minor, is missing.
 - The school will notify the appropriate law enforcement agency no later than 24 hours after the school determines that the student is missing.

Revised policy deletes the following consumer information-related requirements:

- Disclosing conditions under which a FFELP borrower may obtain deferment for service in the Peace Corps, under the Domestic Volunteer Service Act of 1973, or comparable volunteer service for a tax-exempt organization.
- Collecting a student signature on consumer information disclosures and retaining a copy of the completed disclosure in the student's file.

Revised policy clarifies that foreign schools are exempt from the requirement to collect and distribute a report on campus crime statistics, but must keep a daily crime log and make timely warnings of crimes to the campus community.

In addition, revised policy incorporates clarifications that are intended to be non-substantive in nature and align the Manual's text with existing regulatory language.

REASON FOR CHANGE:

This change is necessary to comply with provisions of the HEOA. Additional changes are necessary to delete outdated information that became invalid effective with the enactment of the Student Right to Know and Campus Security Act of 1990.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: Additional changes were proposed to Subsection 4.4.B in Policy Proposal 1076, Batch 155.

Revise Subsection 4.4.B, page 19, column 1, paragraph 2, as follows:

4.4.B

Consumer Information

A school participating in any Title IV program must provide annually to all enrolled students—and to prospective students, upon request—consumer information concerning the school and any financial assistance available to students attending the school, along with the school's completion or graduation rate and its transfer-out rate. A school must also provide consumer information to employees and prospective employees and provide certain related reports (e.g., crime statistics reports).

The school's written student consumer information and related reports must adhere to statutory and regulatory requirements, as outlined in the HEA §485 and Subpart D (Institutional and Financial Assistance Information for Students) of the Student Assistance General Provisions. (The schools should refer to §668.41 through §668.48.) The schools also may wish to consult other Department of Education publications, such as the 07-08 08-09 FSA Handbook, Volume 2, Chapter 6 for more information on student consumer information requirements. The school's student consumer information plays an essential role in ensuring that prospective students receive enough information about the school and its programs to make an informed decision about where the student will pursue his or her postsecondary education. Auditors and program reviewers will examine the school's written student consumer information for accuracy, completeness, and adherence to the requirements outlined in federal regulations.

~~Student consumer information must be made available to all currently enrolled students and prospective students. Regulations define a prospective student as is an individual who has contacted an eligible school to request information about admission to the school. The school must make information must be made available to a prospective student prior to the student's enrolling or entering into any financial obligation with the school. The school may use an An Internet Website may be used to provide information to prospective students; however, the school may not use an Intranet Website may not be used. For enrolled students, the The school may use information may be made available through an Internet Website or an Intranet Website that is reasonably accessible to the individuals to whom the information must be disclosed to provide information to enrolled students.~~

[§668.41]

Information for Student Athletes Who Are Offered Financial Aid

When a school participating in any Title IV program offers a potential student athlete athletically related ~~student~~ financial aid, the school must provide the potential student athlete—and his or her parents, high school coach, and guidance counselor— information on completion or graduation rates and transfer-out rates for student athletes, following the requirements of HEA §485(e), §668.41(b) and (f), and ~~34 CFR §668.48~~. The school also must submit the report produced to provide information to these students to the Department by July 1 of each year. ~~Schools should refer to 34 CFR 668.41(b) and (f) and 668.48 for information on disclosure requirements for student athletes.~~ A school's responsibilities may be satisfied if all of the following criteria are met:

- The school is a member of a national collegiate athletic association.
[§668.41(f)(1)(ii)(A)]
- The association compiles data on behalf of its member schools, which the Department determines is comparable to those required in §668.48.
[§668.41(f)(1)(ii)(B)]
- The association distributes the data to all secondary schools in the United States.
[§668.41(f)(1)(ii)(C)]

A school must prepare or revise information for each award year in which it participates in any Title IV program. In developing student consumer information, schools new to the Title IV programs may find it helpful to review other schools' catalogs. However, each school remains ultimately responsible for the accuracy and completeness of its student consumer information.

Financial Assistance Aid Information

A school must provide financial ~~assistance aid~~ information regarding its programs, including a description of all federal, state, local, private, and institutional aid programs to enrolled and prospective students. For each listed financial aid program, the school's student consumer information must include, but is not limited to, descriptions of:

[HEA §485(a)(1)(A); §668.42(a)]

- The procedures (including deadlines) and forms a student must use to apply for assistance.
[§668.42(b)(1)]
- The requirements used in determining whether a student is eligible for aid.
[§668.42(b)(2)]
- The criteria used by the school to select financial aid recipients from the group of eligible applicants.
[§668.42(b)(3)]
- The criteria used in determining the amount of a student's award.
[§668.42(b)(4)]

~~The Student Guide~~ *Funding Education Beyond High School: The Guide to Federal Student Aid*, a free booklet published by the Department, provides schools with an excellent source of material for developing descriptions of the Title IV programs. A school may obtain copies by calling (800) 4-FED-AID or by mailing a request to:

Federal Student Financial Aid Information Center
Federal Student Aid
P.O. Box 84
Washington, DC 20044

Student Rights and Responsibilities

A school's student consumer information must include a description of student rights and responsibilities specifically addressing financial ~~assistance aid~~ under the Title IV programs. This description must ~~contain~~ include, but is not limited to, the following:

- The criteria for continued student eligibility under each program.
[§668.42(c)(1)]
- The standards by which the school determines, for the purpose of awarding financial assistance, whether a student is making satisfactory academic progress (SAP), and the criteria that must be met by a student who has failed to maintain SAP to reestablish eligibility for assistance.
[§668.42(c)(2)(i) and (ii)]
- Information on how and when a student will receive financial ~~assistance aid~~ payments.
[§668.42(c)(3)]
- The terms and conditions of any FFELP, FDLP, or Federal Perkins loan ~~received by that a student receives~~ as part of a financial ~~assistance aid~~ package and a sample loan repayment schedule. Loan terms that should be disclosed include the interest rate, the total amount that must be repaid, the requirements on when repayment must begin, and the length of time allotted for repayment. The necessity of repaying the loan should be emphasized. Additional information must be provided during entrance and exit counseling sessions.
[HEA §485(a)(1)(M); §668.42(c)(4) and (6)]
- ~~Provisions for cancellation, deferment, or forgiveness of FFELP loans, including~~

~~deferment for service in the Peace Corps, under the Domestic Volunteer Service Act of 1973, or comparable volunteer service for a tax-exempt organization.~~
[§668.42(c)(7)]

- The general conditions and terms applicable to any employment provided to a student as part of the student's financial ~~assistance~~ aid package (for students receiving aid under the Federal Work-Study Program).
[§668.42(c)(5)]

To assist schools in meeting the student consumer information requirements, each MPN includes detailed information on the terms of the borrower's loan. By signing the Federal PLUS Loan Application and Master Promissory Note (PLUS MPN) or the Federal Stafford Loan Master Promissory Note (Stafford MPN), the borrower certifies that he or she has read the information and understands the terms of the loan, including the rights and responsibilities related to that loan. To ensure that this information is adequately communicated to the prospective student or borrower, the guarantor recommends that the information be summarized in the school's student consumer information.

Additional Student Consumer Information

Upon request, a school must make readily available to enrolled and prospective students information regarding the school and its administration and academic standards. ~~Such information must address the following characteristics of the school~~ Information about the school must include, but is not limited, to the following:

- The cost of attending the school, including:
 - Tuition and fees charged to full-time and part-time students.
[§668.43(a)(1)(i)]
 - Estimated costs for necessary books and supplies.
[§668.43(a)(1)(ii)]
 - Estimates of typical costs for room and board.
[§668.43(a)(1)(iii)]
 - Estimates of transportation costs for students.
[§668.43(a)(1)(iv)]
 - Any additional costs for a particular program in which a student is enrolled or expresses an interest.
[§668.43(a)(1)(v)]
- Any refund policy with which the school is required to comply for the return of unearned tuition and fees or other refundable charges paid to the school.
[§668.43(a)(2)]
- The requirements and procedures for officially withdrawing from the school.
[§668.43(a)(3)]
- A summary of the requirements under §668.22 for the return of Title IV loan or grant assistance. For more information on school requirements for returning Stafford or PLUS loan funds, see Section 9.5.
[§668.43(a)(4)]
- The school's current degree programs and other educational and training programs, and any plans the school has to improve its academic programs.
[HEA §485(a)(1)(G); §668.43(a)(5)(i)]
- The school's instructional, laboratory, and other physical facilities that relate to its academic programs.

[§668.43(a)(5)(ii)]

- The school's faculty and other instructional personnel, ~~including the names and qualifications of members.~~
[§668.43(a)(5)(iii)]
- The names of the school's accrediting or licensing organizations and the procedures under which any current or prospective student may review—upon request—a copy of the documents describing the school's accreditation, approval, or licensing.
[§668.43(a)(6) and (9)]
- Special facilities and services available to students who are physically challenged. This information may include detailed descriptions of all facilities (such as ramps and special parking arrangements) and services (such as special tutors, library books in Braille, and audio-visual materials available). If the school has chosen not to provide special facilities or services, the school may report that no facilities exist to accommodate students with special needs.
[§668.43(a)(7)]
- The titles of designated school personnel that are available on a full-time basis to assist students and prospective students in obtaining consumer information about the school—with information on how and where those persons may be contacted.
[§668.43(a)(8); §668.44]
- For schools with study-abroad programs, a statement to the effect that enrollment in the foreign school is equivalent to enrollment in the home school for purposes of establishing Title IV eligibility.
[§668.43(a)(9)]
- ~~The licensing or certification requirements of the state in which the school is located.~~
[§668.43(b)]
- For schools that use job placement statistics in recruiting students, the most recent available data concerning job placement rate for students scheduled for program completion in the most recent calendar year statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements. ~~For these purposes, any graduate for whom the school does not possess documented evidence of employment in the occupation for which the program was offered may not be considered as having obtained employment.~~
[§668.45; §668.14(b)(10)(i)]
- The school's annual security report containing the school's security policies and crime statistics. A foreign school is not required to collect and distribute a report on campus crime statistics, but must keep a daily crime log and make timely warnings of crimes to the campus community.
[HEA §485(f)(1); §668.46; DCL GEN-08-12]
- The school's current campus policies regarding immediate emergency response and evacuation, including the use of electronic and cellular communication (if appropriate).
[HEA §485(f)(1)(J)]
- ~~Any other information necessary to substantiate the truth of any claims made by the school relating to job placement or salary.~~
[§668.45]
- The school's policies on unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who use the school's information technology system to engage in unauthorized distribution of copyrighted materials. Annually, a school must explicitly inform students that a student may be subject to civil and criminal penalties for unauthorized distribution of copyrighted material, including

unauthorized peer-to-peer file sharing.
[HEA §485(a)(1)(P)]

- Student body diversity at the school, including information on the percentage of enrolled, full-time students who are male, female, receive a Federal Pell grant, and are a self-identified member of a major racial or ethnic group.
[HEA §485(a)(1)(Q)]
- From data gathered through alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement (as applicable), state data systems, or other relevant sources:
 - Information about employment placement and the types of employment obtained by graduates of the school's degree or certificate programs.
[HEA §485(a)(1)(R)]
 - The types of graduate and professional education in which graduates of the school's four-year degree programs enrolled.
[HEA §485(a)(1)(S)]
- The school's annual fire safety report and its campus fire safety practices and standards. A school must publish such a report if it maintains on-campus student housing facilities.
[HEA §485(a)(1)(T) and §485(i)]
- The retention rate of certificate- or degree-seeking, first-time, full-time undergraduate students entering the school.
[HEA §485(a)(1)(U)]
- The school's policies regarding vaccinations.
[HEA §485(a)(1)(V)]

Format and Documentation Requirements

~~The school's student consumer information must be disclosed to a student in a format that enables the student to read and sign the disclosure. A copy of the completed disclosure must be kept by the school in the student's file.~~

~~A school's student consumer information plays an essential role in ensuring that prospective students receive enough information about the school and its programs to make an informed decision about where the student will pursue postsecondary education. The guarantor, during any program review, will examine the school's written student consumer information for accuracy, completeness, and adherence to the requirements outlined in federal regulations.~~

Transfer-of-Credit Policy

A school must publicly disclose its transfer-of-credit policies including, at a minimum, the criteria the school uses regarding the transfer of credit earned at another school and a list of other schools with whom the school has established an articulation agreement. An articulation agreement is an agreement among schools that specifies the acceptability of transfer courses toward meeting specific degree or program requirements. The Department may not require a school to establish a particular policy, procedure, or practice regarding transfer of credit.
[HEA §485(h); HEA §486A(a)]

Missing Person Policy

A school that provides on-campus housing must establish a missing student notification policy for students who reside in on-campus housing. The policy must, at minimum, inform each such student of all of the following:

- A student may confidentially register contact information for an individual the school will contact no later than 24 hours after the school determines that the student is missing.
- The school must notify a custodial parent or guardian no later than 24 hours after the school determines that a student who is under 18 years of age, and not an emancipated minor, is missing.
- The school will notify the appropriate law enforcement agency no later than 24 hours after the school determines that the student is missing.

See HEA §485(j) for additional information about the requirements for a school's response to a report that a student residing in on-campus housing is missing.

PROPOSED LANGUAGE - COMMON BULLETIN:

Student Consumer Information

The *Common Manual* has been updated to include Higher Education Opportunity Act changes that incorporate new or modified consumer information disclosure requirements for a school, as follows:

- The terms and conditions of any FFELP, FDLP, or Federal Perkins loan that a student receives.
- Any plans the school has to improve its academic programs.
- The school's policies on unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who use the school's information technology system to engage in unauthorized distribution of copyrighted materials. Annually, a school must explicitly inform students that a student may be subject to civil and criminal penalties for unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing.
- Student body diversity at the school, including information on the percentage of enrolled, full-time students who are male, female, receive a Federal Pell grant, and are a self-identified member of a major racial or ethnic group.
- From data gathered through alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement (as applicable), state data systems, or other relevant sources:
 - Information about employment placement and the types of employment obtained by graduates of the school's degree or certificate programs.
 - The types of graduate and professional education in which graduates of the school's four-year degree programs enrolled.
- At a school that maintains on-campus student housing facilities, the school's annual fire safety report and its campus fire safety practices and standards.
- The school's current campus policies regarding immediate emergency response and evacuation, including the use of electronic and cellular communication (if appropriate).
- The retention rate of certificate- or degree-seeking, first-time, full-time undergraduate students entering the school.
- The school's policies regarding vaccinations.
- The school's transfer-of-credit policy including, at a minimum, the criteria the school uses regarding the transfer of credit earned at another school and a list of other schools with whom the school has established an articulation agreement. An articulation agreement is an agreement among schools that specifies the acceptability of transfer courses toward meeting specific degree or program requirements. The Department may not require a school to establish a particular policy, procedure, or practice regarding transfer of credit.

- At a school that provides on-campus housing, the school's missing student notification policy for students who reside in on-campus housing. This policy must inform each such student of all of the following:
 - A student may confidentially register contact information for an individual the school will contact no later than 24 hours after the school determines that the student is missing.
 - The school must notify a custodial parent or guardian no later than 24 hours after the school determines that a student who is under 18 years of age, and not an emancipated minor, is missing.
 - The school will notify the appropriate law enforcement agency no later than 24 hours after the school determines that the student is missing.

Revised policy deletes the following consumer information-related requirements:

- Disclosing conditions under which a FFELP borrower may obtain deferment for service in the Peace Corps, under the Domestic Volunteer Service Act of 1973, or comparable volunteer service for a tax-exempt organization.
- Collecting a student signature on consumer information disclosures and retaining a copy of the completed disclosure in the student's file.

Revised policy clarifies that foreign schools are exempt from the requirement to collect and distribute a report on campus crime statistics, but must keep a daily crime log and make timely warnings of crimes to the campus community.

In addition, other non-substantive changes have been made to the Manual's text to more closely align it with existing regulatory language.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A student or prospective student will have greater access to information about the school.

School:

A school must update its student consumer information disclosures. A school may also be required to develop a number of new reports and policies.

Lender/Service:

None.

Guarantor:

A guarantor must update its program review procedures relative to student consumer information requirements for schools.

U.S. Department of Education:

The Department must update its program review procedures relative to student consumer information requirements for schools.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Other commenters recommended punctuation or wordsmithing 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.

NOTE:

During the period in which the Committee was reviewing comments received on this policy proposal, the Department published its summary of the HEOA changes in DCL GEN-08-12. The following change was made to this policy proposal to align its text more closely with the guidance published in this DCL.

Change:

Under *Additional Student Consumer Information*, paragraph 1, bullet 14 was modified as follows:

- The school's annual security report containing the school's security policies and crime statistics. A foreign school is not required to ~~comply with this data collection and disclosure requirement~~ collect and distribute a report on campus crime statistics, but must keep a daily crime log and make timely warnings of crimes to the campus community.
[HEA §485(f)(1); §668.46; DCL GEN-08-12]

COMMENT:

One commenter requested that the Committee add detail to Subsection 4.4.B concerning the content of the school's required policies regarding immediate emergency response and evacuation.

Response:

The Committee declines to add the detail requested by the commenter to the text of the Manual. The content of Subsection 4.4.B is limited to a relatively high-level discussion of the kind of information that must be disclosed to a student. The Committee believes that treatment is intentional, since the Manual's primary focus and purpose is to provide guidance to schools and lenders on the administration of the FFELP. Other matters that bear on a school's eligibility to participate in the FFELP but are not directly related to FFELP administration are addressed in Chapter 4, but in a more general way. For that reason, the current introduction to Subsection 4.4.B provides appropriate cross-references to statute, regulations, and the FSA Handbook where a school may find details about the specific content of required policies and reports that a school must develop and make available for disclosure to students and the Department. In keeping with the current Manual's treatment of the campus security policies and crime statistics, the Committee believes it is therefore most appropriate for the Manual to note that consumer information disclosures must include a school's policies and reports regarding emergency response and evacuation, and if applicable, fire safety and missing persons, with cross-references to the law for details about the required content of those policies and reports.

Change:

None.

COMMENT:

One commenter noted that the proposed changes do not incorporate the disaggregation of completion and graduation statistics or the disaggregation of athletically-related student aid information in accordance with HEA §487(a)(7), and by cross-reference, HEA §§487(a)(1)(L) and (e).

Response:

HEA §487(a)(7) requires a school to further disaggregate data a school is currently required to disclose, i.e., completion and graduation rate information for 1) full-time, undergraduate students who enter the school and 2) students who received athletically-related student aid. The HEOA changes to the HEA require a school to report these statistics by all of the following subgroups: gender, major racial or ethnic group, students who received a Pell grant, students who received a subsidized Stafford loan but not a Pell grant, and students who received neither a subsidized Stafford loan nor a Pell grant, if the subgroup numbers are sufficient to produce statistically reliable information and reporting will not reveal personally identifiable information. In addition, the HEOA exempts two-year, degree-granting schools from these additional data reporting requirements until academic year 2011-2012 and requires the Department to meet with stakeholders to determine whether alternative approaches should be considered for reporting by these schools.

The Committee acknowledges that the aforementioned provisions of the HEOA became effective upon enactment, August 14, 2008. However, the Committee is very concerned that there are implementation issues associated with these new statutory provisions that justify delaying their incorporation into the Manual. The Committee notes that current regulations require a school to make available completion and graduation rates for the general student body and for student athletes on July 1 immediately following the 12-month period ending August 31 during which 150% of the normal time for completion elapsed for the group of students on which the school bases its completion and transfer-out rate calculation (see the 08-09 FSA Handbook, Volume 3, Chapter 6, pp. 2-72 and 2-73). Therefore, by July 1, 2009, a school must make available completion and graduation rates for the period September 1, 2007, through August 31, 2008. Since the vast majority of that 12-month, retroactive period *precedes the enactment of the HEOA*, the Committee cannot be certain that the Department expects a school to comply with the HEOA changes that mandate further disaggregation of data by the next reporting deadline of July 1, 2009. Additionally, as previously noted, the HEOA exempts a large class of schools (two-year, degree-granting institutions) from the disaggregated data reporting requirement until academic year 2011-2012.

Since the Department has not released widely publicized information on the implementation of these provisions, the Committee believes there is sufficient uncertainty at this time to delay incorporating the provisions of HEA §487(a)(7) until additional guidance is provided, most likely through negotiated rulemaking. The Committee will retain a record of this issue and monitor future developments for guidance sufficient to provide a solid basis for policy proposal development.

COMMENT:

One commenter requested a change in Subsection 4.4.B, page 19, column 1, paragraph 2, as follows:

A school's student consumer information plays an essential role in ensuring that prospective students receive enough information about the school and its programs to make an informed decision about where the student will pursue postsecondary education. ~~The guarantor, during any program review,~~ Auditors and program reviewers will examine the school's written student consumer information for accuracy, completeness, and adherence to the requirements outlined in federal regulations.

The commenter opined that the scope of the examination of a school's written student consumer information should not be limited to guarantors.

Response:

The Committee agrees.

Change:

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

COMMENT:

Two commenters noted that the Department has replaced its publication *The Student Guide*, which is referenced as a resource in Subsection 4.4.B, with *Funding Education Beyond High School: The Guide to Federal Student Aid*.

Response:

The Committee thanks the commenters for bring this change to the Committee's attention.

Change:

The title of the Department's publication that is used as a resource in Subsection 4.4.B has been changed as noted above.

COMMENT:

One commenter questioned why the Committee changed a current subheading title from “Financial Assistance Information” to “Financial Aid Information.”

Response:

The change the commenter observes is intended to be nonsubstantive, and to align with a preferred Manual terminology convention that refers to federal student “aid” or financial “aid” instead of financial “assistance.” This change is also made to conform with existing Manual text under the revised subheading “Financial Aid Information,” second sentence, which currently states, “For each listed financial *aid* program, the school’s student consumer information must include. . .”

Change:

None.

COMMENT:

One commenter questioned the relevance of the citation §668.43(a)(9) under the subheading *Additional Consumer Information*, paragraph 1, bullet 8. This bullet requires the school to disclose the names of its accrediting or licensing organizations and the procedures under which a student may review documents associated with a school’s accreditation, approval, or licensing. The commenter suggested that perhaps the citation should be §668.43(b).

Response:

The commenter is correct. The citation should include §668.43(b).

Change:

The complete citation under the subheading *Additional Consumer Information*, paragraph 1, bullet 8 now reads §668.43(a)(6) and ~~(9)~~(b).

COMMENT:

Two commenters requested a correction to the citation that supports discussion of a school’s missing persons policy.

Response:

The Committee thanks the commenters for noting this inadvertent error.

Change:

The last paragraph of the Proposed Policy has been modified to reflect a correction in the citation, from HEA §485(l) to HEA §485(j).

COMMENT:

One commenter expressed particular support for incorporating into the Manual the HEOA changes concerning student consumer information disclosures.

Response:

The Committee appreciates the commenter’s expression of support for these changes.

Change:

None.

jcs/edited-aes

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: Extenuating Circumstances in Adverse Credit Determinations

AFFECTED SECTIONS: 7.1.B Creditworthiness

POLICY INFORMATION: 1084/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: Effective for loans first disbursed on or after July 1, 2008, for extenuating circumstances existing between January 1, 2007, and December 31, 2009.

BASIS:

HEA §428B(a)(3)(B)(i), as amended by the Ensuring Continued Access to Student Loans Act (ECASLA), P.L. 110-227 and the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-08/FP-08-07; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy provides four examples of extenuating circumstances that lenders may utilize in approving a PLUS loan for an applicant with adverse credit.

REVISED POLICY:

Revised policy provides that in addition to the four examples of extenuating circumstances, a lender may approve a PLUS loan for an applicant with adverse credit if, during the period beginning on January 1, 2007, and ending on December 31, 2009, he or she is or has been 180 days or less delinquent on mortgage loan payments or on medical bill payments for the applicant or the applicant's family.

REASON FOR CHANGE:

This change complies with the provisions of the ECASLA as subsequently revised by the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 7.1.B, page 2, column 1, paragraph 4, as follows:

Loan Approval after Identifying Adverse Credit

If adverse credit is identified in the applicant's credit history, the lender may approve the loan only if it determines that extenuating circumstances exist. The lender must retain a record supporting its decision. (For more information on recordkeeping requirements, see Subsection 3.4.A.) Examples of acceptable records include, but are not limited to:

- Documentation that during the period beginning on January 1, 2007, and ending on December 31, 2009, an applicant is or has been 180 days or less delinquent on mortgage loan payments on the applicant's primary residence or on medical bill payments for the applicant or the applicant's family.
[HEA §428B(a)(3)(B)(i) and (ii); DCL GEN-08-08/FP-08-07]
- An updated credit report indicating that the applicant is no longer 90 days or more delinquent.
- An updated credit report correcting the information found on the original credit history that resulted in an adverse credit determination.
- A statement from the creditor that the applicant has made satisfactory arrangements to repay each debt that resulted in the adverse credit determination.

- For each debt of less than \$500 that is 90 days or more delinquent, a satisfactory written explanation from the applicant of the reason for the delinquency.

PROPOSED LANGUAGE - COMMON BULLETIN:

Extenuating Circumstances in Adverse Credit Determinations

The *Common Manual* has been revised to permit a lender to approve a loan for a PLUS applicant with adverse credit by determining that extenuating circumstances exist if, during the period beginning on January 1, 2007, and ending on December 31, 2009, the applicant is or has been 180 days or less delinquent on mortgage loan payments on the borrower's primary residence or on medical bill payments for the applicant or the applicant's family.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A PLUS loan applicant may be approved to borrow a PLUS loan if he or she is 180 days or less delinquent on mortgage loan payments on his or her primary residence or on medical bill payments for the applicant or the applicant's family. A PLUS loan applicant may have his or her eligibility re-examined by the lender based on extenuating circumstances.

School:

A school may experience an increased number of students and parents who qualify for a PLUS loan as a result of this change.

Lender/Service:

A lender may implement the provision that allows the lender to consider mortgage and medical bill delinquencies as extenuating circumstances when determining the eligibility of PLUS applicant. The Department encourages the lender to re-examine the eligibility of applicants who have been denied previously to determine if PLUS loans may be approved for those applicants.

Guarantor:

A guarantor may be required to revise its program review criteria.

U.S. Department of Education:

The Department may be required to revise its program review criteria.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

May 13, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds and VSAC.

Responses to Comments

Many of the commenters supported this proposal as written.

COMMENT:

Three commenters suggested a rewording of the first bullet in the first paragraph under the subheading *Loan Approval after Identifying Adverse Credit* in Subsection 7.1.B to clarify the acceptable record to be used by a lender to document that a PLUS applicant has extenuating circumstances with regard to delinquencies of 180 days or less on mortgage or medical bill payments.

Two commenters suggested adding the applicable statutory citation [i.e., HEA §428B(a)(3)(B)(i)and (ii)] to complete the reference information.

Response:

The Committee agrees with the suggested changes.

Change:

The subject bullet has been revised as follows:

- Documentation that during the period beginning on January 1, 2007, and ending on December 31, 2009, An applicant who is or has been 180 days or less delinquent, during the period beginning on January 1, 2007, and ending on December 31, 2009, on mortgage loan payments on the applicant's borrower's primary residence or on medical bill payments for the applicant or the applicant's family.
[§428B(a)(3)(B)(i)and (ii); DCL GEN-08-08/FP-08-07]

ce/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: In-School and Post-Enrollment Deferments for PLUS Loans

AFFECTED SECTIONS: 11.6 In-School Deferment and Summer Bridge
11.6.A Eligibility Criteria—In-School

POLICY INFORMATION: 1086/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: PLUS loans first disbursed on or after July 1, 2008.

BASIS:

HEA §428B(d)(1) as amended by the Higher Education Opportunity Act (HEOA), P. L. 110-315, DCL GEN-12-08/FP-08-10.

CURRENT POLICY:

Current policy states that a PLUS borrower who meets the conditions required for an in-school deferment may defer all of his or her PLUS loans based on that condition. However, an in-school deferment for a “new borrower” (as defined below) who obtains a PLUS loan may not be granted on the basis of the dependent student’s enrollment status.

Definition of “New borrower” in Subsection 11.6.A: A borrower whose outstanding FFELP loans were all made on or after July 1, 1993, and when his 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. (See Subsection 11.6.A)

REVISED POLICY:

Revised policy states that a PLUS borrower who meets the conditions required for an in-school deferment may defer all of his or her PLUS, Stafford, and Consolidation loans, as applicable. In addition, a parent borrower may request an in-school deferment of any PLUS loan based on the in-school status of the dependent student for whom the loan was borrowed.

A Grad PLUS borrower may defer his or her PLUS loans during any 6-month period beginning on the day after the borrower ceases to be enrolled at least half time at an eligible school. A parent PLUS borrower may request deferment of his or her PLUS loans during any 6-month period beginning on the day after the borrower ceases to be enrolled at least half time at an eligible school. In addition, a parent PLUS borrower may request deferment of his or her PLUS loans during any 6-month period beginning on the day after the student for whom the PLUS loan was borrowed ceases to be enrolled at least half time at an eligible school. In addition, if both the parent PLUS borrower and the student for whom a PLUS loan was borrowed meet the conditions for an in-school deferment, the parent PLUS borrower may request a deferment during any 6-month period beginning on the day after the parent ceases to be enrolled at least half time or the day after the student ceases to be enrolled at least half time, whichever is later.

REASON FOR CHANGE:

These changes are made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 11.6, page 11, column 2, paragraph 1, as follows:

11.6

In-School Deferment, and Summer Bridge Extension, and Post-Enrollment Deferment

An in-school deferment is available to a borrower for the borrower’s and, in the case of a parent PLUS loan, the student’s both full-time at least and half-time study at an eligible school. For a parent PLUS loan first disbursed on or after July 1, 2008, the parent borrower may request deferment of any PLUS loan borrowed on behalf of a student who meets the

conditions required for an in-school deferment. In all other cases, a lender must grant an in-school deferment if it receives information that supports the borrower's eligibility for the deferment. The guarantor forwards this information to the lender in the following cases:

- When the guarantor learns of circumstances that may entitle a borrower to an in-school deferment (which often occurs during default prevention activities).
- When the guarantor receives a request or documentation for the deferment (either verbally or in writing).
- When the guarantor receives verification of the borrower's eligibility for the deferment from the school.

If the lender receives information from the guarantor, the lender may rely on the information provided. The lender should require neither the borrower nor school to complete or submit any additional paperwork.

Revise Subsection 11.6.A, page 11, column 2, paragraph 3, as follows:

**11.6.A
Eligibility Criteria—In-School**

A student's in-school enrollment includes any combination of courses, special studies, research, or work experience...

...

...

...

If a PLUS loan borrower meets the conditions required for an in-school, ~~graduate fellowship, or rehabilitation training~~ deferment, the borrower may defer all of his or her PLUS, Stafford, and Consolidation loans, as applicable, based on those conditions.

For a parent PLUS loan first disbursed on or after July 1, 2008, a parent borrower also may request deferment of any PLUS loan borrowed on behalf of a student who meets the conditions required for an in-school deferment. An in-school deferment on a parent PLUS loan first disbursed on or after July 1, 2008, and based on the enrollment of the dependent student is loan-specific as opposed to borrower-specific.
HEA §428B(d)(1)(A)]

~~If a dependent student for whom a parent borrower obtained~~For a parent PLUS loan first disbursed prior to July 1, 2008, if the dependent student for whom a parent borrower obtained the PLUS loan meets the conditions required for an in-school deferment, the parent borrower may defer his or her PLUS loan based on the status of that student—provided the parent borrower's loan was made on or after July 1, 1987, and before July 1, 1993, or the parent borrower had an outstanding balance on a FFELP loan made before July 1, 1993, when the parent obtained a loan disbursed on or after July 1, 1993.

A PLUS loan borrower who is classified under the category "*New borrower*" July 1, 1993 defined in Subsection 11.1.A must be enrolled on at least a half-time basis to be eligible for an in-school deferment. A deferment for such a "new borrower" who obtains a PLUS loan may not longer be granted on the basis of the dependent student's enrollment status if the PLUS loan was first disbursed on or after July 1, 1993, and prior to July 1, 2008.

Insert a new Subsection 11.6.E, page 13, column 2, paragraph 1, as follows:

**11.6.D
Summer Bridge Extension**

...
...
...
...
...

11.6.E
Post-Enrollment Deferment

For a parent PLUS loan first disbursed on or after July 1, 2008, the borrower may request deferment of his or her PLUS loan during any 6-month period beginning on the day after the parent PLUS borrower ceases to be enrolled at least half time at an eligible school. For a Grad PLUS loan first disbursed on or after July 1, 2008, the borrower may defer his or her Grad PLUS loan during any 6-month period beginning on the day after the Grad PLUS borrower ceases to be enrolled at least half time at an eligible school, as determined by the out-of-school date provided by the school.

For a parent PLUS loan first disbursed on or after July 1, 2008, the borrower may request deferment of his or her PLUS loan during any 6-month period beginning on the day after the student on whose behalf the PLUS loan(s) was borrowed ceases to be enrolled at least half time, as determined by the out-of-school date provided by the school. If both the parent PLUS borrower and the student for whom the PLUS loan was borrowed meet the conditions for an in-school deferment, the parent PLUS borrower may request a deferment during any 6-month period beginning on the later of the following:

- The day after the student on whose behalf the loan was borrowed ceases to be enrolled at least half time at an eligible school as determined by the out-of-school date provided by the school.
- The day after the parent borrower ceases to be enrolled at least half time at an eligible school.

HEA §428B(d)(1)(B)]

PROPOSED LANGUAGE - COMMON BULLETIN:
In-School and Post-Enrollment Deferments for PLUS Loans

The text of the *Common Manual* has been revised to clarify that a PLUS borrower who meets the conditions for an in-school deferment may defer all of his or her PLUS, Stafford, and Consolidation loans, as applicable. The Manual has also been revised to comply with the provisions of the Higher Education Opportunity Act (HEOA) regarding the eligibility of a parent PLUS borrower to receive an in-school deferment for a PLUS loan first disbursed on or after July 1, 2008, and borrowed on behalf of a student who meets the conditions for an in-school deferment. An in-school deferment on a parent PLUS loan first disbursed on or after July 1, 2008, and based on the enrollment of the dependent student is loan-specific as opposed to borrower-specific.

PLUS loan borrowers are eligible to receive in-school deferments as follows:

- A Grad PLUS borrower may receive an in-school deferment based on his or her at-least-half-time enrollment at an eligible school. A lender must grant the in-school deferment if it receives information that supports the borrower's eligibility for the deferment; i.e., no request from the borrower is required.
- A parent PLUS borrower may receive an in-school deferment based on his or her at-least-half-time enrollment at an eligible school. A lender must grant the in-school deferment if it receives information that supports the borrower's eligibility for the deferment i.e., no request from the borrower is required.
- A parent PLUS borrower may receive an in-school deferment based on the at-least-half-time enrollment status of the dependent student for whom the PLUS loan is borrowed, if the PLUS loan

was first disbursed on or after July 1, 2008. The parent borrower must request the deferment from the lender.

In addition, the HEOA permits the lender to grant an additional period of deferment for a PLUS loan first disbursed on or after July 1, 2008. This period is called a post-enrollment deferment. The post-enrollment deferment applies to a 6-month period that begins on the day after the PLUS borrower or student for whom a PLUS loan was borrowed ceases to be enrolled at least half time at an eligible school. PLUS loan borrowers are eligible to receive post-enrollment deferments as follows:

- A Grad PLUS borrower may receive a post-enrollment deferment beginning on the day after his or her at-least-half-time enrollment at an eligible school, as determined by the out-of-school date provided by the school. A lender must grant the post-enrollment deferment if it receives information that supports the borrower's eligibility for the deferment; i.e., no request from the borrower is required.
- A parent PLUS borrower may receive a post-enrollment deferment beginning on the day after his or her at-least-half-time enrollment at an eligible school. The parent borrower must request the post-enrollment deferment from the lender.
- A parent PLUS borrower may receive a post-enrollment deferment beginning on the day after the at-least-half-time enrollment status of the dependent student for whom the PLUS loan is borrowed, as determined by the out-of-school date provided by the school. The parent borrower must request the post-enrollment deferment from the lender.

If both the parent PLUS borrower and the student for whom a PLUS loan was borrowed meet the conditions for an in-school deferment, the parent PLUS borrower may request a deferment during any 6-month period beginning on the later of the day on which the parent or the student ceases to be enrolled at least half time.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A PLUS borrower may have greater financial flexibility through expanded deferment options. If a PLUS borrower does not pay interest during periods of deferment, the overall cost of the loan(s) will increase.

School:

A school may need to update counseling materials.

Lender/Service:

A lender/service may experience a greater number of deferments as a result of these options and may be required to revise its systems and procedures for determining deferment eligibility.

Guarantor:

A guarantor may be required to revise program review criteria and default aversion information, and make system revisions.

U.S. Department of Education:

The Department may be required to revise program review criteria and NSLDS codes.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds and VSAC.

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 provided revised language for Subsection 11.6.A to provide clarity by separating the in-school deferment conditions for parent PLUS loans based on a student beneficiary's enrollment according to different categories (i.e. 7/1/87-6/30/93 vs. 7/1/93 - 6/30/08 vs. Post 7/1/08) and by defining the time frames for these categories at the beginning of the paragraphs.

Three additional commenters, suggested revising the last sentence in the paragraph of Subsection 11.6.A that ends with "An in-school deferment on a parent PLUS loan first disbursed on or after July 1, 2008 and based on the enrollment of the dependent student is loan as opposed to borrower specific." These commenters suggested revising the end of the sentence to read "is loan-specific as opposed to borrower-specific". A sixth commenter noted that the subject sentence as originally suggested by the Committee is not clear. A seventh commenter suggested revising the subject sentence as follows:

An in-school deferment on a parent PLUS loan first disbursed on or after July 1, 2008 and based on the enrollment of the dependent student is loan specific, rather than ~~as opposed to~~ borrower specific.

Two additional commenters suggested revising the end of the subject sentence to read "is loan specific as opposed to borrower specific".

One commenter suggested revisions, for the purpose of clarity, to the last paragraph in Subsection 11.6.A as follows:

A PLUS loan borrower who is classified under the category "*New borrower*" July 1, 1993 defined in Subsection 11.1.A must be enrolled on at least a half-time basis to be eligible for in-school deferment. A deferment for such a "new borrower" who obtains a PLUS loan may not longer be granted on the basis of the dependent student's enrollment status if the PLUS loan was first disbursed between July 1, 1993 and prior to July 1, 2008.

Another commenter revised the last paragraph in Subsection 11.6.A as follows:

A parent PLUS loan borrower who is classified under the category "*New borrower*" July 1, 1993 defined in Subsection 11.1.A and whose loan was disbursed before July 1, 2008, must be enrolled on at least a half-time basis to be eligible for in-school deferment. A deferment for such a "new borrower" who obtains a PLUS loan may no longer be granted on the basis of the dependent student's enrollment status if the PLUS loan was first disbursed prior to July 1, 2008.

Response:

The Committee agrees with the clarification provided by separating deferments for parent PLUS loans based on categories by disbursement time frames. The Committee also agrees with the suggested revisions for clarity in the last paragraph of Subsection 11.6.A and with the addition of the word "specific" after loan.

Change:

The text in Subsection 11.6.A has been revised as follows:

A student's in-school enrollment includes any combination of courses, special studies, research, or work experience...

...

...

...

If a PLUS loan borrower meets the conditions required for an in-school deferment, the borrower may defer, as applicable, all of his or her PLUS, Stafford, and Consolidation loans, as applicable, based on that condition.

For parent PLUS loans first disbursed on or after July 1, 2008, a ~~A~~ parent PLUS borrower also may request deferment of any PLUS loans ~~that are first disbursed on or after July 1, 2008 and~~ borrowed on behalf of a student who meets the conditions required for an in-school deferment. An in-school deferment on a parent PLUS loan first disbursed on or after July 1, 2008 and based on the enrollment of the dependent student is loan-specific as opposed to borrower-specific.

~~If a dependent student for whom a parent borrower obtained,~~ For parent PLUS loans first disbursed prior to July 1, 2008, if a dependent student for whom a parent borrower obtained one or more PLUS loans meets the conditions required for an in-school deferment, the parent borrower may defer all of his or her PLUS loans based on the status of that one student—provided the parent borrower's loan was made on or after July 1, 1987, and before July 1, 1993, or the parent borrower had an outstanding balance on a FFELP loan made before July 1, 1993, when the parent obtained a loan disbursed on or after July 1, 1993.

A PLUS loan borrower who is classified under the category "*New borrower*" *July 1, 1993* defined in Subsection 11.1.A must be enrolled on at least a half-time basis to be eligible for an in-school deferment. A deferment for such a "new borrower" who obtains a PLUS loan may not longer be granted on the basis of the dependent student's enrollment status if the PLUS loan was first disbursed on or after July 1, 1993 and prior to July 1, 2008.

COMMENT:

Four commenters provided suggested revisions for the proposed text in Subsection 11.6.E to define the population of PLUS loans which qualify for the post-enrollment deferment— i.e., those first disbursed on or after July 1, 2008. Another commenter suggested separating this section into two parts, one for parent PLUS and one for Grad PLUS. The same commenter also questioned the reference to "out-of-school" date when it may only be the school reporting that the borrower or student has ceased to attend at least half time.

Response:

Although the Committee considered that the effective date and trigger event defined the population of PLUS loans which qualify for a post-enrollment deferment, the Committee agrees to add this information to the text for clarity.

Change:

The text in Subsection 11.6.E has been revised as follows:

For a parent PLUS loan first disbursed on or after July 1, 2008, the ~~A parent PLUS~~ borrower may request deferment of his or her PLUS loan(s) during any 6-month period beginning on the day after the parent PLUS borrower ceases to be enrolled at least half time at an eligible school. For a Grad PLUS loan first disbursed on or after July 1, 2008, the ~~A Grad PLUS~~ borrower may defer ~~all of his or her PLUS loans~~ during any 6-month period beginning on the day after the Grad PLUS borrower ceases to be enrolled at least half time at an eligible school, as determined by the out-of-school date provided by the school.

For a parent PLUS loan(s) first disbursed on or after July 1, 2008, the ~~A parent PLUS~~ borrower may request deferment of his or her PLUS loan(s) during any 6-month period beginning on the day after the student borrowed on whose behalf of a student who meets the conditions required for an in-school deferment, during any 6-month period beginning on the day after the student on whose behalf the PLUS loan(s) was borrowed ceases to be enrolled at least half time, as determined by the out-of-

school date provided by the school. If both the parent borrower of a PLUS loan and the student for whom the PLUS loan was borrowed meet the conditions for an in-school deferment, the parent PLUS borrower may request a deferment during any 6-month period beginning on the later of the following:

- ...
- ...

COMMENT:

Two commenters provided suggested revisions for the revised text in Section 11.6, as follows:

An in-school deferment is available to a borrower for the borrower's and, in the case of a parent PLUS loan, the student's ~~full-time or at least~~ half-time study at an eligible school. The deferment of each parent PLUS loan first disbursed on or after July 1, 2008 based on the in-school status of the student for whom the PLUS loan was borrowed must be requested by the borrower. In all other cases, a lender must grant an in-school deferment if it receives information that supports the borrower's eligibility for the deferment. The guarantor forwards this information to the lender in the following cases:

The rationale for the deletion of "full-time" and the insertion of "at least" is to clarify that a borrower's three-quarter time enrollment would also qualify for an in-school deferment. The rationale for the proposed revision to insert the July 1, 2008 date is to provide the time frame for the PLUS loans for which the deferment must be requested by the borrower.

Response:

The Committee agrees to add this information to the text for clarity.

Change:

The text has been revised as suggested.

COMMENT:

One commenter suggested revisions to the third paragraph in Subsection 11.6.A as follows:

~~To obtain an in-school deferment, the student must be~~ A loan is eligible for an in-school deferment if the borrower, or in some cases the student beneficiary of a parent PLUS loan, is attending a school that either is eligible to participate in any Title IV Program or that is operated by an agency of the federal government (such as a service academy)...

Response:

Although the Committee understands that the commenter's intent is to provide clarity, the student in all cases must be attending a school that meets the defined criteria. The student may be the PLUS borrower, the student for whom the PLUS loan was borrowed, or the Stafford borrower.

Change:

None.

COMMENT:

One commenter suggested that it would be helpful to the community to specifically state in the Common Bulletin text that an in-school deferment on a parent PLUS loan first disbursed on or after July 1, 2008, and based on the enrollment of the dependent student is loan-specific as opposed to borrower-specific.

Response:

The Committee agrees.

Change:

The subject information has been added to the Common Bulletin text.

COMMENT:

One commenter suggested adding statutory cites to the applicable sections referencing PLUS deferment changes.

Response:

The Committee agrees.

Change:

The statutory cites have been added.

ce/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: In-School Deferment from NSLDS Data

AFFECTED SECTIONS: 11.6.B Deferment Documentation—In-School

POLICY INFORMATION: 1087/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: In-school deferments granted by the lender on or after August 14, 2008.

BASIS:

HEA §428(b)(1)(Y), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy does not require the lender to use data on the National Student Loan Data System (NSLDS) as the basis for granting an in-school deferment, if the school requests.

REVISED POLICY:

Revised policy requires the lender, at the request of a school, to use data on the NSLDS to process a borrower's in-school deferment.

REASON FOR CHANGE:

This change is made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 11.6.B, page 12, column 2, paragraph 3, as follows:

The lender must determine the eligibility of a borrower—or, as applicable, the dependent student—for an in-school deferment based upon the receipt of any one of the following:

- A written or verbal request for deferment from the borrower and documentation of the borrower's eligibility for the deferment.
- A new loan certification record that documents the borrower's eligibility for a deferment. By signing the Master Promissory Note (MPN), the borrower authorizes a lender to defer all of his or her FFELP loans upon the lender's receipt of information indicating that the borrower or, as applicable, the student, is enrolled at least half time.
- Student status information received by the lender indicating that the borrower is enrolled at least half time.
- Student status information contained on the National Student Loan Data System (NSLDS) if the school has requested that the lender use that information.
[HEA §428(b)(1)(Y)]
- Other information certified by the school indicating that the borrower is enrolled at least half time.

PROPOSED LANGUAGE - COMMON BULLETIN:

In-School Deferment from NSLDS Data

The *Common Manual* has been revised to require a lender, at the request of a school, to use data on the National Student Loan Data System (NSLDS) to process a borrower's in-school deferment.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may receive an in-school deferment on a loan more promptly.

School:

A school may be able to provide deferment data more efficiently via the NSLDS than via individual lender request.

Lender/Service:

A lender/service may be able to use the NSLDS as a more efficient resource for deferment data. The lender may be required to amend deferment processing procedures.

Guarantor:

A guarantor may be required to amend its program review procedures.

U.S. Department of Education:

The Department may be required to amend 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 28, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

All commenters supported this proposal as written. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

NOTE: After receiving community comments and prior to its final approval by the Policy Committee, the Department issued DCL GEN-08-12. As a result, the Committee has amended the effective date/trigger event of this proposal to reflect the requirements of that letter.

bg/edited - kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: Loan Forgiveness Program for Service in Areas of National Need

AFFECTED SECTIONS: 13.9.B Loan Forgiveness Program for Service in Areas of National Need

POLICY INFORMATION: 1088/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: School, academic, or calendar year of full-time employment completed after August 14, 2008.

BASIS:
HEA §428K, as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:
Current policy does not provide information on the Loan Forgiveness Program for Service in Areas of National Need.

REVISED POLICY:
Revised policy adds information regarding the Loan Forgiveness Program for Service in Areas of National Need that was added to the Higher Education Act as a result of the HEOA.

REASON FOR CHANGE:
This change is made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Add a new Subsection 13.9.B, as follows:

Note: Subsection 13.9.B Teacher Loan Forgiveness was renumbered as Subsection 13.9.A in Policy 1080 of Batch 156.

13.9.B
Loan Forgiveness Program for Service in Areas of National Need

The Loan Forgiveness Program for Service in Areas of National Need is intended to encourage a qualified individual to enter and continue employment in a defined "area of national need." The Department will grant loan forgiveness on eligible loans under this program on a first-come, first-served basis, and that loan forgiveness is contingent on the availability of annual federal appropriations. This program is currently not funded. If the borrower qualifies, not more than \$2,000 of the outstanding balance of the borrower's student loan obligation is forgiven after the completion of each applicable school, academic, or calendar year of employment. The maximum amount of forgiveness benefits that a borrower may receive under this forgiveness program is \$10,000 and no borrower may receive forgiveness under this program for more than 5 years of service.

To qualify under this forgiveness program, a borrower must not be in default on the loan for which forgiveness is sought, and must be employed full time in an area of national need. A parent PLUS loan or a Consolidation loan that repaid a parent PLUS loan is not eligible for this type of forgiveness.

A borrower is considered to be employed in an area of national need if the borrower meets one of the following requirements:

- The borrower is employed full time as an early childhood educator.

- The borrower has obtained a baccalaureate or advanced degree in a critical foreign language and is employed full time in one of the following positions:
 - As an elementary or secondary school teacher of a critical foreign language.
 - In an agency of the United States government in a position that regularly requires the use of such critical foreign language.
 - In an institution of higher education as a faculty member or instructor teaching a critical foreign language.
- The borrower is highly qualified, as defined in Section 9101 of the Elementary and Secondary Education Act of 1965, and is employed full time as any one of the following:
 - A teacher educating students who have limited English proficiency.
 - A teacher in a school that qualifies under Section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.
 - A teacher who is an individual from an underrepresented population in the teaching profession, as determined by the Department.
 - A teacher in an educational service agency, as defined in Section 9101 of the Elementary and Secondary Education Act of 1965.
- The borrower is employed full time as a school superintendent, principal, or other administrator in a local educational agency, including an educational service agency, in which 30% or more of the schools are schools that qualify under Section 465(a)(2)(A) for loan cancellations for Perkins loan recipients who teach in such a school.
- The borrower is employed full time as a school counselor (as defined in Section 5421(e) of the Elementary and Secondary Education Act of 1965), in a school that qualifies under Section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.
- The borrower is employed full time as a librarian in either of the following:
 - A public library that serves a geographic area within which the public schools have a combined average of 30% or more of the schools' total student enrollments composed of children meeting a measure of poverty under Section 1113(a)(5) of the Elementary and Secondary Education Act of 1965.
 - A school that qualifies under Section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.
- The borrower has, at a minimum, a graduate degree in speech-language pathology, audiology, or communication sciences and disorders, and is employed full-time as a speech-language pathologist or audiologist in an eligible preschool program or a school that qualifies under section 564(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.
- The borrower has received a degree from a medical school at an institution of higher education and has been accepted to, or currently participates in, a full-time graduate medical education training program or fellowship (or both) to provide health care services (as recognized by the Accreditation Council for Graduate Medical Education) that satisfies both of the following criteria:
 - Requires more than 5 years of total graduate medical training.
 - Has fewer United States medical school graduate applicants than the total number of

positions available in such program or fellowship.

- The borrower is employed full time as a nurse in a clinical setting or as a member of the nursing faculty at an accredited school of nursing as defined in Section 801 of the Public Health Service Act.
- The borrower is a licensed, certified, or registered dietician who has completed a degree in a relevant field and who is employed full time as a dietician with an agency of the special supplemental nutrition program for women, infants, and children under Section 17 of the Child Nutrition Act of 1966.
- The borrower is a physical therapist and is employed full time providing physical therapy services to children, adolescents, or veterans.
- The borrower is an occupational therapist and is employed full time providing occupational therapy services to children, adolescents, or veterans.
- The borrower has at least a master's degree in social work, psychology, or psychiatry, and is employed full time providing mental health services to children, adolescents, or veterans.
- The borrower has obtained a degree in social work or a related field with a focus on serving children and families and is employed full time in public or private child welfare services.
- The borrower has received a degree from an accredited dental school (as accredited by the Commission on Dental Accreditation) and satisfies one of the following criteria:
 - Has completed residency training in pediatric dentistry, general dentistry, or dental public health.
 - Is employed full time as a member of the faculty at a program or school accredited by the Commission on Dental Accreditation.
- The borrower is employed full time in applied sciences, technology, engineering, or mathematics.
- The borrower is employed full time in any of the following positions:
 - Public safety (including a first responder, firefighter, police officer, or other law enforcement or public safety officer).
 - Emergency management (including a emergency medical technician).
 - Public health (including full-time professionals engaged in health care practitioner occupations and health care support occupations, as defined by the Bureau of Labor Statistics).
 - Public interest legal services (including prosecution, public defense, or legal advocacy in low-income communities at a nonprofit organization).

Receipt of a benefit under this program does not entitle the borrower to a refund of payments made on the loan. In addition, no borrower may, for the same service, receive a reduction of his or her loan amount under both this loan forgiveness program and the Teacher Loan Forgiveness Program, the Loan Repayment Program for Civil Legal Assistance Attorneys, the Public Service Loan Forgiveness Program under the Federal Direct Loan Program, or the Teacher Loan Forgiveness Program under the Federal Direct Loan Program.
[HEA §428K]

**PROPOSED LANGUAGE - COMMON BULLETIN:
Loan Forgiveness Program for Service in Areas of National Need**

The *Common Manual* has been updated to include information regarding the Loan Forgiveness Program for Service in Areas of National Need that was added to the Higher Education Act as a result of the Higher Education Opportunity Act (HEOA), P.L. 110-315. The Department will grant loan forgiveness under this program on a first-come, first-served basis, contingent on the availability of annual federal appropriations. This program is currently not funded. To qualify under this forgiveness program, a borrower must be employed full time in an area of national need and must not be in default on the loan for which forgiveness is sought. A borrower with a parent PLUS loan or a Consolidation loan that repaid a parent PLUS loan is not eligible for loan forgiveness under this program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may be eligible for forgiveness benefits under the Loan Forgiveness Program for Service in Areas of National Need if funds become appropriated.

School:

A school may need to revise counseling materials to include information on this forgiveness program. A school must ensure that current students are aware that this program is contingent on congressional funding and that there are currently no funds appropriated to provide this benefit.

Lender/Service:

When the program is funded, a lender may need to establish policies and procedures for processing a borrower's request. A lender must ensure that current students are aware that this program is contingent on congressional funding and that there are currently no funds appropriated to provide this benefit.

Guarantor:

A guarantor may need to update its loan counseling materials regarding the new forgiveness option, but also must ensure that current students are aware that this program is contingent on congressional funding and that there are currently no funds appropriated to provide this benefit. A guarantor may need to establish policies and procedures for processing a borrower's request.

U.S. Department of Education:

The Department may need to process Loan Forgiveness Program for Service in Areas of National Need for borrowers.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

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

COMMENTS RECEIVED FROM:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC.

RESPONSES TO COMMENTS

Many commenters supported this proposal as written. Other commenters recommended punctuation or

wordsmithing 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:

Three commenters noted that the subbullets under the 2nd bullet were missing their underline for the new text.

Response:

The Committee agrees and appreciates the commenters' careful review.

Change:

The new subbullets under the 2nd bullet have now been underlined.

COMMENT:

One commenter does not support adding text regarding this subject in the Manual at all because funds are not currently appropriated. The commenter stated that it is more confusing to include items that may never come to fruition. The commenter stated that they are afraid that the typical Manual user would not understand that this program is currently approved only on paper.

Response:

The Committee appreciates the commenters' concerns but believes it is the responsibility of the Committee to make sure that all statutory and regulatory changes are included in the Manual so that our school and lender partners have all the information they need. To ensure that users understand the scope of this program, the Proposed Language does state that the program is contingent upon annual federal appropriations. In addition, the Committee believes that not knowing what changes the new Administration and a new Congress will bring, these programs could be funded in the near future and including this program in the July 2009 edition of the Manual would provide the FFELP community the most current information.

Change:

None.

COMMENT:

Two commenters recommend removing the sentence "This program is currently not funded." The commenters state that this statement is not needed in the Manual and that the Manual should only address policy. The commenters also state that if this statement is retained, and the program is funded next year, then another proposal is required to remove the sentence. Therefore it is best left out of the Manual. A third commenter suggested deleting this sentence as it is subject to change and somewhat redundant with an earlier sentence indicating availability subject to appropriations.

Response:

The Committee believes that the Manual was developed as a common source for FFELP participants to go to for all regulatory and statutory information regardless of the funding levels of a particular program. The Committee believes that it is important to note which programs are subject to appropriations and whether or not each program is currently funded because these are two different matters. In the past, the Manual has included other programs that were currently not funded, such as the Child Care Provider Loan Forgiveness Program, and included a statement that indicated that the program itself was not funded, thus not applicable during most of its duration.

Change:

None.

COMMENT:

Two commenters recommend revising the first paragraph to improve clarity and consistency with statutory language.

Response:

The Committee agrees.

Change:

The policy language has been updated as recommended and now reads as follows:

The Loan Forgiveness Program for Service in Areas of National Need is intended to ~~bring more highly trained~~ encourage a qualified individuals into certain areas that are to enter and continue employment in a defined as being "national need areas" "area of national need." The Department will grant loan forgiveness on eligible loans under this program on a first-come, first-served basis, and that loan forgiveness is contingent on the availability of annual federal appropriations. This program is currently not funded.

COMMENT:

Two commenters pointed out that the 9th bullet regarding nurses should state that the borrower is a member of the nursing faculty and not a member of the nursing facility to maintain consistency with the statutory language.

Response:

The Committee agrees.

Change:

The 9th bullet has been revised as follows:

- The borrower is employed full time as a nurse in a clinical setting or as a member of ~~a~~ the nursing ~~facility~~ faculty at an accredited school of nursing as defined in Section 801 of the Public Health Service Act.

COMMENT:

One commenter suggested revisions to the 15th bullet regarding borrowers who have gone into the dentistry field. The commenter stated that these changes are needed to align the text with the language in §428K in that a borrower is required to meet one of the two criteria.

Response:

The Committee agrees.

Change:

The 15th bullet has been revised as follows:

- The borrower has received a degree from an accredited dental school (as accredited by the Commission on Dental Accreditation) and satisfies ~~both~~ one of the following criteria:
 - Has completed residency training in pediatric dentistry, general dentistry, or dental public health.
 - Is employed full time ~~as a dentist or is employed full-time~~ as a member of the faculty at a program or school accredited by the Commission on Dental Accreditation.

COMMENT:

One commenter suggested eliminating the sentence "To qualify for forgiveness, a borrower must be employed full time in an area of national need and must not be in default on a loan for which he or she is seeking forgiveness." in the 2nd to the last paragraph of the proposal. The commenter stated that eliminating this sentence would remove duplicate information as this sentence already exists in the 2nd paragraph of this proposal.

In addition, another commenter stated that this paragraph is redundant as it largely repeats information found in the introductory text. The commenter recommends deleting the paragraph completely and incorporating additional eligibility requirements into the introductory paragraph.

Response:

The Committee agrees.

Change:

The 2nd to the last paragraph of the proposal has been removed, and all relevant text moved to the introductory paragraph. The introductory paragraph now reads as follows:

The Loan Forgiveness Program for Service in Areas of National Need is intended to ~~bring more highly trained~~ encourage a qualified individuals into certain areas that are to enter and continue employment in a defined as being "national need areas" "area of national need." The Department will grant loan forgiveness on eligible loans under this program on a first-come, first-served basis, and that loan forgiveness is contingent on the availability of annual federal appropriations. This program is currently not funded. If the borrower qualifies, not more than \$2,000 of the outstanding balance of the borrower's student loan obligation is forgiven after the completion of each applicable school, academic, or calendar year of employment. The maximum amount of forgiveness benefits that a borrower may receive under this forgiveness program is \$10,000 and no borrower may receive forgiveness under this program for more than 5 years of service.

COMMENT:

Two commenters suggested revisions to the types of loans that are not eligible for this program. The commenters stated that "excepted consolidation loans" as defined in HEA §493C(a) are Federal Consolidation loans made under section 428C, or a Federal Direct Consolidation loan, if the proceeds of such loan were used to discharge the liability on an excepted PLUS loan. Based on this definition, no portion of an excepted Consolidation loan would be eligible for this forgiveness program.

Response:

The Committee agrees.

Change:

The sentence has been revised as follows:

A Parent PLUS loan or and portions of a Consolidation loan that repaid a Parent PLUS loan is are
not eligible for this type of forgiveness.

COMMENT:

One commenter stated that references to "portions of a Consolidation loan" need to be removed and text regarding "excepted PLUS loans" and "excepted Consolidation loans" needs to be added to the proposal. The commenter also suggested the addition of these terms to the glossary.

Response:

The Committee agrees that references to "portions of a Consolidation loan" need to be removed, but believes that the change in the previous Response is sufficient to address which types of PLUS loans and Consolidation loans are not eligible for this type of forgiveness. The Committee also believes that a glossary definition is not needed because we are not using the terminology "excepted Consolidation loans" in the Manual.

Change:

None.

COMMENT:

One commenter suggested adding a citation to the final paragraph of the proposal.

Response:

The Committee agrees.

Change:

The citation, HEA §428K, has been added to the final paragraph of the proposal.

SM/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Feb 19

SUBJECT: Loan Repayment Program for Civil Legal Assistance Attorneys

AFFECTED SECTIONS: 13.9.C Loan Repayment Program for Civil Legal Assistance Attorneys

POLICY INFORMATION: 1089/Batch 156

EFFECTIVE DATE/TRIGGER EVENT: August 14, 2008.

BASIS:

HEA §428L, as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:

Current policy does not provide information on the Loan Repayment Program for Civil Legal Assistance Attorneys.

REVISED POLICY:

Revised policy adds information regarding the Loan Repayment Program for Civil Legal Assistance Attorneys that was added to the Higher Education Act as a result of the HEOA.

REASON FOR CHANGE:

This change is made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Add a new Subsection 13.9.C, as follows:

13.9.C

Loan Repayment Program for Civil Legal Assistance Attorneys

The Loan Repayment Program for Civil Legal Assistance Attorneys is intended to encourage a qualified individual to enter and continue employment as a civil legal assistance attorney. The Department will repay portions of a qualifying student loan on behalf of the borrower. To qualify for loan repayment, a borrower must be employed full time as a civil legal assistance attorney and must not be in default on the loan for which repayment is sought. Upon completion of the period of service under the initial written agreement, a borrower may enter into an additional agreement with the Department that may require the borrower to remain employed as a civil legal assistance attorney for less than three years. The Department will grant loan repayment under this program on a first-come, first-served basis and repayment is contingent on the availability of annual federal appropriations. This program is currently not funded.

A qualifying loan for the Loan Repayment Program for Civil Legal Assistance Attorneys is a loan made, insured, or guaranteed under the FFELP, Federal Direct Loan Program, or Federal Perkins Loan Program, and includes a Federal Consolidation loan or Federal Direct Consolidation loan to the extent that such a loan was used to repay any of the following:

- A subsidized Federal Direct Stafford loan, an unsubsidized Federal Direct Stafford loan, or a Federal Direct Grad PLUS loan.
- A subsidized Stafford loan, an unsubsidized Stafford loan, or a Grad PLUS loan.
- A Federal Perkins loan.

A qualifying loan does not include any of the following:

- A PLUS loan made to the parent of a dependent student.
- A Federal Direct PLUS loan made to the parent of a dependent student.
- Any loan other than a FFELP, Federal Direct, or Federal Perkins loan (e.g., a HEAL, HPSL, etc.).

If the borrower qualifies, the Department will repay up to \$6,000 of the outstanding balance of the borrower's student loan obligation in any calendar year. The maximum amount of repayment benefits that a borrower may receive under this program is \$40,000. The Department will give priority in each fiscal year to a borrower who meets each of the following qualifications:

- The borrower has practiced law for 5 years or less and, for not less than 90% of the time in that legal practice, has served as a civil legal assistance attorney.
- The borrower has received repayment benefits under this program during the previous fiscal year.
- The borrower has completed less than 3 years of the first required period of service specified for the borrower in the written agreement with the Department.

When implemented, a borrower will be eligible to receive repayment benefits under this program by entering into a written agreement with the Department. The agreement will include, at a minimum, each of the following requirements:

- The borrower will remain employed full time as a civil legal assistance attorney for at least 3 years, unless involuntarily separated from that employment.
- If the borrower is involuntarily separated from employment because of misconduct, or voluntarily separates from employment before the end of the required 3-year service period, the borrower will repay the Department the amount of any benefits the borrower has received under the agreement.
- If the borrower is required to repay an amount to the Department and fails to repay the amount, the Department or another agency may recover the sum according to methods that are provided by law for the recovery of amounts owed to the federal government.
- The Department may waive portions of the required recoverable amount if it is shown that the recovery of the amount would be contrary to the public interest.
- The Department will make student loan payments on the qualifying loan(s) for the period of the written agreement, subject to the availability of appropriations.

Receipt of a benefit under this program does not entitle the borrower to a refund of payments made on the loan. In addition, no borrower may, for the same service, receive a reduction of the loan amount under both this loan repayment program and the Loan Forgiveness Program for Service in Areas of National Need Program or the Public Service Loan Forgiveness Program under the Federal Direct Loan Program.
[HEA §428L]

PROPOSED LANGUAGE - COMMON BULLETIN:

Loan Repayment Program for Civil Legal Assistance Attorneys

The *Common Manual* has been updated to include information regarding the Loan Repayment Program for Civil Legal Assistance Attorneys that was added to the Higher Education Act as a result of the Higher Education Opportunity Act (HEOA), P.L. 110-315. The Department will grant loan repayment under this program on a first-come, first-served basis, contingent on the availability of annual federal appropriations. This program is currently not funded. When funds are available, in order to qualify under this program, a borrower must be employed full time as a civil legal assistance attorney for a period of at least 3 years and

must not be in default on the loan for which repayment is sought. A borrower with a parent PLUS loan, a Consolidation loan that repaid a parent PLUS loan, or any loan other than a FFELP, Federal Direct, or Federal Perkins loan (e.g., a HEAL, HPSL, etc.) will not be eligible for loan repayment under this program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may be eligible for new benefits under the Loan Repayment Program for Civil Legal Assistance Attorneys if funds become appropriated.

School:

A school may need to update counseling materials to include information on the Loan Repayment Program for Civil Legal Assistance Attorneys. A school must ensure that current students are aware that this program is contingent on congressional funding and that there are currently no funds appropriated to provide this benefit.

Lender/Service:

When the program is funded, a lender may need to establish policies and procedures for processing a borrower's request. A lender must ensure that current students are aware that this program is contingent on congressional funding and that there are currently no funds appropriated to provide this benefit.

Guarantor:

A guarantor may need to update loan counseling and other financial aid materials regarding the new loan repayment option, but also must ensure that current students are aware that this program is contingent on congressional funding and that there are currently no funds appropriated to provide this benefit.

U.S. Department of Education:

When the program is funded, the Department may need to provide contact information to lenders and guarantors in order to refer potential applicants for this program. The Department may need to process Loan Repayment Program for Civil Legal Assistance Attorneys requests.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

February 12, 2009

PROPOSAL DISTRIBUTED TO:

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

COMMENTS RECEIVED FROM:

AES/PHEAA, ASA, CSLF, EAC, FAME, Great Lakes, HESAA, HESC, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, USA Funds, and VSAC.

RESPONSES TO COMMENTS

Many commenters supported this proposal as written. Other commenters recommended punctuation or wordsmithing 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 suggested adding a citation to the proposal.

Response:

The Committee agrees.

Change:

The citation, HEA §428L, has been added to the final paragraph of the proposal.

COMMENT:

One commenter does not support adding text regarding this subject in the Manual at all because the program is not currently funded. The commenter stated that they feel that it is more confusing to include items that may never come to fruition. The commenter stated that they are afraid that they typical Manual user would not understand that this program is currently approved only on paper.

Response:

The Committee appreciates the commenter's concerns but believes it is the responsibility of the Committee to make sure that all statutory and regulatory changes are included in the Manual so that our school and lender partners have all the information they need. To ensure that users understand the scope of this program, the Proposed Language does state that the program is contingent upon annual federal appropriations. In addition, the Committee believes that not knowing what changes the new Administration and a new Congress will bring, this program could be funded in the near future and including this program in the July 2009 edition of the Manual would provide the FFELP community the most current information.

Change:

None.

COMMENT:

Two commenters recommend removing the sentence "This program is currently not funded." The commenters state that this statement is not needed in the Manual and that the Manual should only address policy. The commenters also state that if this statement is retained, and the program is funded next year, then another proposal is required to remove the sentence. Therefore, it is best left out of the Manual. A third commenter suggested deleting this sentence as it is subject to change and somewhat redundant with an earlier sentence indicating availability subject to appropriations.

Response:

The Committee believes that the Manual was developed as a common source for FFELP participants to go to for all regulatory and statutory information regardless of the funding levels of a particular program. The Committee believes that it is important to note which programs are subject to appropriations and whether or not each program is currently funded because these are two different matters. In the past, the Manual has included other programs that were currently not funded, such as the Child Care Provider Loan Forgiveness Program, and included a statement that indicated that the program itself was not funded, thus not applicable during most of its duration.

Change:

None.

COMMENT:

Two commenters suggested clarifying language regarding the completion of the initial written agreement. As currently written, the commenters state that it could be interpreted that once the borrower signs the initial agreement related to the 3-year period of service, he or she could have that 3 years reduced by way of a subsequent agreement. The addition of "the period of service under" which is from statute would clarify that this is not the case.

Response:

The Committee agrees.

Change:

The proposal language has been revised as follows:

To qualify for loan repayment, a borrower must be employed full-time as a civil legal assistance attorney and must not be in default on a loan for which they are seeking repayment on. Upon

completion of the period of service under the initial written agreement, a borrower may enter into an additional agreement with the Department that may require the borrower to remain employed as a civil legal assistance attorney for less than three years.

COMMENT:

Two commenters stated that the proposal does not reflect the qualifying student loans that are eligible and the loans that are not eligible under the Loan Repayment Program for Civil Legal Assistance Attorneys.

Response:

The Committee agrees that the proposal does not address which loans are eligible for the program, but disagrees that it does not talk about the loans that are excluded from the program.

Change:

The proposal has been revised to include text describing both eligible and ineligible loans. Please see last Response for complete changes to introductory paragraph.

COMMENT:

One commenter believes that it is more appropriate to include full eligibility criteria in the introductory text, therefore they recommend moving the current third from the last paragraph to the introduction. In addition, the commenter recommends deleting information in the current second from the last paragraph that already exists in earlier text, and moving the remaining text, the default loan provision, to the introduction along with the other eligibility criteria.

Response:

The Committee agrees.

Change:

The 2nd and 3rd to the last paragraphs have been removed and the introductory paragraphs have been revised as follows:

The Loan Repayment Program for Civil Legal Assistance Attorneys is intended to encourage a qualified bring more highly trained individuals to enter and continue employment as into the a civil legal assistance field attorney. The Department will repay portions of a qualifying student loan on behalf of the borrower. To qualify for loan repayment, a borrower must be employed full time as a civil legal assistance attorney and must not be in default on the loan for which repayment is sought. Upon completion of the period of service under the initial written agreement, a borrower may enter into an additional agreement with the Department that may require the borrower to remain employed as a civil legal assistance attorney for less than three years. Parent PLUS loans and portions of a Consolidation loan that repaid a Parent PLUS loan are not eligible for this type of loan repayment. The Department will grant loan repayment under this program on a first-come, first-served basis and repayment is contingent on the availability of annual federal appropriations. This program is currently not funded.

A qualifying loan for the Loan Repayment Program for Civil Legal Assistance Attorneys is a loan made, insured, or guaranteed under the FFELP, Federal Direct Loan Program, or Federal Perkins Loan, and includes a Federal Consolidation loan or Federal Direct Consolidation loan to the extent that such a loan was used to repay any of the following:

- A subsidized Federal Direct Stafford loan, an unsubsidized Federal Direct Stafford loan, or a Federal Direct Grad PLUS loan.
- A subsidized Stafford loan, an unsubsidized Stafford loan, or a Grad PLUS loan.
- A Federal Perkins loan.

A qualifying loan does not include any of the following:

- A PLUS loan made to the parent of a dependent student.
- A Federal Direct PLUS loan made to the parent of a dependent student.

- Any loan other than a FFELP, Federal Direct, or Federal Perkins loan (e.g., a HEAL, HPSL, etc.).

If the borrower qualifies, the Department will repay up to \$6,000 of the outstanding balance of the borrower's student loan obligation in any calendar year. The maximum amount of repayment benefits that a borrower may receive under this program is \$40,000. The Department will give priority in each fiscal year to a borrower who meets each of the following qualifications:

- The borrower has practiced law for 5 years or less and, for not less than 90% of the time in that legal practice, has served as a civil legal assistance attorney.
- The borrower has received repayment benefits under this program during the previous fiscal year.
- The borrower has completed less than three years of the first required period of service specified for the borrower in the written agreement with the Department.

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