

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1090	Entrance Counseling	<p><u>4.4.C</u> <u>Entrance Counseling</u></p> <p>Expands on the current text of the Manual to include new requirements made as part of the Higher Education Opportunity Act (HEOA) regarding what a school must provide a student during entrance counseling made as a result of the HEOA.</p> <p>Expands counseling specific to Grad PLUS borrowers and makes it consistent with counseling applicable to Stafford borrowers.</p> <p>Deletes audiovisual presentation as an acceptable means of entrance counseling.</p> <p>Deletes redundant text and makes other non-substantive changes to provide clarity.</p>	Federal	Entrance counseling provided by the school on or after August 14, 2008.
1091	Exit Counseling	<p><u>4.4.D</u> <u>Exit Counseling</u></p> <p>Expands on the current text of the Manual to include new requirements made as part of the HEOA regarding what a school must provide a student during exit counseling.</p> <p>States that a school is required to ensure that the borrower is provided a copy of the Department's publication that describes federal student finance programs.</p> <p>Deletes redundant text and makes other non-substantive changes to provide clarity.</p>	Federal	Exit counseling for Stafford and Grad PLUS borrowers on or after August 14, 2008.
1092 Deferred for additional research	Academic Year Categories for Determining Annual Loan Limit Frequency	<p><u>6.1.B</u> <u>Academic Year Categories</u> <u>Figure 6-2</u> <u>Appendix G</u></p> <p>Incorporates various changes made in the Volume 3 of the 08-09 FSA Handbook regarding academic year categories, including the adoption of the abbreviation for programs with nonstandard terms that are substantially equal and at least nine weeks of instructional time in length (SE9W), and the FSA Handbook standard for identifying the different BBAY categories that apply to different types of academic programs: BBAY1, BBAY2, and BBAY3.</p>	Federal	Publication date of Volume 3 of the 08-09 FSA Handbook.

		<p>Revises Figure 6-2 with corresponding changes.</p> <p>Adds a new Appendix G definition for the acronym "SE9W" relative to a non-standard term-based credit-hour program.</p> <p>Revises the current Appendix G definition of the acronym "BBAY", as well as the definition of "Borrower-Based Academic Year."</p>		
1093	Grade Level Changes and Increases in the Stafford Annual Loan Limit	<p>6.10 <u>Determining the Student's Grade Level Stafford Annual Loan Limits</u></p> <p>6.11.A</p> <p><u>Appendix G</u></p> <p>Incorporates various changes made in the Volume 3 of the 08-09 FSA Handbook regarding Stafford annual loan limit increases for a student who experiences a grade level change within an academic year.</p> <p>Adds reference to a credit-hour program with nonstandard terms that are not SE9W when explaining that a school may not certify the higher loan limit associated with the next grade level until the student completes both the minimum number of weeks and the minimum number of credit or clock hours in the program's defined academic year.</p> <p>Revises the current glossary definition of "Grade Level" to clarify that a school must provide the appropriate grade level code (e.g., 01 through 05) on the Federal Stafford Loan School Certification.</p> <p>Makes non-substantive changes to provide consistency throughout the Manual's text.</p>	Federal	Publication date of Volume 3 of the 08-09 FSA Handbook, unless implemented earlier by the school on or after November 1, 2007.
1094	Increased Loan Limits and Overawards	<p>6.11.E <u>Exceeding Loan Limits</u></p> <p>Incorporates private guidance received from the Department that will assist lenders in resolving inadvertent overawards that existed when loan limits increased due to the enactment of the Ensuring Continued Access to Student Loans Act (ECASLA).</p>	Federal	Inadvertent overawards resulting from Stafford loans first disbursed before July 1, 2008, and inadvertent overawards that occur in the future prior to an annual or aggregate loan limit increase.
1095	Proration of Stafford Annual Loan Limits	<p>6.11.F <u>Prorated Loan Limits</u></p> <p>Incorporates several new and existing clarifications found in the FSA Handbook concerning prorating a borrower's Stafford annual loan limit.</p>	Federal	Publication date of Volume 3 of the 08-09 FSA Handbook for the following in a credit-hour
Deferred for additional research				

		<p>Incorporates information regarding when a school is not required to prorate the Stafford annual loan limit and in some instances, the school is not permitted to prorate the borrower's Stafford annual loan limit</p>	<p>program that uses nonstandard terms that are substantially equal <i>and</i> at least nine instructional weeks in length (SE9W):</p> <ul style="list-style-type: none">• Determining the final period of study for an undergraduate borrower• Exempting from proration an undergraduate borrower who is enrolled less than half time for a term(s) during a final period of study that contains the number of terms in the program's academic year. <p>Publication date of Volume 3 of the 07-08 FSA Handbook for exempting from proration an undergraduate borrower who is enrolled in a standard term-based credit-hour program and enrolled less than half time for a term(s) during a final period of study that contains the number of terms in the program's academic year.</p> <p>Publication date of Volume 3 of the 05-06 FSA Handbook for the following:</p> <ul style="list-style-type: none">• Clarifying that a school must prorate the Stafford annual loan limit when the school knows in advance that an
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				<p>undergraduate student will be enrolled for a period of less than an academic year.</p> <ul style="list-style-type: none"> Exempting from proration an undergraduate borrower who is enrolled at least half time but less than full time or enrolled for a period of less than a full academic year that is not a final period of study. <p>Publication date of Volume 3 of the 04-05 FSA Handbook for using the school's academic year definition for the program to determine whether a final period of study is shorter than an academic year.</p>
1096	Reduced Interest Rate for Military Servicemembers	<p><u>7.4</u> <u>Establishing Stafford Loan Interest Rates</u></p> <p><u>7.4.B</u> <u>Reduced Stafford Interest Rates</u></p> <p><u>7.5</u> <u>Establishing PLUS Loan and SLS Loan Interest Rates</u></p> <p><u>7.5.B</u> <u>Reduced PLUS Interest Rates</u></p> <p><u>10.9.B</u> <u>Reduced Interest Rates</u></p> <p><u>15.3.D</u> <u>Calculating the Interest Rate</u></p> <p>Incorporates HEOA-related changes that require FFELP lenders to comply with the provisions of the Servicemembers Civil Relief Act (SCRA) with respect to charging reduced interest (not to exceed 6%) on a FFELP loan. Qualifying borrowers must request the reduced interest rate in writing and provide the lender substantiating documentation of his or her eligibility.</p> <p>Permits the lender to determine the applicable special allowance payment based on the loan's actual 6% interest rate if the loan was first disbursed on or</p>	Federal	<p>Loans for which the lender receives a servicemember's written request for the reduced interest rate that is effective on or after August 14, 2008, for periods of military service ending on or after that date.</p> <p>Special allowance billings for loans that are first disbursed on or after July 1, 2008, if the lender receives a servicemember's request for the reduced interest rate on or after August 14, 2008.</p>

		after July 1, 2008.		
1097	Timing of Lender Disclosures before Repayment	<p><u>10.7.A</u> <u>Time Frame for Disclosure</u></p> <p>Incorporates HEOA-related changes with regard to the time frames in which a lender discloses repayment terms to a borrower prior to the start of the repayment period. A lender must provide the repayment disclosure to a Stafford borrower no less than 30 days, and no more than 150 days, before the first payment due date. The lender must provide the repayment disclosure to a PLUS borrower at or before the beginning of the repayment period, defined as the date on which the loan is fully disbursed or the date on which an in-school or post-enrollment deferment period is scheduled to end. The lender must notify a PLUS loan borrower of repayment terms no less than 30 days, and no more than 150 days, before the first payment due date.</p>	Federal	Effective for loans first disbursed on or after August 14, 2008.
1098	Economic Hardship Deferment	<p><u>11.4</u> <u>Economic Hardship Deferment</u></p> <p><u>11.4.A</u> <u>Eligibility Criteria—Economic Hardship</u></p> <p><u>11.4.B</u> <u>Deferment Documentation—Economic Hardship</u></p> <p>Incorporates Final Rule-related changes (dated October 23, 2008) that adds a definition for family size as it pertains to the economic hardship deferment and deletes the two eligibility criterion based on a federal income-to-debt ratio.</p>	Federal	<p>Elimination of the debt-to-income provisions is effective for economic hardship deferments granted on or after July 1, 2009, that begin on or after July 1, 2009.</p> <p>The definition of family size is effective for economic hardship deferments granted on or after July 1, 2009.</p>
1099	Post-Active Duty Student Deferment	<p><u>11.8</u> <u>Military Active Duty Student Deferment</u></p> <p><u>11.9</u> <u>Military Service Deferment</u></p> <p><u>11.10</u> <u>National Oceanic and Atmospheric Administration Corps Deferment</u></p> <p><u>11.11</u> <u>Parental Leave Deferment</u></p> <p><u>11.12</u> <u>Peace Corps Deferment</u></p> <p><u>Figure 11-1</u> <u>Deferment Eligibility Chart</u></p> <p>Incorporates Final Rule-related changes (dated October 23, 2008) relating to the post-active duty student deferment. The Manual identifies the military active duty student deferment as a post-active duty student deferment and moves the text so</p>	Federal	Post-active duty student deferment requests received on or after July 1, 2009, unless implemented earlier by the lender on after October 23, 2008.

		<p>that the information related to the post-active duty student deferment appears alphabetically within the deferment chapter.</p> <p>Specifies that to qualify for the post-active duty student deferment, a borrower's eligible military service must begin on or after October 1, 2007, or include that date.</p> <p>Updates Figure 11-1, "Deferment Eligibility Chart," to incorporate these changes and to also clarify that there is no limit to the number of post-active duty student deferments an eligible borrower may receive, however, each individual deferment is limited to 13 months.</p>		
1100	Military Service Deferment	<p><u>11.9.C</u> <u>Length of Deferment—Military Service</u></p> <p>Incorporates a Final Rule-related change (dated October 23, 2008) which states that without supporting documentation, a military service deferment may be granted to an otherwise eligible borrower for a period not to exceed the initial 12 months from the date the qualifying eligible service began based on a request from the borrower or the borrower's representative.</p>	Federal	Military service deferment requests received by the lender on or after July 1, 2009, unless implemented by the lender on or after October 23, 2008.
1101	Mandatory Forbearance for Post-Active Duty Student Deferment	<p><u>11.24</u> <u>Mandatory Forbearance</u> <u>Figure 11-2</u> <u>Forbearance Eligibility Chart</u></p> <p>Incorporates a Final Rule-related change (dated October 23, 2008) that states a mandatory forbearance must be granted to a borrower who is a member of the National Guard if the borrower is serving on active military state duty and qualifies for the post-active duty student deferment, but does not qualify for the military service deferment or other deferment. This type of forbearance is granted in yearly increments (or for a lesser period of time that is equal to the period for which the borrower is eligible) while the eligible borrower is engaged in active state duty for a period of more than 30 consecutive days. The forbearance begins on the day after the grace period expires for a Stafford loan that has not entered repayment or on the day after the borrower ceases at least half-time enrollment, for a FFELP loan in repayment.</p> <p>Updates Figure 11-2, "Forbearance Eligibility Chart," to incorporate this</p>	Federal	Requests received by a lender on or after July 1, 2009, unless implemented earlier by the lender on or after October 23, 2008.

		forbearance type.		
1102	Additional Documentation Requirements for Subrogated Loans	<p><u>13.1.D</u> <u>Claim File Documentation</u></p> <p><u>13.1.G</u> <u>Additional Documentation as Requested by the Guarantor</u></p> <p>Incorporates a Final Rule-related change (dated November 1, 2007) that states a lender will need to provide additional loan disbursement information or electronic signature documentation to a guarantor, upon request, for a loan that may be selected for subrogation to the Department.</p> <p>Creates a new subsection regarding additional documentation as requested by the guarantor.</p>	Federal	Requests for loan disbursement information and electronic signature documents received from the guarantor on or after July 1, 2008.
1103	Repayment Options on Rehabilitated Loans	<p><u>13.7</u> <u>Rehabilitation of Defaulted FFELP Loans</u></p> <p>Incorporates a Final Rule-related change (dated October 23, 2008) that states a lender must allow a borrower to choose any repayment plan that is available for the loan type as the rehabilitated loan. The rehabilitation lender is no longer required to ensure that the repayment schedule on the rehabilitated loan has initial payments that are equal to or greater than the nine monthly payments that the borrower made to the guarantor during the rehabilitation period.</p>	Federal	Rehabilitated FFELP loans purchased by a lender on or after July 1, 2009.
1104	Consolidation Eligibility	<p><u>15.2</u> <u>Borrower Eligibility and Underlying Loan Holder Requirements</u></p> <p>Incorporates a HEOA-related change that states a FFELP borrower may consolidate into the Direct Loan program for the purpose of using the no accrual of interest for active duty service members benefits of the Direct Loan program.</p> <p>Incorporates changes made as a result of the HEOA and Final Rule dated October 23, 2008, that state that a FFELP borrower may consolidate into the Direct Loan program for the purpose of using the Public Service Loan Forgiveness Program.</p>	Federal	<p>Direct Consolidation Loans disbursed on and after October 1, 2008, for purpose of using the no accrual of interest for active duty service members.</p> <p>Direct Consolidation Loans disbursed on and after July 1, 2009:</p> <ul style="list-style-type: none"> • to obtain an income-based repayment plan (if the loan has been submitted for default aversion or is already in default). • for purposes of

				using the Public Service Loan Forgiveness Program.
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Batch 157-trans

approved

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Entrance Counseling

AFFECTED SECTIONS: 4.4.C Entrance Counseling

POLICY INFORMATION: 1090/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Entrance counseling provided by the school on or after August 14, 2008.

BASIS:

HEA §485(l), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:

Current policy does not include all of the required information that a school must provide to a student during entrance counseling.

REVISED POLICY:

Revised policy includes all the information that a school must ensure that a borrower receives during entrance counseling. Revised policy expands entrance counseling requirements specific to Grad PLUS borrowers and makes formatting consistent with counseling applicable to Stafford borrowers. In addition to fulfilling the existing requirements, a school must also include information about each of the following:

- How interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Department.
- That the borrower has the option to pay accruing interest on any unsubsidized loan while the borrower is in school.
- The effect of accepting the loan on the borrower's eligibility for other forms of student financial assistance.
- The definition of half-time enrollment during regular and summer terms, and the consequences of not maintaining half-time enrollment.
- The importance of contacting the appropriate school offices if the borrower intends to withdraw.
- The name and contact information for a party the borrower may contact with questions about rights and responsibilities, or loan terms, and conditions.
- That the borrower must repay the loan in full, even if the borrower does not complete the program or if the borrower does not complete the program in the regular time.
- The availability of the National Student Loan Data System (NSLDS), where/how it can be assessed and how the borrower can use the information.
- Federal delinquent debt collection procedures.

In addition, revised policy deletes audiovisual presentation as an acceptable means of providing entrance counseling and adds the requirement that counseling materials provided to the borrower must include a separate written form that the borrower must sign and return to the school.

Further, revised policy deletes redundant text and makes other nonsubstantive changes to provide clarity.

REASON FOR CHANGE:

This change is necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.4.C, page 22, column 1, paragraph 1, as follows:

**4.4.C
Entrance Counseling**

A school must ensure that entrance counseling is ~~conducted with~~ provided in a simple and understandable manner to all of the following:

- ~~Each student borrower who is obtaining his or her first Stafford loan, for attendance at that school unless the student he or she has previously received a Stafford or Federal Direct Stafford loan.~~
- ~~A school also must ensure that entrance counseling is conducted with~~ Each graduate or professional student borrower who is obtaining his or her first Grad PLUS loan, unless he or she has previously received a PLUS loan, or a Direct PLUS loan, a Grad PLUS loan, or a Direct Grad PLUS loan.

Entrance counseling must be provided at or prior to the time of ~~before~~ the first disbursement of a loan is released and may be conducted by any of the following methods:

- In-person presentation.
- ~~Audiovisual presentation.~~
- Providing counseling materials to the borrower, including a separate written form that the borrower must sign and return to the school.
- Interactive electronic means, where the borrower acknowledges receipt of the information.

[HEA §485(I)(1)(A)(ii)(III) and (B)]

If entrance counseling is conducted through interactive electronic means, the school must ~~take reasonable steps to~~ ensure that each student borrower receives the counseling materials and participates in and completes the counseling. The school must ensure that an individual with expertise in the Title IV programs is reasonably available shortly after the counseling has been conducted to answer questions regarding these programs. ~~As an alternative, For students enrolled in a correspondence program or study abroad program that the home institution approves for credit~~ the school may provide the required counseling through written materials in a separate written form that the borrower signs and returns to the school for students enrolled in a correspondence program or a study abroad program that the home institution approves for credit.

[HEA §485(I)(A); §682.604(f)(1) and (2)]

When counseling is conducted by another party ~~or by interactive electronic means~~, the school remains responsible for ensuring that each student borrower receives the counseling materials and participates in and completes entrance counseling.

[§682.604(f)(3)]

A school must ensure that information on the following subjects is provided to a first-time Stafford borrower who has not previously received a Stafford or Direct Stafford loan or to a first-time Grad PLUS borrower who has not previously received a prior Stafford or Federal Direct Stafford loan, a PLUS or Direct PLUS loan, or a Grad PLUS or Direct Grad PLUS loan:

- The use of the Master Promissory Note (MPN). This may include . . .
- The seriousness and importance of the repayment obligation that the student borrower is assuming.

[§682.604(f)(1)(ii); §682.604(f)(1) and (2)(iii)]

- ~~The likely consequences of default, including adverse credit reports, federal delinquent debt collection procedures, federal offset, and litigation. [§682.604(f)(1)(ii) and §682.604(f)(2)(iii)]~~
- How interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Department.
[HEA §485(I)(2)(C)]
- In the case of a Grad PLUS loan or unsubsidized Stafford loan, that the borrower has the option to pay interest that accrues while the borrower is in school.
[HEA §485(I)(2)(D)]
- The effect of accepting the loan on the borrower's eligibility for other forms of student financial assistance.
[HEA §485(I)(2)(A)]
- The school's definition of half-time enrollment during both regular and summer terms and the consequences of not maintaining half-time enrollment.
[HEA §485(I)(2)(E)]
- The importance of contacting the appropriate offices at the school if the borrower withdraws prior to completing the program so that the school can provide required exit counseling that will include information on the borrower's repayment options and loan consolidation.
[HEA §485(I)(2)(F)]
- The name and contact information for the individual the borrower may contact if the borrower has any questions about the borrower's rights and responsibilities, or the terms and conditions of the loan.
[HEA §485(I)(2)(K)]
- The obligation to repay the full amount of the Stafford or Grad PLUS loan, even if the student borrower does not complete the program, is unable to obtain employment upon completion, does not complete the program within the regular time frame normally required for program completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student borrower purchased from the school (the school or the school designee must provide this information to all of the school's student borrowers except those who receive a loan made or originated by the school).
[HEA §485(I)(2)(H); §682.604(f)(1)(iv); §682.604(f)(2)(iii); ~~§682.604(f)(2)(i)~~]
- ~~The student borrower must be provided with a~~ Sample monthly repayment amounts based on a range of student levels of borrower indebtedness or on the average indebtedness of the loan types applicable to the borrower, as follows:
 - Stafford loan borrowers, or, depending on the type of loan the borrower has obtained;
 - Student borrowers with Stafford and Grad PLUS loans borrowers at the same school or and in the same program of study at the same school.
[HEA §485(I)(2)(G)(ii); §682.604(f)(1)(v)]
- The availability of the National Student Loan Data System (NSLDS), where and how it can be assessed and how the borrower can use the information found there.
[HEA §485(I)(2)(J)]
- The likely consequences of default, including adverse credit reports, federal delinquent debt collection procedures, federal offset, and litigation.
[HEA §485(I)(2)(I); §682.604(f)(1)(ii) and §682.604(f)(2)(iii)]

Revise Subsection 4.4.C, page 23, column 2, paragraph 1, as follows:

A school must maintain a record to substantiate the school's compliance with the entrance counseling requirement for each borrower. For detailed information on entrance counseling, a school may consult §682.604(f) and the ~~07-08~~08-09 FSA Handbook, Volume 2, Chapter 6, pp. ~~2-78 to 79~~2-80 to 81.

PROPOSED LANGUAGE - COMMON BULLETIN:

Entrance Counseling

The *Common Manual* has been updated to include statutory changes resulting from the Higher Education Opportunity Act. Revised policy includes all the information that a school must ensure a borrower receives during entrance counseling and expands counseling specific to Grad PLUS borrowers to makes formatting consistent with counseling applicable to Stafford borrowers. In addition to fulfilling the existing requirements, under the new provisions, a school must also include information about each of the following:

- How interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Department.
- That the borrower has the option to pay accruing interest on any unsubsidized loan while the borrower is in school.
- The effect of accepting the loan on the borrower's eligibility for other forms of student financial assistance.
- The school's definition of half-time enrollment during regular and summer terms, and the consequences of not maintaining half-time enrollment.
- The importance of contacting the appropriate school offices if the student intends to withdraw.
- The name and contact information for a party whom the student may contact with questions about rights, responsibilities, loan terms and conditions.
- That the student must repay the loan in full, even if the student does not complete the program or if the student does not complete the program in the regular time.
- The availability of the NSLDS and how the borrower can use the information found there.
- Federal delinquent debt collection procedures.

Revised policy deletes audiovisual presentation as an acceptable means of providing entrance counseling. Acceptable entrance counseling methods are in-person counseling; interactive electronic means with the condition that the borrower must acknowledge receipt of the information; and written counseling materials that the school provides to the borrower that includes a separate written form that the borrower must sign and return to the school.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

Both Stafford and Grad PLUS borrowers will receive more information on loan acceptance responsibilities and the effect of those loans on eligibility for other types of aid, at least half-time attendance to remain eligible, federal delinquent debt collection procedures, and contact information for withdrawal or other questions they may have.

School:

A school must update its entrance counseling materials and presentations or ensure that entrance counseling materials and presentations provided by the school or any third party for the school to use are up to date.

Lender/Service:

A lender that offers entrance counseling materials for a school to use may be required to update its materials and presentations.

Guarantor:

A guarantor that offers entrance counseling materials for a school to use may be required to update its entrance counseling materials and presentations. A guarantor may be required to update its program review procedures regarding entrance counseling requirements for a school.

U.S. Department of Education:

The Department may have to update its entrance counseling materials for a school to use. The Department may be required to update its program review procedures regarding entrance counseling requirements for a school.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 12, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 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, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

One commenter did not agree that the HEOA eliminated the ability to conduct counseling using audiovisual means.

Response:

The Committee disagrees. For the first time, the HEOA incorporated into the HEA provisions related to entrance counseling. Those provisions include the permissible methods of providing entrance counseling. Audiovisual presentation is not one of the methods authorized by law. However, the Committee agrees that an audiovisual presentation could be used to supplement counseling materials provided with any other permissible entrance counseling method.

Change:

None.

COMMENT:

Two commenters requested that the language in Subsection 4.4.C, page 22, column 1, paragraph 3 addressing alternative counseling measures for students enrolled in a correspondence program or a study abroad program be deleted from the manual as the HEOA does not address these circumstances and appears to cause a discrepancy within the text.

Response:

The Committee agrees that the HEOA does not address alternative entrance counseling for these circumstances. The HEOA states that a school may provide counseling materials to a student borrower on a separate written form that the borrower signs and returns to the school.

Change:

The text has been modified as follows:

~~As an alternative, the school may provide the required counseling through written materials in a separate written form that the borrower signs and returns to the school~~ for students enrolled in a correspondence program or a study abroad program that the home institution approves for credit.

COMMENT:

One commenter questioned the deletion of existing text in Subsection 4.4.C, page 22, column 2, paragraph 1, as follows:

When counseling is conducted by another party ~~or by interactive electronic means~~, the school remains responsible for ensuring that each student borrower receives the counseling materials and participates in and completes entrance counseling.

Response:

The Committee believes that the text is repetitive. Entrance counseling conducted through interactive electronic means is addressed in the preceding paragraph.

Change:

None.

COMMENT:

One commenter noted that the HEOA changed the following requirement as follows:

- The student borrower must be provided with sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of
 - . . .
 - Student borrowers with Stafford and Grad PLUS loan depending on the type of loan the borrower has obtained, at the same school ~~or~~ and in the same program of study at the same school.
[HEA §485(l)(2)(G)(ii); §682.604(f)(1)(v)]

Response:

The Committee agrees and has incorporated the change and the HEA cite.

Change:

The corrections and the HEA cites have been incorporated in the bullet.

om/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Exit Counseling

AFFECTED SECTIONS: 4.4.D Exit Counseling

POLICY INFORMATION: 1091/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Exit counseling for Stafford and Grad PLUS borrowers on or after August 14, 2008.

BASIS:

HEA §485(b), 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 expanded information that a school must ensure a borrower receives during exit counseling.

REVISED POLICY:

Revised policy expands information that a school must ensure a that borrower receives during exit counseling. Revised policy expands exit counseling requirements specific to Grad PLUS borrowers and makes them consistent with counseling applicable to Stafford borrowers. In addition to fulfilling the existing requirements, a school must include information about each of the following:

- The different features of the available repayment options, sample information showing the average anticipated monthly payments and the difference in interest paid and total amount paid under each.
- The borrower's options to prepay a loan, request a shorter repayment period, and select another repayment plan.
- Federal delinquent debt collection procedures.
- Forbearance, deferment, loan cancellation, forgiveness, and discharge options for all Title IV loans.
- The effect of consolidation on total interest, fees to be paid, the length of repayment, the grace period, forgiveness, cancellation, and deferment opportunities.
- A borrower's option to prepay the Consolidation loan or change the repayment plan, and a statement that borrower benefit programs may vary from lender to lender.
- Tax benefits available to borrowers.
- The availability of the NSLDS, where/how it can be accessed and how the borrower can use the information found there. In addition, a school must ensure that the borrower is provided the NSLDS disclosure form developed by the Department.

Revised policy also requires the school to ensure that the borrower is provided a copy of the Department's publication that describes federal student aid programs.

Further, revised policy deletes redundant text and makes other nonsubstantive changes to provide clarity.

REASON FOR CHANGE:

These changes are necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.4.D, page 23, column 2, paragraph 2, as follows:

4.4.D
Exit Counseling

A school must ensure that exit counseling is conducted shortly before any Stafford or Grad PLUS loan borrower ceases enrollment on at least a half-time basis. The school or another party may conduct exit counseling ~~may be conducted~~ in person, by audiovisual presentation, or by interactive electronic means. The school must ensure that an individual with expertise in the Title IV programs is reasonably available shortly after the exit counseling has been conducted to answer the ~~student~~ borrower's questions.

If a ~~student~~ borrower withdraws without the school's prior knowledge, or fails to complete the required exit counseling, the school must ensure that exit counseling ~~is~~ was provided through interactive electronic means or by mailing written materials to the ~~student~~ borrower at his or her last known address within 30 days after learning that the ~~student~~ borrower withdrew from school or failed to complete the exit counseling as required. . . .

When counseling is conducted by another party ~~or by interactive electronic means~~, the school remains responsible for ensuring that each ~~student~~ borrower receives the counseling materials and participates in and completes exit counseling. A school must maintain a record to substantiate the school's compliance with exit counseling requirements for each borrower. [§682.604(g)(3) and (4)]

The school must ensure that the ~~student~~ borrower provides the school with his or her current name, address, Social Security number, references, and driver's license number and state of issuance (if any). The school also must ensure that the student borrower provides his or her permanent address, the name and address of his or her expected employer (if known), and the address of his or her next of kin. The school must ensure that this information if provided to each guarantor listed in the ~~student's~~ borrower's records within 60 days after the ~~student~~ borrower provides the information. [§682.604(g)(2)(vi)]

The school must ensure that information on the following subjects is provided to the ~~student~~ borrower during exit counseling:

- The average anticipated monthly repayment amount based on the ~~student's~~ borrower's indebtedness or based on the average indebtedness of Stafford or Stafford and Grad PLUS loans, depending on the types of loans the ~~student~~ borrower has obtained, at the same school or in the same program of study at the same school. [§682.604(g)(2)(i)]
- Available repayment ~~options~~ schedules including standard, graduated, extended, ~~and~~ income-sensitive, and income-based, ~~and repayment plans and loan consolidation~~, including a description of the different features of each repayment schedule, sample information showing the average anticipated monthly payments under each, and the difference in interest paid and total payments under each. [HEA §485(b)(1)(A)(i); DCL GEN 08-12/FP 08-10; §682.604(g)(2)(iv)]
- Debt management strategies that would facilitate repayment. [HEA §485(b)(1)(A)(ii); §682.604(g)(2)(iii)]
- An explanation of the borrower's options to prepay each loan, pay each loan on a shorter schedule, and change repayment plans. [HEA §485(b)(1)(A)(iii)]
- The terms and conditions under which the ~~student~~ borrower may defer or forbear repayment, or obtain a full or partial discharge, forgiveness, or cancellation of the principal and interest. [HEA §485(b)(1)(A)(iv) and (v); §682.604(g)(2)(v)]

- The seriousness and importance of the repayment obligation that the ~~student borrower~~ has assumed.
[§682.604(g)(2)(iv)]
- The likely consequences of default, including adverse credit reports, federal delinquent debt collection procedures, federal offset, and litigation.
[HEA §485(b)(1)(A)(vi); §682.604(g)(2)(iv)]
- The effects of obtaining a Consolidation loan, including all of the following:
 - The total interest to be paid, the fees to be paid, and the length of repayment.
 - How consolidation affects a borrower’s underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities.
 - That the borrower has the option to prepay the Consolidation loan or to change repayment plans.
 - A statement that borrower benefits vary among lenders.
[HEA §485(b)(1)(A)(vii)]
- A general description of the types of tax benefits that may be available to the borrower.
[HEA §485(b)(1)(A)(viii)]
- The availability of the Student Loan Ombudsman’s Office.
[§682.604(g)(2)(vii)]
- The use of the Federal Stafford Loan Master Promissory Note (Stafford MPN).
[§682.604(g)(2)(iv)]
- The obligation to repay the full amount of the loan—even if the ~~student~~ borrower has not completed the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services the ~~student borrower~~ purchased from the school. (The school or the school designee must provide this information to all of the school’s ~~student~~ borrowers except those who receive a loan made or originated by the school.
[§682.604(g)(2)(iv)]
- The availability of Title IV loan information in the National Student Loan Data System and how it can be used to obtain information on the status of the borrower’s loans. In addition, a school must ensure that the borrower is provided the NSLDS disclosure form developed by the Department.
[HEA §485(b)(1)(A)(ix) and §485(B)(d)(3)]
- A copy of the Department’s publication that describes the federal student aid programs.
[HEA §485(b)(1)(A)(iv) and §485(d)(1)]

**As of this writing, the Department has not informed the FFELP community which of its publications it intends to use to fulfill the requirements described in the latter two bullets above.*

To improve a ~~student’s~~ borrower’s understanding of his or her loan repayment

- The current name and address . . .
- . . .
- . . .

- ~~An overview of the advantages and disadvantages of loan consolidation:
[08-09 FSA Handbook, Volume 2, Chapter 6, pp. 2-82 - 84]~~

~~A school that conducts exit counseling by interactive electronic means must take reasonable steps to ensure that each student receives the counseling materials, and participates in and completes the counseling. Schools are required to maintain a record to substantiate the school's compliance with exit counseling requirements for each student.
[§682.604(g)(3)]~~

Additional information that the Department recommends including in exit counseling can be found in the ~~07-08~~08-09 Handbook, Volume 2, Chapter 6, pp 2-~~808~~2 to 2-~~818~~3.

PROPOSED LANGUAGE - COMMON BULLETIN:

Exit Counseling

The *Common Manual* has been updated to include statutory changes resulting from the Higher Education Opportunity Act. Revised policy expands counseling specific to Grad PLUS borrowers and makes it consistent with counseling applicable to Stafford borrowers. In addition to the existing requirements, a school must include information about each of the following:

- The different features of the available repayment schedules, sample information showing the average anticipated monthly payments, and the difference in interest paid and total payment under each.
- The borrower's options to prepay a loan, to request a shorter repayment period, or select another repayment plan.
- Federal delinquent debt collection procedures.
- Forbearance, deferment, loan cancellation, forgiveness, or discharge options for all Title IV loans.
- The effect of consolidation on total interest, fees to be paid, the length of repayment, the grace period, forgiveness, cancellation, and deferment opportunities.
- The borrower's option to prepay the Consolidation loan or change the repayment plan, and a statement that borrower benefit programs may vary from lender to lender.
- Tax benefits available to borrowers.
- The availability of the NSLDS, where/how it may be accessed and how the borrower can use the information found there. In addition, a school must ensure that the borrower is provided the NSLDS disclosure form developed by the Department.

The school must also ensure that the borrower is provided a copy of the Department's publication that describes federal student aid programs.

**As of this writing, the Department has not informed the FFELP community which of its publications it intends to use to fulfill the requirements described in the last bullet and the sentence above.*

The *Common Manual* has also been updated to delete redundant text and makes other nonsubstantive changes to provide clarity.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

Both Stafford and Grad PLUS borrowers will be afforded more information on forbearance, deferment, cancellation, forgiveness, and discharge provisions in all Title IV loan programs, higher education tax benefits, the NSLDS, federal delinquent debt collection procedures, and the effects of consolidation on the benefits he or she may have on loans included in the consolidation.

School:

A school must update its exit counseling materials and presentations or ensure that exit counseling materials and presentations provided by the school or any third party are up to date.

Lender/Service:

A lender that offers exit counseling materials and services to schools may be required to update its materials and presentations.

Guarantor:

A guarantor that offers exit counseling materials and services to schools may be required to update its exit counseling materials and presentations. A guarantor may be required to update its program review procedures regarding exit counseling requirements for a school.

U.S. Department of Education:

The Department must publicize the location of its publication that describes federal student aid programs. The Department may be required to update its exit counseling materials for a school to use and program review procedures regarding exit counseling requirements for a school.

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:

March 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, HESC, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

One commenter requested a change in existing language within the Manual text as they felt it to be more onerous than regulatory requirements as follows:

When counseling is conducted by another party or by interactive electronic means, the school must take reasonable steps to ensure ~~remains responsible for ensuring~~ that each student borrower receives the counseling materials and participates in and completes exit counseling. A school must maintain a record to substantiate the school's compliance with exit counseling requirements for each student.

[\$682.604(g)(3) and (4)]

Response:

The Committee feels this is outside the scope of this proposal and will be added to our policy log for further research and possible development.

Change:

None.

COMMENT:

Two commenters noted that along with the information on the repayment options, sample monthly repayment amounts is also required.

Response:

The Committee agrees.

Change:

The text has been modified as follows:

Available repayment options schedules including standard, graduated, extended, and income-sensitive, and income-based repayment plans and loan consolidation, including a description of the different features of each repayment schedule, sample information showing the average anticipated monthly payments under each, and the difference in interest paid and total payments under each. [HEA §485(b)(1)(A (i); §682.604(g)(2)(iv); DCL GEN 08-12/FP 08-10]

COMMENT:

One commenter requested that general information and conditions under which a borrower may defer or forbear repayment and providing a copy of the information provided by the Department be added to the policy.

Response:

The Committee believes that this information is provided in the fourth and last bullet.

Change:

None.

om/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Grade Level Changes and Increases in the Stafford Annual Loan Limits

AFFECTED SECTIONS: 6.10 Determining the Student's Grade Level
6.11.A Stafford Annual Loan Limits
Appendix G

POLICY INFORMATION: 1093/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Publication date of Volume 3 of the 08-09 FSA Handbook, unless implemented earlier by the school on or after November 1, 2007.

BASIS:
08-09 FSA Handbook, Volume 3, Chapter 5, p. 3-96 and 3-97.

CURRENT POLICY:

Current policy states that only a student enrolled in a standard term-based program who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level. Current policy does not include a school's options for providing an increased Stafford loan amount to a student who gains eligibility for a higher Stafford annual loan limits due to a grade level change.

Current policy does not include reference to a credit-hour program with nonstandard terms that are not substantially equal *and* at least nine weeks of instructional time in length (SE9W) when explaining that for certain programs, a school may not certify the higher loan limit associated with the next grade level until the student completes both the minimum number of weeks and the minimum number of credit or clock hours in the program's defined academic year.

REVISED POLICY:

Revised policy states that in a credit-hour program that uses standard terms or nonstandard terms that are SE9W, a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level. To provide an increased Stafford loan amount to a student who gains eligibility for a higher Stafford annual loan limits due to a grade level change, a school may request an increase in the amount of the current Stafford loan. Alternately, a school may certify a new loan for a loan period that includes only the term(s) during which the student qualifies for the higher loan limits. The new Stafford loan amount must not exceed the higher grade level annual loan limits, minus the amount of the first Stafford loan. A school may choose instead to cancel an undelivered Stafford loan disbursement(s) from the first loan that is intended for a term(s) in which the student qualifies for the higher Stafford annual loan limits. In that case, the new Stafford loan amount must not exceed the amount of the canceled disbursement(s) plus the additional amount for which the student is eligible due to the grade level change.

Revised policy adds reference to a credit-hour program with nonstandard terms that are not SE9W when explaining that a school may not certify the higher loan limits associated with the next grade level until the student completes both the minimum number of weeks and the minimum number of credit or clock hours in the program's defined academic year.

The glossary definition of "Grade Level" has been revised to clarify that a school must provide the appropriate grade level code (e.g., 01 through 05) on the Federal Stafford Loan School Certification.

Revised policy also makes nonsubstantive changes to provide consistency throughout the Manual's text.

REASON FOR CHANGE:

These changes are necessary to align the Manual's text with guidance provided by the Department in the 08-

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 6.10, page 22, column 2, paragraph 1, as follows:

6.10

Determining the Student's Grade Level

A school is required to publish the academic standards and grade level advancement requirements for each of its programs of study. Because ~~maximum FFLP~~ Stafford annual loan amounts limits have been established for each grade level (e.g., first-year, second-year, etc.), a student's grade level is an intrinsic part of determining the loan amount for which the student is eligible and thus, the amount of the loan the school may certify. See Figure 6-4 for more information about the Stafford annual loan limits that apply to a student's grade level.

Undergraduate Students

The school may advance an undergraduate student's grade level once the student completes the number of credit or clock hours specified by the school as the amount necessary for the student to advance in academic standing within the student's program of study (for example, from ~~freshman first-year~~ to ~~sophomore second-year~~). At a minimum, the school's standards must require the student to complete at least 24 semester or trimester hours, 36 quarter hours, or 900 clock hours to advance the student to the next grade level.

[§668.3(a)(2)]

Note: If a school's published academic standing requirements exceed the school-defined academic year for a program, the school is required to use the published academic standing requirements to certify a student's grade level for loan purposes. For example, a school defines its academic year for a program as the completion of 24 credits in 30 weeks of instructional time, but requires the successful completion of 30 credits for a student to advance from ~~freshman first-year~~ to ~~sophomore second-year~~ standing. In this case, if a student completes ~~less~~ fewer than 30 credits during his or her first academic year, the student remains eligible for first-year undergraduate loan limits at the beginning of his or her second academic year. The school may not certify a second-year undergraduate loan until the student successfully completes 30 credits, as required by the school to advance from ~~freshman first-year~~ to ~~sophomore second-year~~ standing.

Revise Subsection 6.11.A, page 23, column 1, paragraph 3, as follows:

6.11.A

Stafford Annual Loan Limits

The amount of Stafford loan funds that a student may borrow for each academic year—the annual loan limit—is based on whether the student is enrolled in an undergraduate, graduate, or professional program of study. For an undergraduate student, the annual loan limits varies vary according to several factors:

- The student's dependency status, as defined in Section 6.8.
- The student's grade level, i.e., the year of study in which the student is enrolled (first, second, third, fourth, or subsequent year), according to the school's academic standards and grade level advancement policies (see Section 6.10).
- The length of the undergraduate program of study, regardless of how long it takes the student to complete the program.
- The length of the student's program or final period of enrollment, expressed as a proportion of the ~~school's~~ program's academic year definition.

[§682.204(i)]

...

Revise Subsection 6.11.A, page 24, column 1, bullet 2, as follows:

In determining the appropriate Stafford annual loan limits for an undergraduate student, including a transfer student or a student who has completed a program of study at the same school or a different school, schools and lenders must adhere to the following additional parameters:

- ...
- ~~In a standard term-based credit-hour program, a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level, minus any loan funds already received for that academic year. In a nonstandard term-based or a non-term-based credit-hour program, or clock-hour program, the school may not certify the higher loan limit associated with the next grade level until the student completes both the minimum number of weeks and the minimum number of credit or clock hours in the program's defined academic year.~~
- ...

Revise Subsection 6.11.A, page 25, column 1, by adding new paragraphs 4 and 5, as follows:

Grade Level Increases within the Same Academic Year

In a credit-hour program that uses standard terms or nonstandard terms that are substantially equal and at least nine weeks of instructional time in length (SE9W), a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level. To provide an increased Stafford loan amount to a student who becomes eligible for the higher Stafford annual loan limits due to a grade level change, a school may request an increase in the amount of the current Stafford loan (see Section 6.20). Alternately, a school may certify a new loan for a loan period that includes only the term(s) during which the student qualifies for the higher annual loan limits. The new Stafford loan amount must not exceed the higher grade level annual loan limits, minus the amount of the first Stafford loan. A school may choose instead to cancel an undelivered Stafford loan disbursement(s) from the first loan that is intended for a term(s) in which the student qualifies for the higher Stafford annual loan limits. In that case, the new Stafford loan amount must not exceed the amount of the canceled disbursement(s) plus the additional amount for which the student is eligible due to the grade level change.

A school may not certify the higher annual loan limits associated with the next grade level until the student completes both the minimum number of weeks of instructional time and the minimum number of credit or clock hours in the program's defined academic year if the student is enrolled in any one of the following programs:

- A clock-hour program.
- A non-term-based credit-hour program.
- A credit-hour program with nonstandard terms that are not SE9W, i.e., the terms are not substantially equal in length, or each term is not at least nine weeks of instructional time in length.
- A credit-hour program with a combination of standard terms and nonstandard terms that does not qualify to use an SAY.

Revise Appendix G, page 10, column 1, paragraph 3, as follows:

Grade Level: A student's academic class level, as certified by a school official. Undergraduate students are 01 (freshman/first-year) through 05 (fifth-year/other

undergraduate); graduate and professional students are A (first-year) through D (fourth-year and beyond). A school must provide the appropriate grade level code (e.g., 01 through 05) on the Federal Stafford Loan School Certification.

PROPOSED LANGUAGE - COMMON BULLETIN:

Grade Level Changes and Increases in the Stafford Annual Loan Limit

The *Common Manual* has been updated to include clarification found in the 08-09 FSA Handbook concerning increases in the Stafford annual loan limit for students who have experienced a grade level change during an academic year. In a credit-hour program that uses standard terms or nonstandard terms that are substantially equal *and* at least nine weeks of instructional time in length (SE9W), a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level. To provide an increased Stafford loan amount to a student who gains eligibility for a higher Stafford annual loan limit due to a grade level change, a school may request an increase in the amount of the current Stafford loan (see Section 6.20). Alternately, a school may certify a new loan for a loan period that includes only the term(s) during which the student qualifies for the higher loan limit. The new Stafford loan amount must not exceed the higher grade level annual loan limit, minus the amount of the first Stafford loan. A school may choose instead to cancel an undelivered Stafford loan disbursement(s) from the first loan that is intended for a term(s) in which the student qualifies for a higher Stafford annual loan limit. In that case, the new Stafford loan amount must not exceed the amount of the canceled disbursement(s) plus the additional amount for which the student is eligible due to the grade level change.

A school may not certify the higher annual loan limit associated with the next grade level until the student completes both the minimum number of weeks of instructional time and the minimum number of credit or clock hours in the program's defined academic year if the student is enrolled in any one of the following programs:

- A clock-hour program.
- A non-term-based credit-hour program.
- A credit-hour program with nonstandard terms that are *not* SE9W, i.e., the terms are not substantially equal in length, or each term is not at least nine weeks of instructional time in length.
- A credit-hour program with a combination of standard terms and nonstandard terms that does not qualify to use an SAY.

The glossary definition of "Grade Level" has been revised to clarify that a school must provide the appropriate grade level code (e.g., 01 through 05) on the Federal Stafford Loan School Certification.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who is enrolled in a credit-hour program with nonstandard terms that are SE9W will have prompt access to higher Stafford annual loan limits applicable to a grade level change that occurs during an academic year. Conversely, a borrower who is enrolled in a credit-hour program with nonstandard terms that are *not* SE9W must wait until he or she has successfully completed the weeks of instructional time and credit hours in the program's academic year definition before gaining eligibility for the next higher Stafford annual loan limit, even though the borrower may have attained the next higher grade level during the academic year according to the school's academic policies.

School:

A school may have several options for providing increased Stafford loan amounts to a borrower who qualifies for the higher Stafford annual loan limits due to a grade level change within an academic year. A school may be required to modify its internal financial aid policies and procedures to permit mid-year grade level increases in the Stafford annual loan limit for a borrower enrolled in the school's credit-hour programs with nonstandard terms that are SE9W. A school that wishes to increase a student's Stafford loan amount due to a mid-year grade level increase by requesting an increase to the original loan amount may also be required to request a grade level change of the lender or guarantor.

Lender/Service:

None.

Guarantor:

A guarantor may be required to modify its program review procedures for a school with a credit-hour program that uses nonstandard terms that are SE9W.

U.S. Department of Education:

The Department may be required to modify its program review procedures for a school with a credit-hour program that uses nonstandard terms that are SE9W.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

December 23, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 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, HESC, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

Due to the intricacies of this policy proposal's content, one commenter suggested that it may be appropriate to introduce a figure to assist with implementation. The commenter provided a recommended chart for that purpose.

Response:

The Committee declines to introduce a figure at this stage of policy proposal development. While the idea of providing an "at-a-glance" format to ease understanding of the proposal's concepts is meritorious, such a significant change would warrant the proposal's distribution for a second community comment period. There is insufficient time for the Committee to consider, and if necessary, further develop the commenter's recommended figure before the distribution deadline for the last policy proposal batch in this production year. The Committee believes it is essential that the July 2009 Manual's text include the updates contained in this proposal. Therefore, the Committee will consider the commenter's recommendation for a possible future enhancement to the Manual's text.

Change:

None.

COMMENT:

One commenter requested a modification to the effective date/triggering event for this proposal, as follows:

Publication date of Volume 3 of the 08-09 FSA Handbook, unless implemented earlier by the school on or after July 1, 2008.

The commenter indicated that while Volume 3 of the FSA Handbook was not published until October 16, 2008, the provisions relative to programs with nonstandard terms that are SE9W in Chapter 3 are effective for the 2008-09 academic year. If a school was aware of this revised policy and implemented it on or after July 1, the school should not be penalized for allowing borrowers to receiving additional loan funds due to grade level changes.

Response:

Generally, concepts published in Volume 3 of the 08-09 FSA Handbook are derivatives of July 1, 2008, regulatory changes associated with credit-hour, nonstandard term programs that are SE9W. In the preamble to the November 1, 2007, *Federal Register* that published those regulatory changes, the Department authorized a school to implement them immediately at the school's discretion. Therefore, the Committee agrees with the commenter that a school could have implemented the changes reflected in this proposal earlier than the publication date of the FSA Handbook. However, the Committee believes the effective date/triggering event for this proposal should reflect a school's ability to implement these changes based on that earlier *Federal Register* and thus, generally, no earlier than November 1, 2007.

In the preamble to the final rules dated November 1, 2007 (p. 62022), the Department responded to a commenter by stating that the prohibition against grade level increases for students enrolled in nonstandard term programs applied only to a student attending a program with nonstandard terms that are *not* SE9W. The Committee therefore agrees with the commenter that a school should not be penalized for allowing a borrower enrolled in a program with nonstandard terms that *are* SE9W to receive additional funds due to a mid-year grade level increase before the publication date of Volume 3 of the 08-09 FSA Handbook. However, not all of the changes related to a program with nonstandard terms that are SE9W are appropriate for earlier implementation. In the aforementioned *Federal Register*, the Department also stated that "an undergraduate student attending a final period of study in *any nonstandard term credit-hour program* is subject to proration of the annual loan limit while enrolled in the defined number of terms in the program's academic year *but attending less than the number of credit hours for that defined academic year.*" It was not until the publication of Volume 3 of the 08-09 FSA Handbook that the Department authorized proration of the Stafford annual loan limit for students enrolled in programs with nonstandard terms that are SE9W based on the student's enrollment in fewer terms than in the defined academic year for the program.

This proposal does not directly address proration of the Stafford annual loan limit for a student enrolled in a program with nonstandard terms that are SE9W. The Committee therefore believes it is appropriate to modify the effective date/triggering event for this proposal and proposal 1092 in Batch 157 to permit earlier implementation. The Committee will not modify the effective date/triggering event for proposal 1095, however, since its impetus and focus is Stafford annual loan limit proration for undergraduate students who attend a nonstandard term program that is, or is not, SE9W.

Change:

The effective date/triggering event for this proposal has been modified to read as follows:

Publication date of Volume 3 of the 08-09 FSA Handbook, unless implemented earlier by the school on or after November 1, 2007.

COMMENT:

One commenter suggested that the terms "freshman" and "sophomore" be stricken from the text throughout the proposal, in favor of the more precise "first-year," "second-year," etc., terminology.

Response:

The Committee agrees that the commenter's preferred terminology is more precise and more inclusive in terms of its applicability to all types of programs.

Change:

The terms "freshman" and "sophomore" have been stricken throughout the proposal and replaced with the terms suggested by the commenter.

COMMENT:

In the Revised Policy, one commenter recommended the following revised reference to credit-hour programs with nonstandard terms that are SE9W:

Revised policy states that in a credit-hour program that uses standard terms or nonstandard SE9W terms ~~that are SE9W~~, a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level.

Response:

The Committee declines to make the commenter's recommended change. The language used in the Revised Policy conforms to language used in proposal policy text throughout proposals 1092, 1093, and 1095 of Batch 157 and policy proposal 1106 in Batch 158. As the result of a recommendation from the Committee's Editing Chair, the Committee has established a convention used throughout these proposals to consistently refer to a credit-hour program with "nonstandard terms that are SE9W" or a credit-hour program with "nonstandard terms that are *not* SE9W."

Change:

None.

COMMENT:

One commenter observed that the cross-reference to Figure 6-2 in Section 6.10, paragraph 1, last sentence, is an error. The commenter recommended that it be replaced with Figure 6-4, Stafford Annual and Aggregate Loan Limits for Undergraduate Students (as revised by approved Policy Proposal #1052 in Batch 151).

Response:

The commenter is correct.

Change:

The cross-reference has been corrected as requested.

COMMENT:

One commenter recommended the following change to Subsection 6.11.A, new paragraph 5:

In a clock-hour program, a non-term-based credit-hour program, ~~or~~ a credit-hour program that uses nonstandard terms that are not SE9W (i.e., the terms are not substantially equal, or each term is not at least nine weeks of instructional time in length), or a credit-hour program that mixes standard and nonstandard terms, the school may not certify the higher loan limit associated with the next grade level until the student completes both the minimum number of weeks and the minimum number of credit or clock hours in the program's defined academic year.

Response:

The commenter is correct – reference to a credit-hour program that mixes standard and nonstandard terms and does not qualify to use an SAY was inadvertently excluded from this paragraph. In addition, the Committee notes that the paragraph could benefit from additional clarification regarding weeks of instructional time.

Change:

The commenter's recommendation has been adopted with a formatting change that aligns similar language found in policy proposal 1092 in Batch 157:

~~In a clock-hour program, a non-term-based credit-hour program, or a credit-hour program that uses nonstandard terms that are not SE9W (i.e., the terms are not substantially equal, or each term is not at least nine weeks of instructional time in length), the~~ A school may not certify the higher annual loan limit associated with the next grade level until the student completes both the minimum number of weeks of instructional time and the minimum number of credit or clock hours in the program's defined academic year if the student is enrolled in any one of the following programs:

- A clock-hour program.
- A non-term-based credit-hour program.
- A credit-hour program with nonstandard terms that are *not* SE9W, i.e., the terms are not substantially equal in length, or each term is not at least nine weeks of instructional time in length.

- A credit-hour program with a combination of standard terms and nonstandard terms that does not qualify to use an SAY.

A coordinating change has been made in the Common Bulletin.

COMMENT:

A commenter recommended that the Borrower Implication statement be revised as follows:

. . .Conversely, a borrower who is enrolled in a credit-hour program with nonstandard terms that are not SE9W must wait until he or she has successfully completed the calendar time and credit hours in the current borrower-based program's academic year definition before gaining eligibility for the next higher Stafford annual loan limit, even though the student may have attained the next higher grade level during the academic year according to the school's academic policies.

The commenter quoted a passage from the 08-09 FSA Handbook to support this change: “. . .In a clock-hour program, nonterm program, or nonstandard-term program that is not SE9W that is longer than an academic year, the student moves to a higher grade level only when he or she completes the BBAY.”

Response:

The Committee acknowledges that the FSA Handbook guidance is correct in stating that a student must complete the borrower-based academic year before gaining eligibility for the next higher annual loan limit. However, the Committee believes its description of what a borrower must do to complete the borrower-based academic year is more explicit and meaningful. The Committee does agree that the Implication statement should be clarified to state that the student must complete a time frame in addition to the hours associated with the program's academic year definition, but that this time frame should be expressed in weeks of instructional time, not calendar time.

Change:

The Borrower Implication statement has been revised as follows:

. . .Conversely, a borrower who is enrolled in a credit-hour program with nonstandard terms that are not SE9W must wait until he or she has successfully completed the weeks of instructional time and credit hours in the program's academic year definition before gaining eligibility for the next higher Stafford annual loan limit. . .

COMMENT:

Two commenters requested that the Revised Policy, sentence 2, be modified as follows:

To provide an increased Stafford loan amount to a student who gains eligibility for a higher Stafford annual loan limit due to a grade level change, a school may request ~~an~~ a grade level change and increase in the amount of the current Stafford loan.

The commenters stated that many systems have tables set to correspond to grade level with loan amount. In order to raise the limit above the regulatory amount, the grade level must also be raised.

Response:

The Committee declines to make this change to the Revised Policy statement. The language the commenters request involves a purely procedural matter and may not always be applicable if the school chooses to provide the increase through a second, separately certified loan. However, the Committee will add this concept to the School Implication statement.

Change:

The School Implication statement has been revised as follows:

A school may have several options for providing increased Stafford loan amounts to students who qualify for a higher Stafford annual loan limit due to a grade level change within an academic year. A school may be required to modify its internal financial aid policies and procedures to permit mid-year grade level increases in the Stafford annual loan limit for students enrolled in the school's credit-hour programs with nonstandard terms that are SE9W. A school that wishes to increase a student's

Stafford loan amount due to a mid-year grade level increase by increasing the original loan amount may be required to request a grade level change.

jcs/edited-aes/kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Increased Loan Limits and Overawards

AFFECTED SECTIONS: 6.11.E Exceeding Loan Limits

POLICY INFORMATION: 1094/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Inadvertent overawards resulting from Stafford loans first disbursed before July 1, 2008, and inadvertent overawards that occur in the future prior to an annual or aggregate loan limit increase.

BASIS:

§668.35(d); private guidance from Pam Moran of the Department of Education to the National Council of Higher Education Loan Programs (NCHELP) dated June 26, 2008.

CURRENT POLICY:

Current policy does not detail how a borrower who was inadvertently overawarded is affected by an increase in a Stafford annual or aggregate loan limit.

REVISED POLICY:

Revised policy clarifies that a borrower must resolve an inadvertent overaward before the school can award additional Title IV funds, including in circumstances when a Stafford annual or aggregate loan limit is increased.

REASON FOR CHANGE:

This change is required to provide lenders with more detailed information about resolving an inadvertent overaward that exists when a loan limit is increased, such as due to the enactment of the Ensuring Continued Access to Student Loans Act (ECASLA).

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 6.11.E, page 30, column 1, paragraph 2, as follows:

A Stafford borrower is subject to the annual and aggregate loan limits that exist in the Higher Education Act of 1965, as amended, at the time the borrower received the inadvertent overaward. If a Stafford borrower inadvertently exceeds an annual or aggregate loan limit under a Title IV program, the borrower will ~~not~~ be ineligible for ~~any~~ additional Title IV funds until one of the following occurs:

- ...
- ...
- ...

PROPOSED LANGUAGE - COMMON BULLETIN:

Increased Loan Limits and Overawards

The *Common Manual* has been updated to clarify that a borrower must resolve an inadvertent overaward before the school can award the borrower additional Title IV funds, including in circumstances when a Stafford annual or aggregate loan limit is increased.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will need to resolve any inadvertent overaward of Stafford loan funds prior to being awarded additional Title IV funds.

School:

A school will need to ensure that any inadvertent overaward of Stafford loan funds is resolved before the school awards any additional Title IV funds.

Lender/Servicer:

A lender may be required to respond to borrower requests to resolve inadvertent overawards that occur before a change in the law that increases a Stafford loan limit.

Guarantor:

A guarantor may be required to revise program review criteria for resolving the inadvertent overaward of Stafford loan funds.

U.S. Department of Education:

The Department may be required to revise program review criteria for resolving the inadvertent overaward of Stafford loan funds.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

June 26, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 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, HESC, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

One commenter recommended updating the trigger event to clarify that this policy is applicable to future increases in loan limits.

Response:

The Committee agrees.

Change:

The Effective Date/Trigger Event has been revised as follows:

Inadvertent overawards resulting from Stafford loans first disbursed before July 1, 2008, and inadvertent overawards that occur in the future prior to any annual or aggregate loan limit increase.

COMMENT:

One commenter recommended that a cross-reference to Subsection 6.11.B be added to the paragraph preceding the new language.

Response:

The Committee agrees. This cross-reference will be added to the list of technical corrections to be incorporated prior to the next annual publication of the Manual.

Change:

None.

COMMENT:

One commenter recommended changing the term "overaward" to "overborrow."

Response:

The Committee disagrees with this change because the guidance received from the Department refers to the borrower receiving an inadvertent overaward, a term in general use among schools for these situations, and the Committee believes it is important to keep the language of this policy consistent with the Department's language.

Change:

None.

COMMENT:

One commenter recommended changing the term "law" to the "Higher Education Act of 1965, as amended."

Response:

The Committee agrees.

Change:

Paragraph 2, sentence 1 has been revised as follows:

A Stafford borrower is subject to the annual and aggregate loan limits that exist in the ~~law~~ Higher Education Act of 1965, as amended, at the time the borrower received the inadvertent overaward.

COMMENT:

One commenter recommended rephrasing the second sentence of paragraph 2 in order to avoid possible confusion, including referring to a borrower as ineligible instead of saying the borrower is not eligible.

Response:

The Committee agrees.

Change:

Paragraph 2, sentence 2 has been revised as follows:

If a Stafford borrower inadvertently exceeds an annual or aggregate loan limit under a Title IV program, the borrower will ~~not~~ be ineligible for ~~any~~ additional Title IV funds until one of the following occurs . . .

bmf/edited-rrl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: **Reduced Interest Rate for Military Servicemembers**

AFFECTED SECTIONS:

- 7.4** **Establishing Stafford Loan Interest Rates**
- 7.4.B** **Reduced Stafford Interest Rates**
- 7.5** **Establishing PLUS Loan and SLS Loan Interest Rates**
- 7.5.B** **Reduced PLUS Interest Rates**
- 10.9.B** **Reduced Interest Rates**
- 15.3.D** **Calculating the Interest Rate**
- A.2** **Special Allowance and Excess Interest**

POLICY INFORMATION: **1096/Batch 157**

EFFECTIVE DATE/TRIGGER EVENT: Loans for which the lender receives a servicemember's written request for the reduced interest rate that is effective on or after August 14, 2008, for periods of military service ending on or after that date.

Special allowance billings for loans that are first disbursed on or after July 1, 2008, if the lender receives a servicemember's request for the reduced interest rate on or after August 14, 2008.

BASIS:

HEA §428(d), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; HEA §438(g); DCL GEN-08-12.

CURRENT POLICY:

Current policy does not require FFELP lenders to comply with the Servicemembers Civil Relief Act (SCRA) with respect to charging a reduced interest rate on a FFELP loan.

REVISED POLICY:

Revised policy requires FFELP lenders to comply with the provisions of the SCRA with respect to charging a reduced interest rate on a FFELP loan, upon receipt of the borrower's request and substantiating documentation of the borrower's eligibility. If the borrower qualifies under Section 207 of the SCRA, revised policy requires the lender to charge the borrower an interest rate that does not exceed 6% for the period of the borrower's qualifying military service on or after August 14, 2008. For purposes of this provision, interest includes service charges, renewal charges, fees, or any other charges (except for actual insurance) with respect to the loan. A borrower may qualify for the 6% rate if all of the following criteria are met:

- The borrower has an outstanding Stafford, PLUS, or Consolidation loan that was made prior to the servicemember's qualifying military service start date.
- The borrower is the only borrower, a comaker on the loan, or an endorser on an outstanding PLUS loan.
- The borrower, comaker, or endorser must request the reduced interest rate in writing and provide to the lender a copy of his or her initial military orders and any orders that extend military service.
- The borrower must provide the request and documentation not later than 180 days following the last date of the borrower's military service.

The reduced interest rate applies to an endorser if the endorser is an eligible servicemember and the lender is actively collecting the loan from the endorser.

If the lender charges the reduced interest rate based on SCRA provisions, and the loan was first disbursed on

or after July 1, 2008, revised policy permits the lender to determine the applicable special allowance payment based on the loan's actual 6% interest rate. However, if the loan was disbursed prior to July 1, 2008, then the lender must continue to determine the special allowance payment based on the applicable (maximum) interest rate permitted in statute.

REASON FOR CHANGE:

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

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 7.4, page 4, column 2, paragraph 1, as follows:

7.4

Establishing Stafford Loan Interest Rates

The formula for calculating the Stafford loan interest rate varies, based on the date the loan was first disbursed. In addition, a Stafford loans made to a borrower who subsequently enters qualifying military service may be eligible for a reduced interest rate. See Subsections 7.4.B and 10.9.B for more information.

Revise Subsection 7.4.B, page 5, column 1, by inserting a new first paragraph in this subsection, as follows:

7.4.B

Reduced Stafford Interest Rates

Effective August 14, 2008, the Higher Education Act of 1965, as amended, extends certain provisions of the Servicemembers Civil Relief Act (SCRA) to loans made under the FFELP. If a Stafford loan borrower qualifies under Section 207 of the SCRA on a loan that was made before the borrower entered qualifying military service, the lender is required to charge the borrower an interest rate that does not exceed 6% for the period of the borrower's military service. For purposes of this provision, interest includes service charges, renewal charges, fees, or any other charges (except for actual insurance) with respect to the Stafford loan. The borrower must request the reduced interest rate in writing and provide the lender with a copy of initial military orders and any orders that extend his or her military service. The borrower must provide the request and documentation not later than 180 days following the last date of the borrower's military service.

[HEA §428(d); DCL GEN-08-12]

Also, a lender may choose to charge a borrower an interest rate that is lower than the maximum interest rate permitted by statute (the statutory rate). If the lender charges a lower rate is charged, the lender must ensure . . .

Revise Section 7.5, page 8, column 1, paragraph 1, as follows:

7.5

Establishing PLUS Loan and SLS Loan Interest Rates

Previous interest rates applicable to SLS loans are included in this section for lenders that are still servicing these loans.

The formula for calculating the PLUS or SLS loan interest rate varies, based on the date the loan was first disbursed. In addition, a PLUS and SLS loan made to a borrower who subsequently enters qualifying military service may be eligible for a reduced interest rate. See Subsection 7.5.B for more information.

Revise Subsection 7.5.B, page 8, column 2, by inserting a new paragraph, as follows:

7.5.B

Reduced PLUS Interest Rates

Effective August 14, 2008, the Higher Education Act of 1965, as amended extends certain provisions of the Servicemembers Civil Relief Act (SCRA) to loans made under the FFELP. If the PLUS loan borrower qualifies under Section 207 of the SCRA on a loan that was made before the borrower entered qualifying military service, the lender is required to charge the borrower an interest rate that does not exceed 6% for the period of the borrower's military service. For purposes of this provision, interest includes service charges, renewal charges, fees, or any other charges (except for actual insurance) with respect to the PLUS loan. The 6% rate applies to any PLUS loan on which the servicemember is the only borrower or on any joint obligation where one borrower or both borrowers of the comade PLUS loan qualify as the servicemember. The borrower must request the reduced interest rate in writing and provide the lender with a copy of initial military orders and any orders that extend his or her military service. The borrower must provide the request and documentation not later than 180 days following the last date of the borrower's military service. The reduced interest rate may also apply to an endorser if the endorser is an eligible servicemember and the lender is actively collecting the loan from the endorser.

[HEA §428(d); HEA §438(g); DCL GEN-08-12]

~~A Also, a~~ lender may choose to charge a borrower an interest rate that is lower than the maximum interest rate permitted by statute (the statutory rate). If the lender charges a lower rate ~~is charged~~, the lender must ensure . . .

Revise Subsection 10.9.B, page 16, column 2, by inserting a new paragraph before paragraph 6, as follows:

10.9.B Reduced Interest Rates

If the borrower qualifies under Section 207 of the Servicemembers Civil Relief Act (SCRA) and requests an interest rate reduction in writing, the lender is required to charge the borrower an interest rate that does not exceed 6% for the period of the borrower's qualifying military service on or after August 14, 2008. For purposes of this provision, interest includes service charges, renewal charges, fees, or any other charges (except for actual insurance) with respect to the loan. A borrower may qualify for the 6% rate if all of the following criteria are met:

- The borrower has an outstanding Stafford, PLUS, or Consolidation loan that was made prior to the date that the servicemember entered active duty military service.
- The borrower is the only borrower, a comaker on the loan, or an endorser on an outstanding PLUS loan.
- The borrower, comaker, or endorser requests the reduced interest rate in writing and provides to the lender a copy of his or her initial military orders and any orders that extend military service.
- The borrower provides the written request and documentation not later than 180 days following the last date of the borrower's qualifying military service.

The reduced interest rate applies to an endorser if the endorser is an eligible servicemember and the lender is actively collecting the loan from the endorser.

[HEA §428(d); DCL GEN-08-12]

~~A Also, a~~ lender may choose to charge a borrower an interest rate that is lower than the maximum interest rate permitted by statute (the statutory rate). If the lender charges a lower rate ~~is charged~~, the lender must ensure . . .

Revise Subsection 15.3.D, page 8, column 2, paragraph 1, as follows:

15.3.D Calculating the Interest Rate

Interest rates applicable to Consolidation loans are listed in the table on the following page. In addition, a Consolidation loan made to a borrower who subsequently enters qualifying military

service may be eligible for a reduced interest rate.

Revised Subsection 15.3.D, page 10, column 1, by inserting a new paragraph prior to paragraph 3, as follows:

If a Consolidation loan borrower is covered under Section 207 of the Servicemembers Civil Relief Act (SCRA), the lender is required to charge the borrower an interest rate that does not exceed 6% for the period of the borrower's military service. For purposes of this provision, interest includes service charges, renewal charges, fees, or any other charges (except for actual insurance) with respect to the Consolidation loan. The 6%-rate is applicable effective August 14, 2008, to any Consolidation loan on which the servicemember is the only borrower or on any joint obligation where one borrower or both borrowers on a comade (spousal) Consolidation loan qualify as the servicemember. The borrower must request the reduced rate in writing and provide to the lender a copy of initial military orders and any orders that extend his or her military service. The borrower must provide the request and documentation not later than 180 days following the last date of the borrower's military service. See Subsection 10.9.B for more details regarding the parameters for granting the reduced interest rate.
[HEA §428(d); DCL GEN-08-12]

~~Also, a~~ lender may choose to charge a borrower an interest rate that is lower than the maximum interest rate permitted by statute (the statutory rate). If the lender charges the a lower rate ~~is charged~~, the lender must ensure . . .

Revise Section A.2, page 4, column 1, by inserting after paragraph 2, the following:

If the lender charges the reduced interest rate based on SCRA provisions, and the loan was first disbursed on or after July 1, 2008, then the lender may determine the applicable special allowance payment based on the loan's actual 6% interest rate. However, if the loan was disbursed prior to July 1, 2008, then the lender must continue to determine the special allowance payment based on the applicable (maximum) interest rate permitted in statute. See Subsection 10.9.B for more details regarding the parameters for granting the reduced interest rate.
[HEA 438(g)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Reduced Interest Rate for Military Servicemembers

The *Common Manual* has been revised to require the lender to provide a reduced interest rate to some military servicemembers. If the borrower qualifies under Section 207 of the Servicemembers Civil Relief Act (SCRA), the lender is required to charge the borrower an interest rate that does not exceed 6% for the period of the borrower's qualifying military service on or after August 14, 2008. For purposes of this provision, interest includes service charges, renewal charges, fees, or any other charges (except for actual insurance) with respect to the loan. A borrower may qualify for the 6% rate if all of the following criteria are met:

- The borrower has an outstanding Stafford, PLUS, or Consolidation loan that was made prior to the date that the servicemember's entered active-duty military service.
- The borrower is the only borrower, a comaker on the loan, or an endorser on an outstanding PLUS loan.
- The borrower, comaker, or endorser requests the reduced interest rate in writing and provides to the lender a copy of his or her initial military orders and any orders that extend military service.
- The borrower provides the request and documentation not later than 180 days following the last date of the borrower's military service.

The reduced interest rate applies to an endorser if the endorser is an eligible servicemember and the lender is actively collecting the loan from the endorser.

If the lender charges the reduced interest rate based on SCRA provisions, and the loan was first disbursed on or after July 1, 2008, then the lender may determine the applicable special allowance payment based on the loan's actual 6% interest rate. However, if the loan was disbursed prior to July 1, 2008, then the lender must continue to determine the special allowance payment based on the applicable (maximum) interest rate permitted in statute.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who is a military servicemember may qualify for a reduced interest rate on his or her FFELP loan obligations for a period of service on or after August 14, 2008.

School:

None.

Lender/Service:

A lender/service must establish procedures and systems to support the reduced interest rates applicable to some loans made to military servicemembers, and to accommodate accurate special allowance billing on those loans.

Guarantor:

A guarantor may be required to establish procedures and systems to support the reduced interest rates if the loan is purchased as a claim with the rate established by the SCRA. The guarantor also may be required to revise program review procedures.

U.S. Department of Education:

The Department may be required to establish procedures and systems to support the reduced interest rates for FFELP loans that it services. The Department also may be required to revise program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 17, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 12, 2009

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

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

Responses to Comments

Many commenters supported this proposal as written. Other commenters recommended word-smithing changes that were incorporated without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter suggested changes to the policy language in both Subsections 7.4.B, 7.5.B, 10.9.B, and 15.3.D to clarify that "in writing" also means by email. The same commenter suggested that Subsections 10.9.B and 15.3.D be amended to state that the military orders may be scanned files attached to emails.

Response:

The Committee disagrees. The Department has clarified in the past that instances specifying that an activity be performed "in writing" may include electronic mail. As such, the Manual contains numerous instances specifying a written format and each such instance means that "in writing" may be either traditional or electronic

mail. To specify that this instance in particular includes email would appear to negate that over-arching application of "in writing" in all other such instance, or the Committee would need to identify and revise all other instances in which written communications may include email.

With reference to scanned or imaged documents, regulations typically do not specify the format in which a lender must receive the documentation to support a borrower's eligibility for deferment or other FFELP benefits. In rare instances, regulations or other federal guidance may specify a format that is not acceptable, such as the use of imaged faxed death certificates to support a death claim. However, as noted in discussion regarding the request to specify that "in writing" includes email, to specify in this instance that a scanned document is acceptable would only call into question the acceptable formats for other FFELP documentation.

Change:

None.

COMMENT:

Three commenters noted that the SCRA defines interest as including "service charges, renewal charges, fees, or any other charges (except bona fide insurance) . . ." and requested that the language of the policy clarify this definition of interest for this particular circumstance.

Response:

The Committee concurs.

Change:

Language throughout the policy has been amended to further define the term "interest" for the purpose of complying with the SCRA.

COMMENT:

One commenter suggested the addition of a cite to reference the statutory and DCL guidance that implements these provisions.

Response:

The Committee concurs.

Change:

Statutory and DCL cites are added to the updated subsections.

COMMENT:

One commenter suggested the addition of the effective date of the provision to Subsection 15.3.B.

Response:

The Committee concurs.

Change:

The August 14, 2008, effective date of the provision is added to Subsection 15.3.B.

COMMENT:

One commenter suggested revised language to further clarify the applicability of the SCRA provisions to comade PLUS or Consolidation loans, clarifying that the provisions are applicable if one borrower or both borrowers of a comade loan qualify as servicemembers.

Response:

The Committee concurs.

Change:

The language in Subsections 7.5.B and 15.3.D is revised to clarify that the SCRA reduced interest provisions apply to comade loans if either borrower or both comakers on the loan qualify as servicemembers.

COMMENT:

One commenter noted that the discussion regarding the start date of the borrower's eligibility is worded multiple ways in the various affected subsections and suggested that each reference to the same event be worded

consistently for ease of reference.

Response:

The Committee concurs.

Change:

The text is changed to refer to "...the date that the servicemember entered active duty military service."

COMMENT:

One commenter suggested that text regarding the lender's special allowance billing would be more appropriate in Appendix A, where all provisions related to special allowance are already aggregated.

Response:

The Committee concurs.

Change:

The paragraph that was previously in various subsections referring to the appropriate special allowance billing is moved to Section A.2.

COMMENT:

One commenter asked that a comprehensive list of eligible servicemembers be included in the policy language, and provided a list of servicemembers believed to fulfill the necessary SCRA criteria.

Response:

The Committee declines to include such a list at this time. The recently-published Dear Colleague Letter does not expand on the eligibility criteria beyond the statutory reference to the SCRA, and specifically to Section 207 of that law. Until FFELP regulations further clarify the applicability of the provisions to populations of student loan borrowers, the Committee believes that lenders may rely on their own legal counsel to interpret the provisions of this separate law.

Change:

None.

COMMENT:

One commenter requested that the policy language be revised to remove references to active-duty military service as it is possible for some military servicemembers to qualify for the interest rate reduction during periods when they are absent from active duty.

Response:

The Committee concurs.

Change:

References to a borrower's active duty are removed and the Committee is substituting the term "qualifying military service" to indicate that not all periods of military service may be eligible without restricting the reference only to periods of active duty service.

COMMENT:

One commenter noted that an endorser must be serving a qualifying period in military service in order to qualify for the special SCRA interest rate provision, and asked that the language be amended to reflect the requirement.

Response:

The Committee concurs.

Change:

The Committee has confirmed that references to the endorser's eligibility for the reduced interest rate include a qualifier indicating that the endorser is a qualifying servicemember.

bg/edited-ch

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Timing of Lender Disclosures Before Repayment

AFFECTED SECTIONS: 10.7.A Time Frame for Disclosure

POLICY INFORMATION: 1097/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Effective for loans first disbursed on or after August 14, 2008.

BASIS:

HEA §433(b) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy states that a lender must provide the repayment disclosure to a Stafford borrower no less than 30 days, and no more than 240 days, before the first payment due date. For a PLUS loan borrower, the lender must disclose the repayment terms at or before the beginning of the repayment period.

REVISED POLICY:

Revised policy states that the lender must provide the repayment disclosure to a Stafford borrower or to a PLUS loan borrower no less than 30 days, and no more than 150 days, before the first payment due date.

REASON FOR CHANGE:

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

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 10.7.A, page 13, column 2, paragraph 6, as follows:

**10.7.A
Time Frame for Disclosure**

A lender must provide repayment disclosure to a borrower within a time frame applicable to the borrower's loan type.

Stafford Loans

The lender must notify a Stafford loan borrower of repayment terms no less than 30 days, and no more than ~~240~~ 150 days, before the first payment due date. Guarantors recommend that the lender send a repayment reminder letter to the borrower at least 90 days before the grace period expiration date. Establishing solid contact with the borrower before repayment starts is critical to default prevention. Notifying the borrower during this 90-day time frame also gives the borrower the opportunity to do one of the following:

- ...
- ...

Sending the repayment reminder letter may assist the lender in default prevention and reduce the administrative burden caused by prematurely converting the borrower's loan to repayment and then returning it to an in-school or grace status.

PLUS Loans

~~For a PLUS loan, the lender must disclose the repayment terms at or before the beginning of the repayment period. The lender must notify a PLUS loan borrower of repayment terms no less than 30 days, and no more than 150 days, before the first payment due date. For PLUS loans, the repayment period begins on the date of the last disbursement. The disclosure must be sent to the borrower—even if the loan will be placed into immediate deferment. The repayment disclosure may be sent with the initial disclosure outlined in Subsection 7.6.A. The lender does not satisfy this disclosure requirement by merely stating that payments will be deferred while the borrower or dependent student, as applicable, is in school—or by providing a repayment schedule that covers only interest payments to be made while the borrower's loan is deferred. See Section 10.7 for repayment disclosure requirements.~~

~~The lender should indicate to the borrower that the repayment information provided is based on the loan amount when fully disbursed and, if the loan enters an immediate deferment status, the deferment end date (such as the anticipated graduation date), the amount of interest to be capitalized between the first and final disbursement and the first payment due date. The lender is not required to redisclose this information if changes occur in the future disbursement dates or amounts or in the borrower's repayment or deferment status. A lender is encouraged to advise the borrower of any substantive changes made in the borrower's repayment obligation.~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Timing of Lender Disclosures before Repayment

The *Common Manual* has been revised with regard to the time frames in which a lender discloses repayment terms to a borrower prior to the start of the repayment period. The lender must notify a Stafford loan borrower of repayment terms no less than 30 days, and no more than 150 days, before the first payment due date. The lender must notify a PLUS loan borrower of repayment terms no less than 30 days, and no more than 150 days, before the first payment due date.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A Stafford borrower will receive the repayment disclosure no earlier than 5 months prior to the first payment due date, as opposed to 8 months as previously required. A PLUS borrower will receive the repayment disclosures between 30 and 150 days before the first payment due date following either the date on which the loan is fully disbursed or, if the borrower is on an in-school or post-enrollment deferment, the end of the applicable deferment period.

School:

A school may experience a reduction in defaults as a result of the changed time period for a Stafford borrower to receive the repayment disclosure.

Lender/Service:

A lender may need to revise its systems and procedures to comply with the time periods for repayment disclosures.

Guarantor:

A guarantor may be required to revise program review criteria.

U.S. Department of Education:

The Department may be required to revise program review criteria.

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:
March 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, HESC, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, 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:

Three commenters offered suggested revisions to Subsection 10.7.A. One of the three commenters offered the following based on the rationale that pending further guidance from the Department, the change is recommended since the first sentence may present a conflict with the second sentence:

PLUS Loans

~~For a PLUS loan, the lender must disclose the repayment terms at or before the beginning of the repayment period, defined as the date on which the loan is fully disbursed or the date on which an in-school or post-enrollment deferment period is scheduled to end.~~ The lender must notify a PLUS loan borrower of repayment terms no less than 30 days, and no more than 150 days, before the first payment due date.

Another commenter offered the following revision based on the rationale that the time frame in Subsection 10.7.A be presented consistently for Stafford and PLUS loans as is the case under Section 433(b) of the HEA. As stated in the proposal, the proposed language for PLUS suggests on one hand that disclosure must be at or before "the repayment period" while also stating that the disclosure must be within the 30- to 150-day time frame based on when the first payment on the loan is due from the borrower.

PLUS Loans

For a PLUS loan, the lender must disclose the repayment terms at or before the beginning of the repayment period, ~~defined as the date on which the loan is fully disbursed or the date on which an in-school or post-enrollment deferment period is scheduled to end.~~ For a PLUS loan, the lender must notify a PLUS loan borrower of repayment terms provide the repayment disclosure information no less than 30 days, and no more than 150 days, before the first payment due date.

The third commenter offered the following revision to Subsection 10.7.A:

PLUS Loans

For a PLUS loan, the lender must disclose the repayment terms at or before the beginning of the repayment period, ~~defined as the date on which the loan is fully disbursed or the date on which an in-school or post-enrollment deferment period is scheduled to end.~~ The lender must notify a PLUS loan borrower of repayment terms no less than 30 days, and no more than 150 days, before the first payment due date.

According to the rationale of this commenter, the statute appears to support the proposed definition but such a definition does not reconcile with other FFELP provisions. For example, the in-school and post-deferment

grace periods have been clarified to be deferments, implying the repayment period begins at final disbursement.

Response:

The Committee agrees, based on the text of DCL GEN-08-12/FP-08-10, that the requirement is to provide the disclosures not less than 30 days but no more than 150 days before the first payment on the loan — either Stafford or PLUS — is due.

Change:

The text in Subsection 10.7.A has been revised to consistently address the requirements for Stafford and for PLUS loans as follows:

PLUS Loans

~~For a PLUS loan, the lender must disclose the repayment terms at or before the beginning of the repayment period, defined as the date on which the loan is fully disbursed or the date on which an in-school or post-enrollment deferment period is scheduled to end.~~ The lender must notify a PLUS loan borrower of repayment terms no less than 30 days, and no more than 150 days, before the first payment due date.

The text in the Revised Policy section and in the Common Bulletin section has been changed accordingly.

ce/edited-kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Economic Hardship Deferment

AFFECTED SECTIONS: 11.4 Economic Hardship Deferment
11.4.A Eligibility Criteria—Economic Hardship
11.4.B Deferment Documentation—Economic Hardship

POLICY INFORMATION: 1098/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Elimination of the debt-to-income provisions is effective for economic hardship deferments granted on or after July 1, 2009, that begin on or after July 1, 2009.

The definition of family size is effective for economic hardship deferments granted on or after July 1, 2009.

BASIS:
§682.210(s)(6)(iii)(b) and (s)(6)(ix).

CURRENT POLICY:
Current policy for the economic hardship deferment does not define “family size” as it pertains to the deferment. Current policy includes two eligibility criteria based on a federally defined debt-to-income ratio.

REVISED POLICY:
Revised policy adds a definition for “family size” as it pertains to the economic hardship deferment. Revised policy deletes the two eligibility criteria based on a federal debt-to-income ratio.

REASON FOR CHANGE:
These changes are necessary to incorporate provisions of the *Federal Register* Vol. 73, No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 11.4., column 2, paragraph 1, as follows:

**11.4
Economic Hardship Deferment**

An economic hardship deferment is available to a borrower who earns less than minimum wage ~~or exceeds a federally defined debt-to-income ratio~~ or an amount equal to 150% of the poverty guideline applicable to the borrower's family size.

**11.4.A
Eligibility Criteria—Economic Hardship**

This deferment is available only if the borrower had no outstanding balance on a FFELP loan as of the date he or she obtained a loan on or after July 1, 1993.

To qualify for this deferment, a borrower must request it and provide the lender with documentation that he or she meets at least one of the following eligibility criteria:

1. . . .
2. . . .

3. The borrower is working full time and has a monthly income that does not exceed the greater of (a) the Labor Standards Act of 1938 or (b) an amount equal to 150% of the poverty guideline applicable to the borrower's family size, as ~~determined in accordance with section 673(2) of the Community Service Block Grant Act published annually by the Department of Health and Human Services pursuant to 42 U.S.C. §9902.2 (see Note 1 below).~~

For the purpose of this deferment, family size is defined as the number that is determined by counting the borrower, the borrower's spouse, and the borrower's children (including unborn children who will be born during the period covered by the deferment) if the children receive more than half of their support from the borrower. A borrower's family size also includes other individuals if, at the time the borrower requests the economic hardship deferment, the other individuals meet both of the following criteria:

- Live with the borrower.
- Receive more than half of their support from the borrower and will continue to receive this support from the borrower for the year the borrower certifies family size.

Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs.

[\$682.210(s)(6)(ix)]

- ~~4. The borrower is working full time and has a federal education debt burden that equals or exceeds 20% of the borrower's monthly income. The borrower's income minus such burden must be less than 220% of the amount described under item 3 above (see Notes 1 and 2 below).~~
- ~~5. The borrower is not working full time and has a monthly income that does not exceed twice the amount described under item 3 above and, after deducting an amount equal to the borrower's federal education debt burden, the remaining amount of that income does not exceed the amount specified in item 3 above (see Notes 1 and 2 below).~~
64. The borrower is or will be serving as a Peace Corps volunteer.

...

Note 1:

A borrower is considered to be working full time if he or she is expected to be employed for at least three consecutive months at 30 or more hours per week. For a period of deferment granted under items 3 through 5 above, the lender must require the borrower to submit evidence showing the amount of the borrower's monthly income. A borrower's monthly gross income is . . .

Note 2:

To determine a borrower's federal education debt burden for purposes of an economic hardship deferment under items 4 and 5 above, the lender must count:

- ~~The actual monthly payment amounts that are owed on federal postsecondary education loans, if the loans are scheduled to be repaid in 10 years or less.~~
- ~~The monthly payment amounts that would have been owed on federal postsecondary education loans based on a 10-year repayment schedule, if the loans are scheduled to be repaid in more than 10 years.~~

~~Lenders must count a proportional share of any payments due or that would have been due less frequently than monthly. Lenders also must include payments due on a defaulted loan if the borrower has made repayment arrangements satisfactory to the holder of the defaulted loan. the lender must document the amount of the monthly payments that would have been owed on all federal postsecondary education loans during the deferment period based on~~

repayment agreements in place at the time the deferment is being granted:
[§682.2.10(s)(6)]

11.4.B Deferment Documentation—Economic Hardship

If a borrower requests an economic hardship deferment, the lender should forward to the borrower the following common deferment form:

HRD Economic Hardship Deferment Request

Documentation should include pay stubs, a copy of the borrower's most recently filed federal tax return, or other official documents noting the borrower's income ~~and, if applicable, copies of repayment schedules or notices on educational loans~~. A borrower who qualifies for deferment based on his or her Peace Corps service is not required to submit income documentation, but must submit documentation from the Peace Corps showing that he or she is or will be serving as a volunteer.
[DCL GEN-98-16]

...

PROPOSED LANGUAGE - COMMON BULLETIN: Economic Hardship Deferment

The *Common Manual* has been revised to add a definition of "family size" as it pertains to the economic hardship deferment. The Manual has also been revised to delete the two eligibility criteria based on a federal debt-to-income ratio.

GUARANTOR COMMENTS: None.

IMPLICATIONS: *Borrower:*

A borrower will have a better understanding of what constitutes his or her family size for the purpose of the economic hardship deferment. A borrower will no longer be eligible for this deferment based on the federal income-to-debt ratio qualifications.

School:
A school may need to update its counseling materials.

Lender/Service:
A lender may need to revise its procedures for processing economic hardship deferments.

Guarantor:
A guarantor may need to revise its default aversion counseling materials and program review materials.

U.S. Department of Education:
The Department may need to revise its program review materials.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
October 31, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
March 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, HESC, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, USA Funds, and VSAC.

RESPONSES TO COMMENTS

Most of the commenters supported this proposal as written. Other commenters recommended wordsmithing changes or typographical corrections that made no substantive changes to the policy that were considered without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

Two commenters suggested revising the effective date/trigger event to clarify that the elimination of the debt-to-income provisions is not effective for an economic hardship deferment granted on or after July 1, 2009, if the deferment begins prior to July 1, 2009.

Response:

The Committee agrees and confirms that the Department provided this clarification in the preamble language in the final rules published in the *Federal Register*, Vol. 73, No 206, dated October 23, 2008.

Change:

The effective date/trigger event has been revised to reflect the commenters' suggestions and to clarify that the definition of "family size" is effective for economic hardship deferments granted on or after July 1, 2009.

COMMENT:

Four commenters suggested removing the reference to the Community Service Block Grant Act in connection with the poverty guideline applicable to the borrower's family size and adding a reference to the annual publication by the Department of Health and Human Services to align with changes made to regulations published October 23, 2008.

Response:

The Committee agrees.

Change:

The poverty guideline reference has been changed to reflect the commenters' suggestions.

ma/edited - chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Post-Active Duty Student Deferment

AFFECTED SECTIONS:

- 11.8 Military Active Duty Student Deferment
- 11.9 Military Service Deferment
- 11.10 National Oceanic and Atmospheric Administration Corps Deferment
- 11.11 Parental Leave Deferment
- 11.12 Peace Corps Deferment
- Figure 11-1 Deferment Eligibility Chart

POLICY INFORMATION: 1099/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Post-active duty student deferment requests received on or after July 1, 2009, unless implemented earlier by the lender on after October 23, 2008.

BASIS:
§682.210(u).

CURRENT POLICY:
Current policy identifies the post-active duty student deferment as a military active duty student deferment. Also, current policy does not specify that to qualify, the borrower's eligible military service must begin on or after October 1, 2007, or include that date.

REVISED POLICY:
Revised policy identifies the military active duty student deferment as a post-active duty student deferment and moves the text so that the information related to the post-active duty student deferment appears alphabetically within the deferment chapter. In addition, revised policy specifies that to qualify for the post-active duty student deferment, a borrower's eligible military service must begin on or after October 1, 2007, or include that date.

Revised policy also updates Figure 11-1, "Deferment Eligibility Chart," to incorporate these changes and to clarify that there is no limit to the number of post-active duty student deferments an eligible borrower may receive; however, each individual deferment is limited to 13 months.

REASON FOR CHANGE:
This change is necessary to incorporate provisions of the *Federal Register* Vol. 73, No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 11.8, page 15, columns 1 and 2, as follows:

**11.8
Military Active Duty Student Deferment**

~~A military active duty student deferment is available to a borrower who is a member of the National Guard or Armed Forces Reserve (including a member in a retired status), and is called or ordered to active duty service (eligible national or state duty) while enrolled at least half-time in an eligible school at the time of, or within 6 months prior to, his or her activation. [§682.210(u)(1); DCL-FP-08-10]~~

11.8.A Eligibility Criteria—Military Active Duty Student

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

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

Definitions Applicable to Military Active Duty Student Deferment

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

- *Active duty* means serving in full-time duty in the active military service of the U.S. for at least 30 consecutive days, including active state duty for members of the National Guard, for either of the following:

— Activities authorized by the governor, and approved by the President or Secretary of Defense, that are supported by federal funds.

— Activities authorized by the governor based on state statute or policy that are supported by state funds.

Active duty does not include:

— Training or attendance at a service school.

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

[§682.210(u)(2); DCL-FP-08-01]

11.8.B Deferment Documentation—Military Active Duty Student

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

[§682.210(u)(1)(ii)]

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

[§682.210(u)(4); DCL-FP-08-01]

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

11.8.C Length of Deferment—Military Active Duty Student

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

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

limited to 13 months);
{§682.210(u)(1); DCL-FP-08-01}

11.8.D Simplified Deferment Processing

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

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

If the lender grants the military active duty student deferment using this simplified process, the lender must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.
{§682.210(s)(iii) - (v); §682.210(t)(7)}

Revise Section 11.9, page 16, columns 1 and 2, as follows:

Note: See Policy Proposal 1100 in this batch for additional revisions to subsection 11.9.C.

11.98 Military Service Deferment

...

11.98.A Eligibility Criteria—Military Service

...

11.98.B Deferment Documentation—Military Service

...

11.98.C Length of Deferment—Military Service

...

11.98.D Simplified Deferment Processing

...

Revise Section 11.10, page 18, columns 1 and 2, as follows:

11.109 National Oceanic and Atmospheric Administration Corps Deferment

...

11.409.A
Eligibility Criteria—NOAA

...

11.409.B
Deferment Documentation—NOAA

...

11.409.C
Length of Deferment—NOAA

...

Revise Section 11.11, page 18, column 2, as follows:

11.4410
Parental Leave Deferment

...

11.4410.A
Eligibility Criteria—Parental Leave

...

Revise Section 11.11, page 19, column 1, as follows:

11.4410.B
Deferment Documentation— Parental Leave

...

11.4410.C
Length of Deferment— Parental Leave

...

Revise Section 11.12, page 19, columns 1 and 2, as follows:

11.4211
Peace Corps Deferment

...

11.4211.A
Eligibility Criteria—Peace Corps

...

11.4211.B
Deferment Documentation—Peace Corps

...

11.4211.C
Length of Deferment—Peace Corps

...

Add new Section 11.12, page 20, column 1, as follows:

11.12
Post- Active Duty Student Deferment

A post-active duty student deferment is available to a borrower who is a member of the National Guard or Armed Forces Reserve (including a member in a retired status), and is called or ordered to active duty service (eligible national or state duty) while enrolled at least half time in an eligible school at the time of, or within 6 months prior to, his or her activation. [§682.210(u)(1); DCL FP-08-10]

Prior to receiving a post-active duty student deferment, a borrower may be eligible to receive a military service deferment (see Section 11.8) or mandatory forbearance (see Subsection 11.24.C), depending upon the type of military service being performed.

11.12.A
Eligibility Criteria—Post-Active Duty Student

This deferment is available to a Stafford, PLUS, or Consolidation loan borrower who is called or ordered to active duty on or after October 1, 2007, or for a period of service that includes that date, and who satisfies both of the following criteria:

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

Definitions Applicable to Post-Active Duty Student Deferment

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

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

Active duty does not include:

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

[§682.210(u)(2); DCL FP-08-01]

11.12.B
Deferment Documentation—Post-Active Duty Student

A borrower must request the deferment and provide the lender with documentation of his or her duty status. The documentation must show that the borrower was a member of the National Guard or Reserves (including a member in a retired status), and establish an end-of-

military service date and the borrower's enrollment status at an eligible school at the time of, or within six months prior to, military activation.

[\$682.210(u)(5); DCL FP-08-01]

If the borrower has already received a military service deferment (see Section 11.8), a lender may grant a post-active duty student deferment without an additional request from the borrower if the lender has all the required eligibility documentation. If a deferment is granted in this manner, the lender must notify the borrower of the deferment and provide the borrower the opportunity to decline the deferment.

[\$682.210(u)(5); DCL FP-08-01]

The lender may also grant a borrower a deferment using the simplified deferment processing outlined in Subsection 11.12.D.

11.12.C Length of Deferment—Post-Active Duty Student

A borrower who meets the eligibility criteria outlined in Subsection 11.12.A may receive a deferment for up to 13 months following the completion of a period of active duty military service if that service began on or after October 1, 2007, or includes that date. The deferment ends on the earlier of the date of the borrower's re-enrollment in school on at least a half-time basis, or the date the 13-month period ends.

A borrower who is eligible for both the post-active duty student deferment and the military service deferment outlined in Section 11.8 that provides for a 180-day extended deferment period, can only receive these benefits concurrently and not consecutively (i.e., the maximum benefit is limited to 13 months).

[\$682.210(u)(4); DCL FP-08-01]

11.12.D Simplified Deferment Processing

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

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

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

[\$682.210(s)(iii) - (v); §682.210(t)(7)]

Revise Figure 11-1, page 6, as follows:

See attached chart.

PROPOSED LANGUAGE - COMMON BULLETIN:

Post-Active Duty Student Deferment

The *Common Manual* has been revised to incorporate regulatory changes to the military active duty student deferment that were part of the Final Rules dated October 23, 2008. These changes include revising the name of the deferment to "post-active duty student deferment" and clarifying that a borrower's eligible military service must begin on or after October 1, 2007, or include that date. Figure 11-1, "Deferment Eligibility Chart," is also revised to reflect these changes and to clarify that there is no limit to the number of post-active duty

student deferments an eligible borrower may receive; however, each individual deferment is limited to 13 months.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

Based on the name change of the deferment, a borrower will more clearly understand that the deferment is for the period of time after the conclusion of military service. Also, a borrower will understand that the deferment is limited to borrowers whose eligible military service must begin on or after October 1, 2007, or include that date.

School:

A school will more fully understand the deferment eligibility criteria for counseling borrowers and may need to update counseling materials.

Lender/Service:

A lender may need to revise procedures to incorporate the name change for the deferment, as well as the clarification related to the time frame of the eligible service.

Guarantor:

A guarantor may need to revise program review procedures.

U.S. Department of Education:

The Department may need to revise program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 31, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 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, HESC, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Most commenters supported this proposal as written. Other commenters recommended wordsmithing changes that made no substantive changes to the policy but that added clarity 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:

Several commenters suggested adding the following information to footnote #12 on the Deferment Eligibility Chart:

The 13-month period must run concurrently with the 180-day post-mobilization period for borrowers who qualify for a military service deferment.

Response:

The Committee agrees.

Change:

Footnote #12 on Figure 11-1, "Deferment Eligibility Chart," has been revised as follows:

¹² A post-active duty student deferment may be granted to a borrower in periods of no more than 13 months each time the borrower qualifies. There is no limit to how many deferments of this type a borrower may receive. If a borrower is also eligible for a military service deferment, the 13-month period must run concurrently with the 180-day post-military mobilization period.

COMMENT:

One commenter noticed that footnote #11 does not contain the qualifier that a borrower's military service must begin on or after October 1, 2007, or include that date. The commenter stated that it is misleading to include some but not all of the eligibility requirements for the deferment and suggested the footnote be revised accordingly.

Response:

The Committee agrees. In addition, the Committee noticed that the same clarification should be included in footnote #10 that relates to the military service deferment to align with existing policy contained in Subsection 11.8.A (as renumbered by this proposal). As such, the Committee is also making a corresponding change to footnote #10.

Change:

Footnotes #10 and #11 on Figure 11-1. "Deferment Eligibility Chart," are revised as follows:

¹⁰A deferment may be granted to a borrower who is serving on active duty during a war or other military operation or national emergency (including qualifying National Guard duty). The borrower's military service must begin on or after October 1, 2007, or include that date.

¹¹A deferment may be granted to a borrower called to active National or State duty who is a member of the National Guard or Reserves (including retired members) and who was enrolled at least half-time at an eligible school at the time of, or within 6 months prior to, being activated. The borrower's military service must begin on or after October 1, 2007, or include that date.

COMMENT:

Two commenters suggested revising the first sentence of the Common Bulletin language as follows:

The *Common Manual* has been revised to incorporate regulatory changes to the military post-active duty student deferment that were part of the Final Rule dated October 23, 2008.

Response:

The Committee does not believe this change is necessary as the bulletin language explains that the original name of the deferment form—military active duty student deferment—is being revised. The second sentence explains that the Final Rule changed the name of the deferment to the "post-active duty student deferment."

Change:

None.

COMMENT:

One commenter suggested that the reference to the active duty student deferment request form be revised to reflect the actual name of the form – Military Deferment Request Form.

Response:

The Committee disagrees as similar subsections that explain the simplified deferment process for other deferments do not contain the actual name of the particular deferment.

Change:

None.

Deferment Eligibility Chart

Figure 11-1

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

Form	Deferment Type	Time Limit	Stafford and SLS Loans			PLUS Loans				Consolidation Loans	
			Pre 7/1/87 Borrower	New ¹ Borrower 7/1/87 to 6/30/93	New ² Borrower 7/1/93	Loans Before 8/15/83	Pre 7/1/87 Borrower	New ¹ Borrower 7/1/87 to 6/30/93	New ² Borrower 7/1/93	Pre 7/1/93 Borrower ⁸	New Borrower 7/1/93 ⁸
SCH	In-School: Full Time	None	•	•	•	•	•	•	•	•	•
	In-School: Half Time ⁷	None		•	•			•	•	•	•
EDU	Graduate Fellowship	None	•	•	•	•	•	•	•	•	•
	Rehabilitation Training	None	•	•	•	•	•	•	•	•	•
	Teacher Shortage	3 Years		•							
	Internship/Residency Training	2 Years	•	•		•					
TDIS	Temporary Total Disability ³	3 Years	•	•		•	•	•			•
PUB	Armed Forces or Public Health Services ⁴	3 Years	•	•		•					
	National Oceanic and Atmospheric Administration Corps ⁴	3 Years		•							
	Peace Corp. ACTION Program and Tax-Exempt Organization Volunteer	3 Years	•	•		•					
UNEM	Unemployment	2 Years	•	•		•	•	•			•
	Unemployment	3 Years			•				•		•
PLWM	Parental Leave ⁵	6 Months	•	•							
	Mother Entering/ Reentering Workforce	1 Year		•							
HRD	Economic Hardship	3 Years			•						•
PLUS ⁶	In School: Full Time	None						•			
	In School: Half Time	None						•			
	Rehabilitation Training	None				•	•	•			
MIL	Military Service ¹⁰	None	•	•	•	•	•	•	•	•	•
	Military Post-Active Duty Student ¹¹	None 13 months ¹²	•	•	•	•	•	•	•	•	•

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

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

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

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

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

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

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

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

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

¹⁰ A deferment may be granted to a borrower who is serving on active duty during a war or other military operation or national emergency (including qualifying National Guard duty). The borrower's military service must begin on or after October 1, 2007, or include that date.

¹¹ A deferment may be granted to a borrower called to active National or State duty who is a member of the National Guard or Reserves (including retired members) and who was enrolled at least half time at an eligible school at the time of, or within 6 months prior to, being activated. The borrower's military service must begin on or after October 1, 2007, or include that date.

¹² A post-active duty student deferment may be granted to a borrower for a period of no more than 13 months each time the borrower qualifies. There is no limit to how many deferments of this type a borrower may receive. If a borrower is also eligible for a military service deferment, the 13-month period must run concurrently with the 180-day post-military mobilization period.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Military Service Deferment

AFFECTED SECTIONS: 11.9.C Length of Deferment—Military Service

POLICY INFORMATION: 1100/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Military service deferment requests received by the lender on or after July 1, 2009, unless implemented earlier by the lender on or after October 23, 2008.

BASIS:
§682.210(t)(9).

CURRENT POLICY:
Current policy states that a military service deferment begins on the date the condition entitling the borrower to the deferment first existed, as determined by the lender. The deferment ends on the date on which the borrower's qualifying service is certified to end or actually ends.

REVISED POLICY:
Revised policy adds to current policy by stating that without supporting documentation, a lender may grant a military service deferment to an otherwise eligible borrower for a period not to exceed the initial 12 months from the date the qualifying eligible service began based on a request from the borrower or the borrower's representative.

REASON FOR CHANGE:
This change is necessary to incorporate provisions of the *Federal Register* Vol. 73, No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 11.9.C, page 17, column 2, paragraph 2, as follows:

11.9.C Length of Deferment—Military Service

The deferment begins on the date the condition entitling the borrower to the deferment first existed, as determined by the lender. The deferment ends on the date on which the borrower's qualifying service is certified to end or actually ends.
[HEA §428(b)(1)(M); §682.210(t); DCL GEN-06-02]

Without supporting documentation, a lender may grant a military service deferment to an otherwise eligible borrower for a period not to exceed the initial 12 months from the date the qualifying eligible service began based on a request from the borrower or the borrower's representative.
[§682.210(t)(9)]

PROPOSED LANGUAGE - COMMON BULLETIN: Military Service Deferment

The *Common Manual* currently states that a military service deferment begins on the date the condition entitling the borrower to the deferment first existed, as determined by the lender. The deferment ends on the date on which the borrower's qualifying service is certified to end or actually ends. The Manual is revised to add that without supporting documentation, a lender may grant a military service deferment to an otherwise eligible borrower for a period not to exceed the initial 12 months from the date the qualifying eligible service began based on a request from the borrower or the borrower's representative.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower, if otherwise eligible, may receive a military service deferment for the initial 12 months from the date the qualifying eligible service began based on a request from the borrower or the borrower's representative, without having to provide the lender with supporting documentation.

School:

None.

Lender/Service:

A lender may need to update procedures for processing a military service deferment request.

Guarantor:

A guarantor may need to update its default aversion and program review materials.

U.S. Department of Education:

The Department may need to update its program review materials.

To be completed by the Policy Committee

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CM Policy Committee

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COMMENTS RECEIVED FROM:

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

RESPONSES TO COMMENTS

All of the 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.

ma/edited - chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: **Mandatory Forbearance for Post-Active Duty Student Deferment**

AFFECTED SECTIONS: **11.24.C National Service, Loan Forgiveness, or Department of Defense Repayment**
Figure 11-2 Forbearance Eligibility Chart

POLICY INFORMATION: **1101/Batch 157**

EFFECTIVE DATE/TRIGGER EVENT: Requests received by a lender on or after July 1, 2009, unless implemented earlier by the lender on or after October 23, 2008.

BASIS:
§682.211(h)(2)(iii).

CURRENT POLICY:
Current policy does not include the mandatory forbearance that must be granted to a borrower who is a member of the National Guard if the borrower is serving on active military state duty and qualifies for the post-active duty student deferment, but does not qualify for the military service deferment.

REVISED POLICY:
Revised policy incorporates the mandatory forbearance that must be granted to a borrower who is a member of the National Guard if the borrower is serving on active military state duty and qualifies for the post-active duty student deferment, but does not qualify for the military service deferment or other deferment. This type of forbearance is granted in yearly increments (or for a lesser period of time that is equal to the period for which the borrower is eligible) while the eligible borrower is engaged in active state duty (as outlined in Subsection 11.12.A) for a period of more than 30 consecutive days. The forbearance begins on the day after the grace period expires for a Stafford loan that has not entered repayment, or begins on the day after the end of the in-school deferment for a FFELP loan in repayment.

Revised policy also makes changes to Figure 11-2, "Forbearance Eligibility Chart," to incorporate this forbearance type.

REASON FOR CHANGE:
This change is necessary to incorporate provisions of the *Federal Register* Vol. 73, No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

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

11.24.C
National Service, Loan Forgiveness, or Department of Defense Repayment, or Active Military State Duty

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:

- ...
- ...
- ...

- . . .
- Serves on active military state duty as a member of the National Guard (including a member in retired status) during a time when the governor activates National Guard personnel for active state duty for a period of more than 30 consecutive days, and the Guard's activities are paid with state or federal funds. The forbearance is for a borrower who qualifies for a post-active duty student deferment, but who does not qualify for a military service deferment or other deferment while engaged in active military state duty (see Section 11.12 for more information on the post-active duty student deferment). The forbearance begins on the day after the end of the grace period for a Stafford loan that has not entered repayment, or begins on the day after the end of the in-school deferment for a FFELP loan in repayment.

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

See attached chart.

PROPOSED LANGUAGE - COMMON BULLETIN:

Mandatory Forbearance for Post-Active Duty Student Deferment

The *Common Manual* has been revised to incorporate the mandatory forbearance that must be granted to a borrower who is a member of the National Guard and is serving on active military state duty and qualifies for the post-active duty student deferment, but who does not qualify for the military service deferment or other deferment. This type of forbearance is granted in yearly increments (or for a lesser period of time that is equal to the period for which the borrower is eligible) while the eligible borrower is engaged in active military state duty for a period of more than 30 consecutive days. The forbearance begins on the day after the grace period expires for a Stafford loan that has not entered repayment, or begins on the day after the end of the in-school deferment for a FFELP loan in repayment.

For purposes of this deferment, *active duty* means serving in full-time duty in the active military service of the United States for at least 30 consecutive days, including active state duty for members of the National Guard, for either of the following:

- Activities authorized by the governor, and approved by the president or Secretary of Defense, that are supported by federal funds.
- Activities authorized by the governor based on state statute or policy that are supported by state funds.

Active duty does not include:

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

Figure 11-2, "Forbearance Eligibility Chart," is also being revised to incorporate this forbearance type.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who is eligible for the post-active duty student deferment, but does not qualify for the military service deferment or other deferment will be able to postpone payments through forbearance while engaged in active military state duty.

School:

A school may need to update counseling materials for borrowers who are activated for military duty at the state level but do not qualify for the military service deferment or other deferment.

Lender/Service:

A lender will need to revise procedures to incorporate the mandatory forbearance available to borrowers who

are eligible for the post-active duty student deferment but do not qualify for the military service deferment or other deferment.

Guarantor:

A guarantor may need to revise its program review materials.

U.S. Department of Education:

The Department may need to revise its program review materials.

To be completed by the Policy Committee

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Responses to Comments

Most commenters supported this proposal as written. Other commenters recommended wordsmithing changes that made no substantive changes to the policy but that added clarity 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. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter suggested that the Forbearance Eligibility Chart include a clarification that a borrower is only eligible for the Active Military Service Duty forbearance if the military service begins on or after October 1, 2007, or includes that date.

Response:

The Committee agrees.

Change:

Figure 11-2, "Forbearance Eligibility Chart," has been revised by adding a new footnote that corresponds to Active Military State Duty, as follows:

¹⁰ For military service that begins on or after October 1, 2007, or includes that date.

COMMENT:

One commenter suggested revising the last sentence of the new bullet added to Subsection 11.24.C as follows:

The forbearance begins on the day after the end of the grace period for a Stafford loan that has not entered repayment, or on the ~~day the borrower ceases at least half-time enrollment~~ last day of the in-school deferment for a FFELP loan in repayment.

Response:

The Committee agrees in concept, but has modified the suggestion slightly.

Change:

The last sentence in the new bullet in Subsection 11.24.C has been revised as follows:

The forbearance begins on the day after the end of the grace period for a Stafford loan that has not entered repayment, or begins on the day ~~the borrower ceases at least half-time enrollment~~ after the end of the in-school deferment for a FFELP loan in repayment.

nm/edited-rrl

Forbearance Eligibility Chart**Figure 11-2**

TYPE	LENGTH
Discretionary	
Financial difficulties due to personal problems when the borrower is unable to make regularly scheduled payments ¹	The period established in the terms of the forbearance agreement (not to exceed 12-month increments); no maximum
Reduced-Payment Forbearance ¹	
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}	
Active Military State Duty ^{2,3,10}	
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
Mandatory Administrative	
Local or National Emergency ⁷	Period specified by the Department or guarantor plus 30 days following the period
Military Mobilization ⁸	
Designated Disaster Area ⁷	
Repayment Accommodation	3-year maximum for variable interest rate; 5-year maximum for income-sensitive repayment
Death	Date lender receives reliable notification of death to date lender receives death certificate or other acceptable documentation, not to exceed 60 days
Teacher Loan Forgiveness ^{2,6}	The period while the lender is awaiting a completed loan forgiveness application, not to exceed 60 days Date lender receives a completed loan forgiveness application to date lender receives either a denial or the loan forgiveness amount from the guarantor
Administrative	
Borrower Ineligible for Deferment ⁶	Beginning date to ending date of the ineligible deferment
Delinquency before a Deferment or Certain Forbearances ⁶	First date of overdue payment to the day before the beginning date of deferment or other forbearance type
Late Notification of Out-of-School Dates ⁶	Date borrower should have entered repayment to date first or next payment was established
Bankruptcy Filing ⁶	The earlier of the first date of overdue payment or receipt of reliable information that the borrower has filed bankruptcy to date of discharge determination or repurchase
Total and Permanent Disability ⁶	Date lender receives physician's written request for additional time to date lender receives a complete, certified loan discharge application or other form(s) approved by the Department, if the borrower submits the certification to the lender within 90 days of the date the physician certified the application, not to exceed 60 days For a non-disabled comaker, the earlier of the date that the lender receives the loan discharge application or the date the lender receives notice from the guarantor that one comaker is totally and permanently disabled, to the date that the lender receives notice of the final discharge determination.

TYPE	LENGTH
Spouses and Parents of September 11, 2001, Victims ⁶	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination
Repurchase of a Non-Bankruptcy Claim ⁶	The period that the loan was held by the guarantor due to a claim purchase
Death	Date after mandatory administrative forbearance due to reliable notification of death ends to date lender receives death certificate or other acceptable documentation, not to exceed 60 days
Closed School	Period of unofficial closure notice as specified by guarantor
Closed School or False Certification ⁶	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination
False Certification—Identity Theft ⁶	Date eligibility requirements sent to individual to date request and documentation returned, not to exceed 60 days; and from date guarantor receives documentation to date of determination
Delinquency after Deferment or Mandatory Forbearance ⁶	Deferment or mandatory forbearance end date to establishment of next payment due date
Documentation Collection and Processing ⁶	Date borrower requests deferment, forbearance, change in repayment plan, or loan consolidation to date supporting documentation is processed by lender, not to exceed 60 days
Unpaid Refund Discharge	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination The period during guarantor review and ending on the date lender receives the guarantor's determination for a borrower who requests a review of a denial determination
Unpaid Refund ⁶	End date of initial 60-day mandatory administrative forbearance to receipt of completed discharge request, and during period of determination of discharge eligibility
New Out-of-School Dates after Conversion ⁶	Original repayment start date to adjusted start date
Loan Sale or Transfer ⁶	First date of delinquency to date loan is sold or transferred, if the loan is less than 60 days delinquent
Ineligible Summer Bridge Extension ⁶	Day after expiration of borrower's last in-school deferment to the 30th day after fall classes begin
Cure ⁶	Date of earliest unexcused violation to date lender receives a full payment or new signed repayment agreement
Natural Disasters, Local or National Emergency, Military Mobilization ⁶	From date borrower affected, not to exceed 3 months for each occurrence
Repayment Alignment-SLS/Stafford ⁴	First payment due date to last day of the longest applicable Stafford loan grace period

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.

¹⁰ For military service that begins on or after October 1, 2007, or includes that date.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Additional Documentation Requirements for Subrogated Loans

AFFECTED SECTIONS: 13.1.D Claim File Documentation
13.1.G Additional Documentation Requested by the Guarantor

POLICY INFORMATION: 1102/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Requests for loan disbursement information and electronic signature documents received from the guarantor on or after July 1, 2008.

BASIS:
§682.409(c)(4)(vii) and (viii).

CURRENT POLICY:
Current policy states only that a lender may need to provide the guarantor additional information or documentation if the borrower disputes the loan or if the school disputes its cohort default rate.

REVISED POLICY:
Revised policy adds that a lender will need to provide additional loan disbursement information or electronic signature documentation for a loan that is subrogated to the Department or upon the request of the guarantor. Revised policy also creates a new subsection regarding additional documentation requested by the guarantor.

REASON FOR CHANGE:
This change is based on regulatory changes made in the *Federal Register* dated November 1, 2007, Vol. 72, No. 211, page 62006.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 13.1.D, page 5, column 1, paragraph 1, as follows:

~~Guarantors may require lenders to provide additional information or documentation, for example if the borrower disputes the loan amount or a school disputes its cohort default rate.~~

Add a new Subsection 13.1.G, page 6, column 2, after paragraph 2, as follows:

13.1.G
Additional Documentation Requested by the Guarantor

There are several reasons why a guarantor may require a lender to provide additional information or documentation, such as:

- The guarantor requests additional information due to the subrogation of the loan.
- The borrower disputes the loan amount.
- The school disputes its cohort default rate.

For a loan that is subrogated to the Department or upon the request of the guarantor, the lender must provide the following within the guarantor's required time frame:

- A record of the lender's disbursement of Stafford and/or PLUS loan proceeds to the school for delivery to the borrower.
- If the promissory note was signed electronically, the name and location of the entity in

possession of the original electronically signed promissory note.
[\$682.409(c)(4)(vii) and (viii)]

▲ Lenders may contact individual guarantors for more information on when the additional documentation is required.

PROPOSED LANGUAGE - COMMON BULLETIN:

Additional Documentation Requirements for Subrogated Loans

The *Common Manual* has been updated with information and documentation that a guarantor may require a lender to provide for a loan that is subrogated to the Department or upon request of the guarantor. This information includes a record of the lender's disbursement of Stafford and/or PLUS loan proceeds to the school for delivery to the borrower, and the name and location of the entity in possession of the original electronically signed promissory note. Revised policy also creates a new subsection to specifically address additional documentation requested by a guarantor.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

A lender may need to provide a guarantor with additional information on a defaulted loan as requested by the guarantor. This information must be provided within the guarantor's required time frame.

Guarantor:

A guarantor, upon subrogation of a loan, may need to request additional information from a lender to provide to the Department. The guarantor will need to provide the lender with a time frame in which to provide the documentation that enables the guarantor to respond to the Department's request for more information within 10 business days.

U.S. Department of Education:

The Department may request additional information from a guarantor for a subrogated loan.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 1, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 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, HESC, NASFAA, NCHELP, NSLP, OGSLP, SCSLC, SLMA, SLSA, TG, UHEAA, 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 changes to the Revised Policy and Proposed Language to align more closely with the regulations, as follows:

Revised Policy:

Revised policy adds that a lender will need to provide additional loan disbursement information or electronic signature documentation to a guarantor, upon request, for a loan that ~~may be selected~~ is assigned for subrogation to the Department, or upon the request of the guarantor. ...

Proposed Language:

For a loan that ~~may be selected~~ is assigned for subrogation to the Department or upon the request of the guarantor, a lender must provide the following within the required time frame as requested by the guarantor:

- A record of the lender's disbursement of Stafford and PLUS loan proceeds to the school for delivery to the borrower.
- If the Master Promissory Note (MPN) or promissory note was signed electronically, ~~t~~The name and location of the entity in possession of the original electronically signed ~~Master Promissory Note (MPN)~~ or the electronically signed promissory note in the case of a Consolidation loan. [§682.409(c)(4)(vii) & (viii)]

Response:

The Committee agrees.

Change:

The revised policy has been revised per the commenter's suggestion, with a slight modification to the Revised Policy language. The Committee believes that two references to "upon request" in this sentence seems redundant; therefore, the Committee removed the phrase "to a guarantor, upon request," and added the phrase "upon the request of the guarantor" to the end of the sentence per the commenter's suggestion. In addition, the Committee has revised the 2nd bullet by eliminating the redundancy of using both the terms Master Promissory Note and promissory note.

The 2nd bullet now reads as follows:

- If the promissory note was signed electronically, ~~t~~The name and location of the entity in possession of the original electronically signed ~~Master Promissory Note (MPN) or the electronically signed~~ promissory note in the case of a Consolidation loan. [§682.409(c)(4)(vii) and (viii)]

The Common Bulletin Language has also been updated to reflect the suggested change.

sm/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Repayment Options on Rehabilitated Loans

AFFECTED SECTIONS: 13.7 Rehabilitation of Defaulted FFELP Loans

POLICY INFORMATION: 1103/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Rehabilitated FFELP loans purchased by a lender on or after July 1, 2009.

BASIS:
§682.405(b)(4).

CURRENT POLICY:

Current policy specifies only that a lender that repurchases a rehabilitated loan must establish a repayment schedule based on the same requirements applicable to other FFELP loans of the same loan type as the rehabilitated loan, and must include initial payments that are equal to or greater than the payments that the borrower made during the rehabilitation period.

REVISED POLICY:

Revised policy adds that a lender also must allow a borrower to choose any repayment plan that is available for the loan type. The rehabilitation lender is no longer required to ensure that the repayment schedule on the rehabilitated loan has initial payments that are equal to or greater than the nine monthly payments that the borrower made to the guarantor during the rehabilitation period.

REASON FOR CHANGE:

This change is based on regulatory changes made in the *Federal Register* dated October 23, 2008, Vol. 73, No. 206, page 63254.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 13.7, page 15, column 2, paragraph 2, as follows:

A lender that purchases a rehabilitated loan must immediately establish a repayment schedule period with the borrower that meets the requirements applicable to other FFELP loans of the same type as the rehabilitated loan, and must allow the borrower to choose any repayment schedule that is available for that loan type. The schedule must be sent to the borrower no more than 60 days, and the first payment due date must be no more than 75 days after the lender considers the repurchase to be complete (e.g., the date the repurchase check is sent to the guarantor, the date the lender receives the loan file from the guarantor, or the date the lender receives collateral from the guarantor). The lender must consider the first payment made under the nine monthly payments required for rehabilitation as the first payment under the applicable maximum repayment period for the loan type. ~~(For example, a Stafford loan borrower with a 10-year maximum repayment period would have a maximum repayment period of 9 years and 3 months remaining, on a loan with a 10-year repayment period because the nine monthly payments are considered the first 9 months of the repayment period, and a~~ For another example, a Consolidation loan borrower with a balance greater than \$60,000 and a 30-year maximum repayment period would have a maximum repayment period of 29 years and 3 months remaining, because the nine monthly payments are considered the first 9 months of a the repayment term period). When establishing the maximum repayment period on a rehabilitated Consolidation loan, the lender must use the loan's balance at the time the loan is rehabilitated (i.e., the amount paid to the guarantor to purchase the loan). ~~The initial repayment schedule for each rehabilitated loan must provide for monthly payments that are greater than or equal to the average of the nine monthly payments received by the guarantor.~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Repayment Options on Rehabilitated Loans

The *Common Manual* has been updated to include that upon purchase of a rehabilitated loan, a lender must immediately establish a repayment period with the borrower that meets the requirements applicable to other FFELP loans of the same type as the rehabilitated loan and must allow the borrower to choose any repayment schedule that is available for that specific loan type. The rehabilitation lender is no longer required to ensure that the repayment schedule on the rehabilitated loan has initial payments that are equal to or greater than the nine monthly payments that the borrower made to the guarantor during the rehabilitation period.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will be given the option to choose a repayment schedule that is available for that loan type upon rehabilitation of the loan. A borrower's initial payments with the lender may be less than the payments received by the guarantor.

School:

None.

Lender/Service:

A lender will need to update its procedures for rehabilitating loans to provide the rehabilitated borrower every repayment schedule option that is available for the loan type that was rehabilitated. A lender may also need to update procedures to eliminate any requirements that the borrower's repayment schedule have payments that equal or exceed the payments that were required by the guarantor during the rehabilitation process.

Guarantor:

A guarantor may need to update its policies and procedures for compliance reviews to include verifying whether a borrower was given sufficient choice of repayment schedules upon successful completion of rehabilitation.

U.S. Department of Education:

The Department may need to update its policies and procedures for compliance reviews to include verifying whether a borrower was given a choice of repayment schedules upon successful completion of rehabilitation.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 31, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 12, 2009

PROPOSAL DISTRIBUTED TO:

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COMMENTS RECEIVED FROM:

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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.

sm/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 20, 2009

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

SUBJECT: Consolidation Eligibility

AFFECTED SECTIONS: 15.2 Borrower Eligibility and Underlying Loan Holder Requirements
Appendix G

POLICY INFORMATION: 1104/Batch 157

EFFECTIVE DATE/TRIGGER EVENT: Direct Consolidation loans disbursed on or after October 1, 2008, for purposes of using the no accrual of interest benefits for active duty service members.

Direct Consolidation loans disbursed on or after July 1, 2009:

- to obtain an income-based repayment plan (if the loan has been submitted for default aversion or is already in default).
- for purposes of using the Public Service Loan Forgiveness Program.

BASIS:

HEA §428C(a)(3)(B)(i)(V)(aa), (bb), and (cc) and §455(o) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; §682.201(e)(5); DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy does not address a FFELP borrower's ability to consolidate into the Federal Direct Loan Program (FDLP) for purposes of using the Public Service Loan Forgiveness Program and no accrual of interest for active duty service members benefits. Also, current policy does not address that a FFELP borrower may consolidate into the FDLP if the loan holder has requested default aversion assistance from the guarantor, or if the loan is already in default and the borrower is seeking an income-based repayment schedule.

REVISED POLICY:

Revised policy states that a FFELP borrower may consolidate into the FDLP for the purposes of using the Public Service Loan Forgiveness Program and the no accrual of interest for active duty service members benefits. Also, revised policy states that a FFELP borrower may consolidate into the FDLP if the loan holder has requested default aversion assistance from the guarantor, or if the loan is already in default and the borrower is seeking an income-based repayment schedule.

REASON FOR CHANGE:

These changes are necessary to incorporate provisions of the College Cost Reduction and Access Act, HEOA, and the *Federal Register* Vol. 73, No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 15.2, page 4, column 1, by adding a new subheading after paragraph 3, as follows:

Consolidating to Obtain Direct Loan Benefits

A borrower who has a FFELP loan(s) may obtain a Direct Consolidation loan for the purpose of obtaining certain Federal Direct Loan Program (FDLP) benefits. These benefits include the following:

- Using the Public Service Loan Forgiveness Program.
[HEA §428C(a)(3)(B)(i)(V)(bb); §682.201(e)(5)]
- Using the no accrual of interest for active duty service members benefit.

Obtaining a Subsequent Consolidation Loan

A borrower who currently has either a Federal or a Direct Consolidation loan is not eligible for a subsequent Federal or Direct Consolidation loan unless the borrower meets one of the following conditions:

- . . .
-

A borrower who currently has a Federal Consolidation loan and does not meet one of the above conditions is not eligible for a subsequent Federal consolidation loan, but may be eligible for a subsequent Direct Consolidation loan if the borrower meets one of the following conditions:

- The borrower's Consolidation loan holder has requested default aversion assistance from the guarantor, or if the loan is already in default, and the borrower is seeking an income-contingent or income-based repayment schedule.
§428C(a)(3)(B)(i)(V)(aa)
- The borrower has filed an adversary complaint in a bankruptcy proceeding and is seeking an income-contingent repayment schedule.
[HEA §428C(a)(3)(B)(1); DCL GEN-06-20/FP-06-16]
- The borrower wants to use the FDLP's Public Service Loan Forgiveness Program.
[HEA §428C(a)(3)(B)(i)(V)(bb); §682.201(e)(5)]
- The borrower wants to use the no accrual of interest for active duty service members benefit.
[HEA §428C(a)(3)(B)(i)(V)(cc); §455(o); DCL GEN-08-12/FP-08-10]

Revise Appendix G, page 16, column 1, by adding a new definition after paragraph 6, as follows:

Public Service Loan Forgiveness Program: A program intended to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining balance of their Direct loan(s) after they satisfy the public service and loan payment requirements of the program.

**PROPOSED LANGUAGE - COMMON BULLETIN:
Consolidating to Obtain Direct Loan Benefits**

The *Common Manual* has been updated to reflect that a FFELP borrower may consolidate into the Federal Direct Loan Program for the purposes of using the Public Service Loan Forgiveness Program and the no accrual of interest for active duty service members benefits. Also, a FFELP borrower may consolidate into the FDLP if the loan holder has requested default aversion assistance from the guarantor, or if the loan is already in default and the borrower is seeking an income-based repayment schedule.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:

A FFELP borrower may receive benefits of the FDLP's Public Service Loan Forgiveness Program and the no accrual of interest for active duty service members by consolidating his or her FFELP loans into the FDLP. Also, a borrower may be eligible to consolidate into FDLP for the purpose of obtaining an income-based repayment plan if he or she has defaulted on the loan or if the loan holder has requested default aversion assistance from the guarantor.

School:

None.

Lender/Service:

A lender may need to amend its consolidation procedures to allow for a FFELP borrower to consolidate into the FDLP.

Guarantor:

A guarantor may need to amend consolidation procedures to allow for a FFELP borrower to consolidate into the FDLP. A guarantor may also need to amend its program review materials.

U.S. Department of Education:

The Department may need to amend consolidation procedures to allow for a FFELP borrower to consolidate into the FDLP. The Department may also need to amend its program review materials.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

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RESPONSES TO COMMENTS

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

Four commenters requested that Section 15.2 be revised to state that a borrower who has a FFELP Consolidation loan that repaid a Direct loan first disbursed on or after October 1, 2008, may obtain a Direct Consolidation loan for the purpose of using the no accrual of interest for active duty service members benefit. One other commenter requested that the Committee consider adding more specific text to this information to note that only FFELP loans that were first disbursed on or after October 1, 2008, or a Federal Consolidation loan that repaid FFELP or FDLP loans first disbursed on or after October 1, 2008, will be eligible for this benefit.

Response:

The Committee hesitates to add detailed information to the policy language at this time because the Department has not issued final rules to further clarify how the benefit will be implemented for FFELP borrowers who consolidate into the FDLP. The Committee notes that the policy, as written, aligns with the Department's guidance in DCL GEN-08-12/FP-08-10 which states that "FFEL-only borrowers are authorized under HEA §428C(a)(3)(B)(i)(V)(bb) and (cc) to consolidate their loans in the Direct Loan Program to receive this benefit." The Committee will revise the *Common Manual* language after final rules are published for this provision, if needed.

Change:

DCL GEN-08-12/FP-08-10 has been added as a citation for this policy.

COMMENT:

Five commenters requested that the Committee revise language in Section 15.2 under the subheading “Obtaining a Subsequent Consolidation Loan” to reflect that a borrower may consolidate a defaulted loan into the FDLP in order to obtain an income-contingent repayment plan as allowed in HEA §428C(a)(3)(B)(i)(V)(aa). One of the five commenters also requested that information should be added to state that a borrower may consolidate into the FDLP to obtain an income-based repayment plan as well as an income-contingent repayment plan.

Response:

The Committee agrees.

Change:

The bullet has been revised with the commenters’ suggestions as follows:

“The borrower’s Consolidation loan holder has requested default aversion assistance from the guarantor, or if the loan is already in default, and the borrower is seeking an income-contingent or income-based repayment schedule.
§428C(a)(3)(B)(i)(V)(aa)”

ma/edited-chh