

Summary of Changes Approved through May 2013

This summary lists changes made since the 2012 Annual Update of the *Common Manual*.
 Change bars denote the latest policy changes, which were approved March 21, April 18, and May 16, 2013.
 Changes made before the 2012 Annual Update are noted in Appendix H.

Common Manual Section	Description of Change	Effective Date/Triggering Event	Policy/Batch
Chapter 2: About the FFELP			
2.2.B The Interim Period	Moves the definition of “attendance at an academically-related activity” from Section 9.4 to Appendix G, and inserts a glossary definition for the synonymous term “academic attendance.” Revised policy strikes the outdated definition of “last date of attendance,” and clarifies Manual text so that it consistently refers to, as applicable, the glossary-defined term “withdrawal date” or the date that a student drops to less-than-half-time enrollment.	Student withdrawal determinations made by a school on or after July 1, 2011.	1277/188
2.3.C Common Forms	Adds information regarding distribution of the Department’s common form (published December 19, 2012) for borrowers to request the income-based repayment plan.	Distribution of the Department’s Income-Based (IBR) /Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request form to a borrower on and after April 1, 2013, unless implemented no earlier than December 19, 2012.	1283/192
2.3.C Common Forms	Includes information regarding use of the Department’s common mandatory forbearance request forms. One form is the Mandatory Forbearance Request: Student Loan Debt Burden and the other is the Mandatory Forbearance Request: Medical or Dental Internship/Residency Program; National Guard Duty; Department of Defense Loan Repayment Program.	Distribution of the Department’s mandatory forbearance request forms to a borrower on and after December 31, 2012, unless implemented by a lender no earlier than July 30, 2012.	1279/189
Chapter 5: Borrower Eligibility			
5.1.C Graduate or Professional Student and Parent PLUS Loan Borrower Eligibility Requirements	Provides clarification as to which stepparent is eligible to apply for a parent PLUS loan.	Retroactive to the implementation of the <i>Common Manual</i> .	1278/188
Chapter 8: Loan Delivery			
8.8 Managing Credit Balances	Reorganizes the <i>Common Manual</i> by adding to Section 8.8, Managing Credit Balances. The guidance regarding the treatment of credit balances for a school that assesses all program costs upfront currently found in Subsection 8.7.I, Delivery Methods is moved to Section 8.8, Managing Credit Balances.	Prior-year charges paid by a school with current-year funds on or after September 8, 2009.	1280/189

Common Manual Section	Description of Change	Effective Date/Triggering Event	Policy/Batch
Chapter 9: School Reporting Responsibilities and the Return of Title IV Funds			
9.3 Leave of Absence 9.4 Withdrawal Dates 9.5.B Processing Returned Funds	Moves the definition of "attendance at an academically-related activity" from Section 9.4 to Appendix G, and inserts a glossary definition for the synonymous term "academic attendance." Revised policy strikes the outdated definition of "last date of attendance," and clarifies Manual text so that it consistently refers to, as applicable, the glossary-defined term "withdrawal date" or the date that a student drops to less-than-half-time enrollment.	Student withdrawal determinations made by a school on or after July 1, 2011.	1277/188
Chapter 10: Loan Servicing			
10.8.D Income-Based Repayment Schedule	Adds information regarding distribution of the Department's common form (published December 19, 2012) for borrowers to request the income-based repayment plan.	Distribution of the Department's Income-Based (IBR) /Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request form to a borrower on and after April 1, 2013, unless implemented no earlier than December 19, 2012.	1283/192
10.8.D Income-Based Repayment Schedule 10.10.A Permitted Capitalization	Adds information to align with the income-based repayment plan final regulations published in the <i>Federal Register</i> on November 1, 2012. Provides individual lender flexibility regarding what type of income documentation a borrower must provide in order to determine whether the borrower has a partial financial hardship. Also outlines various notifications that a lender must send to a borrower under the income-based repayment plan provisions.	For repayment of all IBR-eligible loans based upon income-based repayment plan requests on or after July 1, 2013. For income-based repayment plan income documentation and required notifications, July 1, 2013, unless implemented by the lender no earlier than November 1, 2012.	1284/192
10.8.D Income-Based Repayment Schedule	Provides clarification for the PFH eligibility calculation and PFH payment amount calculation under IBR for married borrowers who file federal income taxes jointly. Also provides some unique requirements for married borrowers who file separately and live in a community property state.	Income-based repayment (IBR) plan requests or renewals processing by the lender on or after July 1, 2010.	1282/193
Chapter 11: Deferment and Forbearance			
Figure 11-2 Forbearance Eligibility Chart 11.21.I Delinquency under Income-Based Repayment (IBR)	Adds information to the Manual about administrative forbearance provisions related to the income-based repayment plan final regulations published in the <i>Federal Register</i> on November 1, 2012.	For administrative forbearances granted under the income-based repayment provisions, on or after July 1, 2013, unless implemented by the lender no earlier than November 1, 2012.	1287/195
Figure 11-2 Forbearance Eligibility Chart 11.21.S Total and Permanent Disability	Requires the lender to cease collection activity for a period of no more than 120 days when it receives notice from the Department that the borrower has requested a loan discharge application or that the borrower has indicated that he or she intends to apply for a TPD loan discharge. The lender must extend an existing suspension of collection activities, or forbearance, or implement a new period if none exists on the borrower's loan when the lender receives notification from the Department indicating that the borrower has filed the loan discharge application.	July 1, 2013, for loans for which the Department notifies the lender that the borrower intends to file an application for a total and permanent disability (TPD) discharge or has filed a TPD discharge application.	1286/194

Common Manual Section	Description of Change	Effective Date/Triggering Event	Policy/Batch
Figure 11-2 Forbearance Eligibility Chart 11.24 Mandatory Forbearance 11.24.A Student Loan Debt Burden	Includes information regarding use of the Department's common mandatory forbearance request forms. One form is the Mandatory Forbearance Request: Student Loan Debt Burden and the other is the Mandatory Forbearance Request: Medical or Dental Internship/Residency Program; National Guard Duty; Department of Defense Loan Repayment Program.	Distribution of the Department's mandatory forbearance request forms to a borrower on and after December 31, 2012, unless implemented by a lender no earlier than July 30, 2012.	1279/189
Chapter 12: Due Diligence in Collecting Loans			
12.5.A Default Aversion Assistance Request (DAAR)	Implements new policies to support the new process by which all TPD loan discharge applications are processed by the Department and the Department makes the disability determination. The Department will instruct the lender when to suspend collection activity, when the TPD application is approved, and to either file a claim with the guarantor or return the loan to repayment status, or another status, as appropriate. Also requires the lender to notify the guarantor to cancel any DAAR and DAAR activities on a loan for which the borrower plan to apply for, or has applied for, a TPD loan discharge.	Total and permanent disability (TPD) discharge applications received by the loan holder on or after July 1, 2013. Notification that the borrower claims to be totally and permanently disabled received by the loan holder on or after July 1, 2013. TPD notifications from the Department received by the loan holder on or after July 1, 2013.	1288/195
Chapter 13: Claim Filing, Discharge, and Forgiveness			
13.1.D Claim File Documentation 13.3 Claim Purchase or Discharge Payment 13.6.A Default Claims 13.8.G Total and Permanent Disability	Implements new policies to support the new process by which all TPD loan discharge applications are processed by the Department and the Department makes the disability determination. The Department will instruct the lender when to suspend collection activity, when the TPD application is approved, and to either file a claim with the guarantor or return the loan to repayment status, or another status, as appropriate. Also requires the lender to notify the guarantor to cancel any DAAR and DAAR activities on a loan for which the borrower plan to apply for, or has applied for, a TPD loan discharge.	Total and permanent disability (TPD) discharge applications received by the loan holder on or after July 1, 2013. Notification that the borrower claims to be totally and permanently disabled received by the loan holder on or after July 1, 2013. TPD notifications from the Department received by the loan holder on or after July 1, 2013.	1288/195
13.8.H Unpaid Refund	Moves the definition of "attendance at an academically-related activity" from Section 9.4 to Appendix G, and inserts a glossary definition for the synonymous term "academic attendance." Revised policy strikes the outdated definition of "last date of attendance," and clarifies Manual text so that it consistently refers to, as applicable, the glossary-defined term "withdrawal date" or the date that a student drops to less-than-half-time enrollment.	Student withdrawal determinations made by a school on or after July 1, 2011.	1277/188
13.9.A Teacher Loan Forgiveness Program	States if the school where the borrower is employed meets the eligibility criteria of a qualifying school for at least the first year of the borrower's 5 qualifying years of service, the 4 subsequent years of qualifying teaching service continue to qualify the borrower even if the school does not meet the criteria.	Teacher loan forgiveness eligibility determinations made on or after April 9, 2012.	1276/188
13.9.D Loan Forgiveness under the Income-Based Repayment (IBR) Schedule	Adds information pertinent to loan forgiveness and the requirement to notify borrowers under the income-based repayment plan provisions published by the Department on November 1, 2012.	For clarifications on qualifying payments, July 1, 2009. For Income-based repayment loan forgiveness notifications, notifications provided by the lender on or after July 1, 2013.	1285/192

Common Manual Section	Description of Change	Effective Date/Triggering Event	Policy/Batch
Chapter 16: Cohort Default Rates and Appeals			
16.2 Calculation of School Cohort Default Rates 16.5 Consequences of High Official Cohort Default Rates for Schools	Corrects information on closed school, false certification and identity theft discharges included in the cohort default rate calculation and also introduces suggestions for schools regarding what a default management plan might include.	Expansion of the cohort default period from a two-year period to a three-year period beginning with fiscal year 2009.	1281/190
Appendix G: Glossary			
Academic Attendance Attendance at an Academically-Related Activity Last Date of Attendance	Moves the definition of "attendance at an academically-related activity" from Section 9.4 to Appendix G, and inserts a glossary definition for the synonymous term "academic attendance." Revised policy strikes the outdated definition of "last date of attendance," and clarifies Manual text so that it consistently refers to, as applicable, the glossary-defined term "withdrawal date" or the date that a student drops to less-than-half-time enrollment.	Student withdrawal determinations made by a school on or after July 1, 2011.	1277/188
Appendix H: History of the FFELP and the <i>Common Manual</i>			
H.4.B HEROES Act Waivers Figure H-2 HEROES Act Waivers and Modifications	<p>Extends the HEROES waivers to September 30, 2017. Also eliminates the waivers applicable to the armed forces deferment and implements waivers of the annual documentation requirement for affected individuals who are repaying FFELP loans under an income-based repayment plan.</p> <p>Requires the lender to maintain for three years, plus a three-month transition period, the payment amount applicable under the most recent PFH calculation when the borrower is unable to provide updated income and family size documentation due to his or her status as an affected individual.</p> <p>Removes the requirement that a school eliminate from its calculation of the amount of funds it returns as "unearned funds", the amount of any charges that the school is required to cover, and has covered, with non-Title IV sources of aid.</p>	September 27, 2012.	1289/195

obtained from the electronic submission process is signed. If the borrower provides a copy of his or her most recent federal tax return, the borrower is not required to provide copies of any other tax return forms, schedules, attachments, or worksheets, including W 2 Forms. Unless the lender has reason to believe that the information on the tax return is not accurate, it may rely upon the AGI amount reported on the tax return for purposes of the PFH determination. If the lender questions the accuracy of the signed copy of the tax return submitted by the borrower, it must require the borrower to provide the lender with a signed consent form (IRS Form 4506 T) or the tax transcript that is received after submitting Form 4506 T to the Internal Revenue Service (IRS).

[Department's Electronic Announcement dated June 12, 2009]

- The tax transcript information from the IRS, which can be obtained by the borrower submitting a signed consent form (IRS Form 4506 T) for the disclosure of applicable AGI and other tax return information from the IRS directly to the IRS, or to the lender for submission to the IRS.

[§682.215(e)(1); §685.221(e)(1)]

However, if the borrower's AGI is not available or if the lender believes that the borrower's AGI does not reflect the borrower's current income, the lender may use other documentation, provided by the borrower, to verify income.¹

For a married borrowers filing federal income taxes separately, AGI includes only the borrower's income. Married borrowers who file separately are not required to include their spouse's income and may not include their spouse's eligible debt when determining eligibility for PFH under the Income-Based Repayment plan. However, married borrowers who reside in community property states and file separately must divide all community income equally between each other when filing federal income taxes. As a result, such borrowers may state that their reported AGI does not reasonably reflect their own current income. In these cases, the Department encourages loan holders to request and use alternative documentation to determine the borrower's eligibility for PFH and the PFH payment amount.

[Final Rules published in the *Federal Register* dated November 1, 2012, p. 66112]²

For a married borrower filing taxes jointly, AGI includes both the borrower's and spouse's income. A married borrower who files a joint tax return may include with his or her eligible loans any eligible loans owed by the borrower's spouse for purposes of determining PFH eligibility. If the lender does not hold at least one of the spouse's eligible loans, the lender must obtain the spouse's consent for the lender to obtain information about the spouse's eligible loans from the National Student Loan Data System or obtain from the borrower or spouse other documentation, acceptable to the lender, of the spouse's eligible loan information. In this situation, the lender must:

Step 1: Determine each spouse's percentage of the couple's total eligible loan debt.

Step 2: Adjust the borrower's monthly payment amount by multiplying the calculated total payment amount by the percentage calculated in Step 1.

If a borrower's loans are held by multiple lenders, the lender must adjust the monthly payment amount by multiplying the payment calculated in Step 2 by the percentage of the total outstanding principal balance of eligible loans held by the lender.

Step 3: Apply the PFH payment amount rules explained under the Payment Amount Calculation subheading below.

[§682.215(a)(1) and (b)(1)(ii); §682.215(e)(1)(iii); §685.221(a)(1) and (b)(1)(b)(2)(ii)]³

The borrower must provide a self-certification of family size to the lender. If the borrower fails to certify family size, the lender must assume a family size of one. Family size includes the following:

- The borrower and the borrower's spouse.
- The borrower's children, including unborn children who will be born during the year for which the borrower certifies family size, if the borrower provides more than half of the children's support.
- Other individuals who, at the time the borrower certifies family size, live with the borrower and receive more than half of their support from the borrower and will continue to receive this support from the borrower for the year being certified. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs.

¹ Policy 1284 (Batch 192), approved February 21, 2013

² Policy 1282 (Batch 193), approved March 21, 2013

³ Policy 1284 (Batch 192), approved February 21, 2013

Payment Amount Calculation

The borrower's maximum annual payment to determine PFH is limited to no more than 15% of the amount by which the borrower's annual adjusted gross income exceeds 150% of the DHHS poverty guideline for the borrower's family size. The result is divided by 12 to obtain the monthly payment amount.

PFH Eligibility and Payment Amount Calculation Example:

A borrower has an AGI of \$50,000, a family size of 5, total loans of \$25,000 when initially entered repayment and \$23,000 at the time of the IBR request, and is a resident of Virginia.

Step 1: Obtain the DHHS poverty guideline for the family size and state. For this example, the applicable DHSS poverty guideline is \$25,790, based on the 2010 DHHS poverty guideline.

Step 2: Multiply the DHHS poverty guideline by 150% or $\$25,790 \times 1.5 = \$38,685$.

Step 3: Subtract the result in step 2 from the borrower's AGI or $\$50,000 - \$38,685 = \$11,315$.

Step 4: Calculate the borrower's maximum annual payment amount by multiplying the result of step 3 by 15% or $\$11,315 \times .15 = \$1,697.25$.

Step 5: Determine the annual payment amount on the higher total of the borrower's loans based on a standard 10-year repayment schedule and the applicable interest rate. In this example, the borrower's higher total loan amount is \$25,000 when he initially entered repayment at an interest rate of 6.8% which results in an annual payment amount of \$3,452.40. (Note: For married borrowers who file federal income taxes jointly, if the spouse also has IBR-eligible loans, this calculation on the higher amount must be performed on the spouse's loans as well, and the higher annual payment amounts of each spouse must be added together. This total must then be used to determine each spouse's eligibility for partial financial hardship.)

Step 6: Since the annual payment amount in Step 5, \$3,452.40, is greater than the maximum annual payment amount in Step 4, \$1,697.25, the borrower has a partial financial hardship.

Step 7: To calculate the borrower's monthly payment amount, divide the result of Step 4 by 12 or $\$1,697.25 / 12 = \141.44 . (Note: For married borrowers who file

federal income taxes jointly, the partial financial hardship payment amount would be allocated between both spouses' loans based on the percentage of the total eligible loan debt attributable to each individual borrower before any allocation between multiple loan holders.)

If the lender does not hold all of the borrower's eligible loans, the borrower's monthly PFH payment amount is multiplied by the percentage of the borrower's total outstanding principal amount of eligible loans that are held by the lender making the determination of eligibility. For this calculation, the lender may access NSLDS to determine the outstanding principal amount of the borrower's eligible loans that are held by other lenders. If the result of this calculation is less than \$5.00 at the lender level, then the borrower's monthly PFH payment amount is \$0. If the result of the calculation is equal to or greater than \$5.00 but less than \$10.00 at the lender level, then the borrower's monthly PFH payment amount is \$10.00. [\[§682.215\(b\)\(1\), §685.221\(b\)\(2\)\]¹](#)

~~If a borrower selects an IBR plan, the lender must—unless the borrower requests otherwise—require that all eligible loans held by the lender be repaid under the IBR plan. If the borrower has multiple lenders and wants to repay all eligible loans under the IBR plan, the borrower must request IBR from each lender.~~

The lender must recalculate the monthly permanent-standard payment amount for a borrower when any of the following occurs:

- The borrower ceases to have a PFH or chooses not to make PFH payments but remains in the IBR plan.
- The borrower fails to provide within 10 days of the specified annual deadline documentation of the borrower's AGI which is acceptable to the lender (and, if applicable, access to the borrower's spouse's loan information), unless the lender is able to determine the borrower's new monthly payment amount before the end of the borrower's current annual payment period. ~~a signed copy of his or her most recent federal tax return, or fails to renew or withdraws consent for tax transcript information from the IRS (via IRS Form 4506 T). See above for more information on the documentation requirements.~~ [\[§682.215\(e\)\(7\)\]²](#)

1. Policy 1282 (Batch 193), approved March 21, 2013

2. Policy 1284 (Batch 192), approved February 21, 2013

To recalculate the borrower's monthly payment amount under either of the two preceding bullets, a lender uses a standard repayment schedule for a 10-year repayment period based on the borrower's outstanding loan balance at the time that the borrower began repayment under the IBR plan. ~~This~~ The combined repayment period under IBR and under the newly-calculated standard repayment plan monthly payment amount (a.k.a. *permanent-standard*) may result in a total period in repayment period that exceeds 10 years.¹

[§682.215(d)(1), §685.221(d)(1)]²

If the lender receives the borrower's information within 10 days of the specified annual deadline, the lender must determine promptly the borrower's new monthly payment amount. If the lender does not determine the new monthly payment amount by the end of the borrower's current annual payment period, the lender must prevent the borrower's monthly payment amount from being recalculated using the permanent-standard calculation and maintain the borrower's current scheduled monthly payment amount until the lender processes the information received from the borrower and determines the new monthly payment amount. If the new monthly payment amount is less than the borrower's previously calculated monthly income-based payment amount, the lender must make the appropriate adjustment to the borrower's account (including, but not limited to, interest subsidy and special allowance billings) to reflect any payments at the previously calculated amount that the borrower made after the end of the most recent annual payment period. Unless the borrower requests otherwise, the lender does not apply any additional amounts to future payments.

If the new monthly payment amount is equal to or greater than the borrower's previously calculated income-based monthly payment amount, the lender does not make retroactive any adjustments to the borrower's account.

In both cases above, the new annual payment period begins on the day after the end of the most recent annual payment period.

[§682.215(e)(8)(i)-(iii); §685.221(e)(8)(i)-(ii)]

If the lender receives the borrower's information more than 10 days after the specified annual deadline and the borrower's monthly payment amount is recalculated to the permanent-standard amount, the lender may grant forbearance with respect to payments that are overdue or would be due at the time the new calculated income-based monthly payment amount is determined only if the new income-based monthly payment amount is zero or is less than the borrower's previously calculated income-based

monthly payment amount. The lender may not capitalize interest that accrues during the portion of this administrative forbearance period that covers payments due after the end of the prior annual payment period.
[§682.215(e)(9); §685.221(e)(9)]

If a borrower chooses to leave IBR, a lender recalculates the borrower's monthly payment amount. For any FFELP or Direct loan other than a Consolidation loan, the monthly payment amount is recalculated by using based on a standard repayment schedule for the time remaining on a 10-year repayment period, and based on the borrower's outstanding loan balance at the time the borrower elects to leave IBR (a.k.a. *expedited standard*). For a Consolidation loan, the monthly payment amount is recalculated, based on the applicable time remaining as initially determined when the Consolidation loan went into repayment, and on the borrower's outstanding loan balance at the time the borrower elects to leave IBR, up to a maximum of 30 years. (See Subsection 15.5.C for information on applicable repayment periods.) In either case, the recalculated payment amount is referred to as the expedited-standard payment amount.

[§682.215(d)(2); §685.221(d)(2)(i)]

After leaving IBR and being assigned an expedited-standard payment amount, a borrower may request a change to a different repayment plan after making one monthly payment. This monthly payment may be the full expedited-standard amount or any payment amount greater than \$0 made under a reduced-payment forbearance. (See Subsection 11.22.A for information on a discretionary reduced-payment forbearance.)

[§682.215(d)(3); §685.221(d)(2)(ii); *Federal Register* dated November 1, 2012, p. 66111]

Required Notifications

The lender must send a written notification to the borrower after it makes a determination that a borrower qualifies for the IBR plan for the year the borrower initially elects the plan and for any subsequent year that the borrower has a PFH. The notification must include all of the following information:

- The borrower's scheduled income-based monthly payment amount and the current annual payment period for which this amount applies.³
- A statement that explains that the borrower must annually provide documentation of the borrower's AGI, spouse's loan information (if applicable) and self-certification of his or her family size if the

¹ Policy 1284 (Batch 192), approved February 21, 2013

² Policy 1282 (Batch 193), approved March 21, 2013

³ Policy 1284 (Batch 192), approved February 21, 2013

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, 9}	
<u>Debt Exceeds Monthly Income-Student Loan Debt Burden</u> ^{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
<u>Delinquency under Income-Based Repayment (IBR)</u> ⁶	<u>First date of overdue payment to the date the new calculated monthly payment amount is determined</u> †
Forgiveness under Income-Based Repayment ⁶	60 days for lender to collect and process documentation to determine a borrower's eligibility
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	<u>Date the Department includes in its notification to the lender that the borrower intends to apply for a TPD loan discharge application. Forbearance extends for not more than 120 days. 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</u> <u>Date the Department includes in its notification to the lender that it has received the borrower's TPD loan discharge application and extends until the Department approves or denies the application. 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.</u> †

TYPE	LENGTH
Spouses and Parents of Victims of September 11, 2001 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
Repayment Alignment-PLUS/Stafford ¹⁰	Until end of in-school deferment or post-enrollment deferment on PLUS loan disbursed on or after July 1, 2008, or until end of grace on Stafford loan

* Policy 1279 (Batch 189), approved October 18, 2012

† Policy 1287 (Batch 195), approved May 16, 2013

‡ Policy 1286 (Batch 194), approved April 18, 2013

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

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| <p>¹ Lender must document the borrower's request, the reason for the forbearance, and the terms of the forbearance agreement.</p> <p>² For borrowers only.</p> <p>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.</p> <p>⁴ A request is required.</p> <p>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.</p> | <p>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.</p> <p>⁷ Notice from the Department or guarantor is required.</p> <p>⁸ Documentation showing borrower is subject to a military mobilization is required.</p> <p>⁹ For military service that begins on or after October 1, 2007, or includes that date.</p> <p>¹⁰ Lender must notify borrower forbearance has been granted; notice must inform borrower of option to cancel forbearance and continue paying on the PLUS loan.</p> |
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11.21.G Delinquency before a Deferment or Certain Forbearances

A lender may process an administrative forbearance to resolve an outstanding delinquency that precedes any of the events listed below. The forbearance may be granted from the date on which the borrower's delinquency began and may be extended through the day before the first date on which the borrower is eligible for:

- A [deferment](#).
- An [administrative forbearance](#) granted due to a military mobilization, a local or national emergency, or a natural disaster (see [Subsection 11.21.N](#)).
- A [mandatory administrative forbearance](#) granted due to exceptional circumstances—a military mobilization, a local or national emergency, or a designated disaster area (see [Subsection 11.23.B](#)).
[§682.211(f)(2); §682.211(f)(12); §682.211(i)(2)]

11.21.H Delinquency after a Deferment or Mandatory Forbearance

A lender may grant an [administrative forbearance](#) for a period of [delinquency](#) that may remain after a borrower ends a period of [deferment](#) or [mandatory forbearance](#). The administrative forbearance may be applied to resolve any [delinquency](#) that exists on the date the deferment or mandatory forbearance ends, regardless of when the delinquency originally occurred, and may be extended until the date the borrower's next payment is due. For example, if the lender properly grants a borrower's request for a deferment or mandatory forbearance where the end date is in the past or if the borrower will still have a period of delinquency at the conclusion of a deferment or mandatory forbearance, a lender may process an administrative forbearance to resolve the outstanding delinquency. The lender may apply the administrative forbearance concurrently with the application of the deferment or mandatory forbearance and need not wait until the deferment or mandatory forbearance ends before applying the administrative forbearance.

[§682.211(f)(10)]

11.21.I Delinquency under Income-Based Repayment (IBR)

If the lender received the borrower's income information more than 10 days after the specified annual deadline and the borrower's monthly payment amount is recalculated to the permanent-standard amount, the lender may grant an administrative forbearance with respect to payments that are overdue or would be due at the time the new calculated income-based monthly payment amount is determined only if the new income-based monthly payment amount is zero or is less than the borrower's previously calculated income-based monthly payment amount. The lender may not capitalize interest that accrues during the portion of this administrative forbearance period that covers payments due after the end of the prior annual payment period. (See [Subsection 10.8.D](#) for information on income-based repayment plans.)
[§682.211(f)(16); §682.215(e)(9); §685.221(e)(9)]

11.21.I Documentation Collection and Processing

11.21.J Documentation Collection and Processing¹

The lender may grant a [forbearance](#) for a period not to exceed 60 days if the lender determines it is warranted in order to collect and process supporting documentation following a borrower's request for a deferment, forbearance, change in repayment plan, or loan consolidation. A new administrative forbearance period for each occurrence may be granted by the lender. The lender must document the reasons for granting each forbearance in the borrower's loan history.

[§682.211(f)(11)]

The lender must not capitalize [interest](#) accrued during this period of administrative forbearance unless it receives documentation or information that results in the granting of a deferment or other forbearance type that would be concurrent with this period in which case [capitalization](#) is permitted.

[HEA §428(c)(3)(D); HEA §428H(e)(7)]

¹ Policy 1287 (Batch 195), approved May 16, 2013

11.21.J**Forgiveness under Income-Based Repayment (IBR)****11.21.K****Forgiveness under Income-Based Repayment (IBR)**

The lender may grant a forbearance for a period not to exceed 60 days in order to collect and process documentation in order to determine a borrower is eligible for loan [forgiveness](#) under the [income-based repayment plan](#). If so granted, the lender must notify the borrower that the requirement to make payments on the loan(s) for which forgiveness was requested has been suspended pending approval of forgiveness by the guarantor on each loan. For information on forgiveness under IBR, see [Subsection 13.9.D](#).
[§682.211(f)(13)]

11.21.K**Late Notification of Out-of-School Dates****11.21.L****Late Notification of Out-of-School Dates**

If the lender receives information that the borrower's loan has entered or reentered repayment, and the information is received after the date on which the [repayment period](#) began, the lender must treat the loan as though it were in forbearance. The forbearance extends from the first date of the repayment period through the date on which the first or next payment on the loan is scheduled to be due.
[§682.211(f)(3)]

11.21.L**Loan Sale or Transfer****11.21.M****Loan Sale or Transfer**

The lender may grant the borrower a forbearance for a period of [delinquency](#) existing at the time the loan is sold or transferred, if the borrower or [endorser](#) is less than 60 days delinquent on the loan at the time of the [loan sale](#) or [transfer](#).
[§682.211(f)(9)]

11.21.M**Natural Disasters, Local or National Emergency, or Military Mobilization****11.21.N****Natural Disasters, Local or National Emergency, or Military Mobilization**

If the lender determines that the ability of the borrower or endorser to make payments is adversely affected by a natural disaster, a local or national emergency (declared by the appropriate government agency), or a military mobilization, the lender may grant an administrative forbearance for a period not to exceed 3 months. The lender must document the reason it granted the forbearance in the borrower's loan file. Continuation of the forbearance beyond the 3-month period based on the same situation requires supporting documentation and an agreement with the borrower or endorser.
[§682.211(f)(12); Disaster Letter 99-28; DCL GEN-10-16]

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

11.21.N**New Out-of-School Dates after Conversion to Repayment****11.21.O****New Out-of-School Dates after Conversion to Repayment¹**

If a Stafford, PLUS, SLS, or Consolidation loan is in repayment, and the lender receives a new [out-of-school date](#) or [deferment](#) end date showing that the borrower should have entered repayment earlier than was previously reported, the lender may apply an [administrative forbearance](#) between the original [repayment start date](#) and the adjusted date. The lender may not use administrative forbearance to resolve a [delinquency](#) that existed on the loan before the information was received. After the lender's adjustments, the loan should retain the status that was applicable before the new information was received; further, [due diligence](#) must continue on the loan.

¹. Policy 1287 (Batch 195), approved May 16, 2013

11.21.0 Repayment Alignment

11.21.P Repayment Alignment

Aligning Repayment of a Stafford and SLS Loan

A [borrower](#) with one or more Stafford loans that have not entered repayment and one or more SLS loans is eligible to have the [repayment period](#) start dates on these loans aligned. A borrower's request for aligned repayment may be made verbally or in writing. A separate request is unnecessary when the borrower has signed the Stafford loan [Master Promissory Note](#), which authorizes the lender to align repayment of the borrower's Stafford and SLS loans.

If repayment alignment is requested by an [eligible borrower](#), the [lender](#) must align the repayment of the borrower's SLS loan(s). If the SLS loan is not eligible for [deferment](#), the lender must apply an [administrative forbearance](#) to postpone repayment until the end of the [grace period](#) on the borrower's Stafford loan. If the borrower has multiple Stafford loans that have not yet entered repayment and those loans have grace periods that are different in length, the lender must postpone repayment of the SLS loan(s) until the end of the longest applicable Stafford loan grace period. In addition, a lender may apply an administrative forbearance to a Stafford loan(s) that has entered repayment in order to align the repayment of all the borrower's Stafford and SLS loans.

For more information on aligning the repayment of Stafford and SLS loans and on required borrower notifications, see [Subsection 10.4.C](#).
[§682.209(a)(2)(iii); DCL 96-L-186/96-G-287, Q&As #19 and #24]

Aligning Repayment of a PLUS Loan Not Eligible for a Post-Enrollment Deferment with Another PLUS or Stafford Loan

A lender may grant an administrative forbearance on a borrower's PLUS loan(s) that was first disbursed prior to July 1, 2008, to align repayment with either of the following:

- The end of the in-school or post-enrollment period on the borrower's PLUS loan(s) that is first disbursed on or after July 1, 2008.
- The grace period end date on the borrower's Stafford loan(s).

When granting an administrative forbearance in this situation, the lender must notify the borrower that forbearance has been granted on the PLUS loan. The notice must inform the borrower that he or she may cancel the forbearance and continue paying on the PLUS loan. If a forbearance is granted based on the dependent student's enrollment to align PLUS loan repayment, the lender must monitor the dependent student's enrollment status for both the forborne and deferred PLUS loan(s) or the lender must find an alternative basis for granting a forbearance on the pre-July 1, 2008 PLUS loan(s) that is not eligible for deferment.

[§682.211(f)(15)]

11.21.P Repurchase of a Non-Bankruptcy Claim

11.21.Q Repurchase of a Non-Bankruptcy Claim

In the case of a [repurchase](#), the lender may administratively forbear the loan during the period the loan was held by the [guarantor](#) due to a [claim](#) purchase. The [capitalization](#) may include interest accrued from the date of the claim payment through the repurchase date. The lender must document that the capitalization was the result of a repurchase. If the repurchase is due to the loan's loss of [guarantee](#), see [Subsection 13.3.D](#).

11.21.Q Spouses and Parents of Victims of September 11, 2001

11.21.R Spouses and Parents of Victims of September 11, 2001¹

If a lender receives information from a borrower or a borrower's representative that the borrower claims to qualify for [discharge](#) under the spouses and parents of victims of September 11, 2001, (September 11, 2001) discharge provisions, the lender must grant a [forbearance](#) for the borrower, or any [endorser](#) as applicable, on the borrower's eligible loan(s). The lender must advise the borrower, or the borrower's representative, to submit a Loan Discharge Application: Spouses and Parents of September 11, 2001, Victims form and all required documentation.

[§682.407(c)(2); §685.218(c)(2)]

¹ Policy 1287 (Batch 195), approved May 16, 2013

If the lender determines that the borrower does not qualify for a discharge, or the lender does not receive the required documentation within 60 days of the notification that the borrower claims to qualify for the discharge, the lender must resume collection. The lender is considered to have exercised forbearance from the date of the borrower's notification. The lender may capitalize any interest accrued and not paid during the forbearance period.

[§682.407(c)(3); §685.218(c)(3)]

If the lender receives the required documentation and determines that the borrower qualifies for a discharge, the lender must file a discharge claim with the guarantor and the lender must continue the forbearance until the date that the guarantor makes the discharge determination.

[§682.407(c)(7)]

11.21.R Total and Permanent Disability

11.21.S Total and Permanent Disability¹

If the lender receives information indicating that a borrower intends to file an application for ~~has become~~ total and permanent disability (TPD) ~~disabled~~, the lender must direct the borrower to the Department to initiate the discharge application process and continue collection activities until it receives notification from the Department that the borrower intends to file a total and permanent disability discharge application. When it receives the Department's notice that the borrower has made the initial contact with the Department, the lender must suspend collection on the loan for a period of no more than 120 days. If the lender does not receive notification from the Department within the 120-day period that the borrower has filed the discharge application, the lender may treat the period during which it suspended collection as a forbearance and capitalize accrued interest, and must return the loan to repayment. See Section 10.10 for more information regarding permissible capitalization. ~~either the certification of total and permanent disability from a physician or a letter from a physician stating that the borrower has requested the certification and that the physician needs additional time to determine if the borrower is totally and permanently disabled.~~

[§682.402(c)(2)(i)-(iii); §682.402(c)(9)(i)-(iii)]

When the Department receives the documentation necessary to make the TPD determination, it will notify the lender to extend any existing period of suspended

collections or forbearance period or to initiate a new period, as necessary. The period extends until the Department makes the determination regarding the borrower's TPD loan discharge application and notifies the lender of that decision. If the Department denies the borrower's discharge application, then the lender may consider any period of suspended collections to be a forbearance and may capitalize the accrued interest. The lender must return the loan to repayment. If the Department approves the discharge application, the lender must file a TPD discharge claim with the guarantor. See Subsection 13.8.G. [§682.402(c)(2)(vi) and(viii); §682.402(c)(8)(ii); §682.402(c)(9)(viii) and (xii)(E)]

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

~~[§682.402(c)(5)(i)]~~

If a comaker of a joint Consolidation loan or PLUS loan ~~applies~~ notifies the lender that he or she intends to apply for a total and permanent disability loan discharge, the lender must continue servicing the loan ~~for the non-disabled comaker~~, while directing the potentially disabled borrower to the Department. The lender must, at the Department's direction, suspend collection activity on the loan as noted above.

- Comade Consolidation loan

If the Department approves the loan discharge application for a comaker of a joint Consolidation loan, the lender must file the claim with the guarantor for the portion of the loan applicable to the disabled comaker but must return the remaining balance to a repayment status. The lender may capitalize interest that accrued on the remaining balance of the loan during the suspension period. If the Department denies the comaker's discharge application, the lender may capitalize interest accrued while the collection activities were suspended, may consider that period to have been a forbearance, and must return the loan to repayment status.²

¹ Policy 1287 (Batch 195), approved May 16, 2013

- Comade PLUS loan
If the Department approves the loan discharge application for a comaker of a PLUS loan, the lender must notify the guarantor. The non-disabled comaker of the loan remains responsible for the entire outstanding balance of the loan and the lender must return the outstanding balance to a repayment status. If the Department denies the comaker's discharge application, the lender may capitalize interest accrued while the collection activities were suspended, may consider that period to have been a forbearance, and must return the loan to repayment status.

For loans processed under rules that require a three-year conditional discharge period, ~~the~~ lender must protect the status of the loan during the conditional discharge period so that the loan does not become delinquent or more delinquent. The lender may apply an [administrative forbearance](#) on the entire loan if the non-disabled comaker is not eligible for or does not choose another repayment option, [deferment](#), discretionary forbearance, or reduced-payment forbearance. The administrative forbearance may not begin prior to the date the lender receives the disabled comaker's loan discharge application, or the date the lender receives the notification from the [guarantor](#) that one comaker is totally and permanently disabled, whichever is earlier. The forbearance ends on the date that the lender receives notice of the disabled comaker's final discharge determination.¹

11.21.S **Unpaid Refund Discharge**

11.21.T **Unpaid Refund Discharge²**

If a guarantor or the Department notifies a lender, or the lender receives reliable information from another source (such as a telephone call or letter from the borrower) that a borrower may be eligible for an unpaid [refund](#) loan discharge, the lender must grant an [administrative forbearance](#) on any affected loan. If an unpaid refund loan discharge may be applicable to any underlying loan(s) of a Consolidation loan, the lender must suspend collection activity and grant this forbearance on the entire Consolidation loan. A lender must forbear payments of principal and interest that are delinquent or that would be due during all of the following periods.

- The period beginning on the date the lender or guarantor sends the borrower an unpaid refund loan discharge application and ending on either of the following:
 - The date that the lender receives the guarantor's determination, if the borrower returns the discharge application within 60 days from the date the lender or guarantor sent the application.
 - The 60th day, if the borrower does not return the discharge application within 60 days from the date the lender or guarantor sent the application. See below for more information about forbearance a lender may grant when the lender receives a completed discharge application after this initial 60-day period.
- The period beginning on the date the lender receives notification from the guarantor of the borrower's request for a review of a denial determination and ending on the date that the lender receives the guarantor's determination.

If the lender receives the borrower's unpaid refund discharge application more than 60 days from the date on which the lender or guarantor sent the discharge application to the borrower, the lender may grant an additional administrative forbearance on any affected loan. This forbearance may cover the period from the end of the initial 60-day administrative forbearance to the receipt of the completed discharge application.

In addition, after the lender receives the [discharge](#) application, the lender may grant another [administrative forbearance](#) to cover the period needed by the [guarantor](#) to determine the borrower's eligibility for an unpaid [refund](#) discharge.

The lender must notify the borrower or [endorser](#) that a [forbearance](#) was granted for any of the above periods. See [Subsection 13.8.H](#) for more information on unpaid refund discharges.
[§682.402(l); §685.216(e)]

² Policy 1286 (Batch 194), approved April 18, 2013

¹ Policy 1286 (Batch 194), approved April 18, 2013

² Policy 1287 (Batch 195), approved May 16, 2013

11.21.T Repayment Plan Change

11.21.U Repayment Plan Change¹

The lender may grant an administrative forbearance to cover a period of delinquency that exists at the time a borrower chooses a different [repayment plan](#)— for example, from [standard](#) to [income-based](#).
[§682.211(f)(14)]

11.22 Discretionary Forbearance

A lender is encouraged to grant a discretionary forbearance to assist a borrower or [endorser](#) in fulfilling the repayment obligations on the loan and to help prevent [default](#). The lender may grant forbearance based on either a written or verbal agreement with the borrower. (See [Subsection 11.20.B](#) for more information about a lender's responsibilities when a forbearance is based on a verbal agreement.) Situations in which the lender may choose to grant forbearance include, but are not limited to:

- The borrower has personal problems (such as [economic hardship](#)) that are temporarily affecting the borrower's or endorser's ability to make scheduled payments.
- The borrower is unemployed but has already received the maximum unemployment [deferment](#).
- The borrower has had poor health or a prolonged illness or disability but does not meet applicable disability deferment criteria.
- The borrower is attending [school](#) or is a full-time volunteer in an organization and the school or organization does not meet the appropriate deferment criteria.
- The borrower or endorser wants to change the payment amount or payment due date on a loan that requires the lender to bring the loan current first or forgo some [due diligence](#) activities (see [Subsection 10.11.C](#) for information on changing due dates).

If the discretionary forbearance is based on a verbal agreement, the lender must send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance.

11.22.A Reduced-Payment Forbearance

One type of discretionary forbearance a lender may grant is a reduced-payment forbearance. Under this type of discretionary forbearance, the borrower or endorser and the lender agree to establish temporary payment terms for the duration of the forbearance that may be inconsistent with the minimum annual payment amount. This agreement may be verbal or written.

When establishing the temporary payment terms for the period of forbearance, the lender and borrower or endorser may agree to a payment amount that is greater than, equal to, or less than the amount of accruing interest.

As with other types of discretionary forbearance, a lender must obtain a signed forbearance agreement that establishes the terms of the forbearance or document the terms of any verbal agreement. If the reduced-payment forbearance agreement is verbal, the lender must document the borrower's request, the reason for the forbearance, and the terms of the forbearance agreement. The lender must also send, within 30 days of the agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement. In addition to other applicable forbearance notification requirements (see [Section 11.20](#)), the lender must provide the following information regarding the reduced-payment forbearance in its notification to the borrower or endorser:

- The required payment amount during the reduced-payment forbearance.
- The address to which payments must be sent.
- The consequences, if any, of [delinquency](#) on the payments required during the forbearance period.

If a borrower or endorser fails to fulfill his or her agreement to make payments during the reduced-payment forbearance, the lender must comply with the terms of the forbearance agreement and, if included in the terms and if applicable, perform collection activities and file a [claim](#). For more information on due diligence activities during a reduced-payment forbearance, see [Section 12.4](#).

¹ Policy 1287 (Batch 195), approved May 16, 2013

- File an [ineligible borrower default claim](#) for the entire loan amount after the 30th and before the 120th day from the date the [final demand](#) letter is mailed (see [Subsection 13.6.B](#) for more information regarding ineligible borrower claim filing requirements). [[§682.412\(e\)](#)]

If the borrower responds to the final demand letter by repaying less than the entire amount demanded, the lender must treat such a payment as a [prepayment](#) against the loan. The lender must file an ineligible borrower default claim for the remaining balance on the loan. [[§682.412\(e\)\(2\)](#)]

If the borrower repays the full amount demanded, the lender must refund to the Department, on its next quarterly [Lender's Interest and Special Allowance Request and Report \(LaRS report\)](#), all interest benefits and special allowance payments paid by the Department on the ineligible portion of the loan. The lender must resume servicing any eligible portion of the loan. [[§682.412\(d\)](#)]

12.5 Default Aversion Assistance

[Default aversion assistance](#) is collection assistance that a [guarantor](#) provides to supplement a [lender's](#) efforts to prevent [default](#) on a [borrower's](#) loan, but that does not replace the lender's responsibility to perform [due diligence](#). If the lender fails to continue required due diligence while the guarantor is providing assistance, [interest](#) penalties or a loss of [guarantee](#) on the loan may result. [[§682.404\(a\)\(2\)\(ii\)](#)]

12.5.A Default Aversion Assistance Request (DAAR)

A lender must submit a complete and accurate request for default aversion assistance no earlier than the 60th day and no later than the 120th day of the borrower's [delinquency](#). [[§682.411\(i\)](#)]

This time frame is referred to as the [default aversion assistance request period](#). In the absence of evidence to the contrary, the guarantor will monitor timely default aversion assistance request submission based on the lender's collection history. The lender must request default aversion assistance through the Default Aversion Assistance Request Form (see [Subsection 12.5.B](#)) or an equivalent electronic process, such as the Common Account Maintenance (CAM) reporting process. In the case of a delinquent borrower whose address is invalid, the lender's

request for default aversion assistance should also indicate that the borrower is a "skip." [[§682.411\(i\)](#) and [\(l\)\(4\)](#)]

If the lender submits a request for [default aversion assistance](#) after the 5th day following the [default aversion request period](#), the request will be accepted and assistance will begin, but a [due diligence](#) violation of more than 5 days will have occurred. If a delinquency is accelerated based on a payment being returned due to nonsufficient funds, a penalty may not be assessed. If a lender fails to request default aversion assistance between the 60th and 120th day of delinquency, inclusive, and the lender later submits a claim on that loan, the lender will be subject to an interest penalty. If the lender fails to file a request by the 330th day, it will not be entitled to receive interest, [interest benefits](#), and [special allowance](#) for the most recent 270 days preceding the date on which the loan defaults. [[§682.411\(i\)](#); [§682, Appendix D](#)]

A guarantor's default aversion assistance ends when the delinquency on the loan has been satisfactorily resolved. The lender must notify the guarantor as soon as the delinquency on the loan is reduced below the default aversion assistance cancellation date—preferably through the regular submission of the appropriate guarantor's reports.

Also, if the lender receives information from the Department that the borrower intends to file or has submitted total and permanent disability documentation to the Department, the lender must notify the guarantor to cancel the Default Aversion Assistance Request.¹

If the default aversion assistance request is canceled and then the borrower's loan again ages to the level at which default aversion assistance is required by the guarantor, the lender must submit a new request for default aversion assistance. If, after the lender has submitted a request to the guarantor, the borrower makes payments—but the payments are not sufficient to bring his or her loan(s) to less than the default aversion assistance cancellation date—it is not necessary to submit a new request. However, the lender must notify the guarantor of any changes in the delinquency status of the loan that result in a change to the payment due date—even if the delinquency is not reduced below the point at which the guarantor requires default aversion assistance to be canceled. In addition, the lender must report the effective date of the change that reduced the borrower's delinquency in a form acceptable to the guarantor.

¹ Policy 1288 (Batch 195), approved May 16, 2013

Death Claims

For a death **claim**, the lender must submit—in addition to the preceding items 1 through 5—an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate (see **Subsection 13.8.C**). The use of a fax or electronic version of the death certificate is not permitted. In the event of an exceptional circumstance and on a case-by-case basis, the lender must submit other reliable documentation approved by the guarantor’s CEO.

[§682.402(b)(2); §682.402(g)(1)(iii); §685.212(a)(1)]

Total and Permanent Disability Claims—Regular

~~When the Department notifies the lender to file the TPD claim with the guarantor, For a total and permanent disability claim, the lender must submit the preceding items 1 through 5, and each of the following:~~

- ~~• A completed Discharge Application: Total and Permanent Disability or other form(s) approved by the Department. A copy of the Department’s notification to the lender that the borrower’s discharge application has been approved.~~
- ~~• A record of any payments received after the date the physician completed and certified the discharge application.~~
- A FFELP Assignment Support Supplemental Form (TPD-Specific worksheet) when filing a total and permanent disability claim that is not based on a determination by the Department of Veterans Affairs (VA). This form requires the lender to provide certain electronic signature and disbursement information. [§682.402(g)(1)(iv); the Department’s Mandatory Assignment Guidance dated July 2, 2009]

Total and Permanent Disability Claims—VA

~~For a total and permanent disability claim, the lender must submit—in addition to the preceding items 1 through 5—a Discharge Application: Total and Permanent Disability with Sections 1 and 3 completed by the borrower along with the documentation from the U.S. Department of Veterans Affairs (VA) showing that the VA has determined the borrower to be unemployable due to a service-connected condition.~~

~~[§682.402(e)(8); §685.213(e)(1); DCL GEN 09 07/FP 09 05]~~¹

¹ Policy 1288 (Batch 195), approved May 16, 2013

Some guarantors have additional or alternate requirements. These requirements are noted in **Appendix C**.

13.1.E Missing Claim File Documentation

If a lender submits a **claim** file with any required **documentation** missing or incomplete, or if the **guarantor** determines that more information is needed to process the claim, the guarantor may attempt to obtain the necessary documentation or return the claim file to the lender with a request for the missing documentation.

To expedite the claim filing process and avoid the return of claim files to the lender, the guarantor may use a fax machine to request and receive missing information from lenders. The types of documentation that may be transmitted and received by fax include, but are not limited to, the **application**, **promissory note**, promissory note **assignment**, specialty claim documentation, payment history information, **deferment** or **forbearance** documentation, and missing collection history. In the case of documentation where an original or true and exact copy, or an accurate and complete photocopy of the original or certified copy, may be required (such as the promissory note and death certificate), the lender may fax a copy of the document so that the guarantor can continue processing the claim. However, the lender must, within the time frame established by the guarantor, forward the original document—or a copy certified as true and exact, or an accurate and complete photocopy of the original or certified copy—to the guarantor to avoid a future claim return.

- ▲ Lenders may contact individual guarantors for information on faxing claim file documentation. See **Section 1.5** for contact information.

If a lender is unable to provide requested documentation, the loan may be subject to **interest** penalties or **due diligence** violations. If a lender is unable to provide accurate payment information, as required on the Claim Form, the **guarantee** on the loan may be canceled. However, the lender may attempt to have the loan’s guarantee reinstated in many cases by following the applicable **cure** procedures (see **Section 14.5**).

In some cases, an indemnification **agreement** will be accepted if a lender is unable to provide required documentation for claim filing.

- ▲ Lenders may contact individual guarantors for information on the use of indemnification agreements to substitute for documents required in the claim file. See **Section 1.5** for contact information.

lender must mail, at a minimum, a new [final demand](#) letter and permit the borrower 30 days to respond to that letter before refiling the claim.

Note: The definition of recall (of a claim) is when a lender requests that the guarantor return a claim before the guarantor pays the claim, or the lender remits to the guarantor an amount equal to the claim payment within 30 days of the date on which the lender receives the claim payment.

13.3 Claim Purchase or Discharge Payment

The [guarantor](#) is required to ~~must~~ purchase an approved claim ~~or a Department approved total and permanent disability—VA discharge request,~~ or return the claim ~~or Department denied total and permanent disability—VA discharge request~~ to the lender within a specific number of days after receiving the claim ~~or the Department's determination on a total and permanent—VA discharge request,~~ as follows:

- 90 days for a [default](#), ~~total and permanent disability—regular,~~ [false certification](#), or closed school claim.
- 45 days for a ~~total and permanent disability—VA claim.~~
 - The guarantor must, within 45 days after receiving a ~~total and permanent disability—VA claim from the lender, either forward the request to the Department for a final eligibility determination, or return the claim to the lender if the documentation does not establish the discharge eligibility. If the Department approves the discharge, the guarantor must pay the claim to the lender within 45 days after receiving the Department's approval notification. If the Department denies the discharge, the guarantor must return the claim to the lender within 45 days after receiving the Department's denial notification.~~
- 45 days for a [total and permanent disability](#), [bankruptcy claim](#), ~~a death claim,~~ or an [closed school-unpaid refund discharge claim](#).¹
- 30 days from the approval date of the false certification loan discharge application, from the date of the guarantor's independent determination that the borrower is eligible for a false certification loan discharge, or from the guarantor's receipt of

notification from the Department that the borrower is eligible for a false certification loan discharge. (A guarantor may take up to 90 days to determine the borrower's eligibility for discharge.)

- 45 days from the date the eligibility determination is made for an open school unpaid refund discharge. (A guarantor may take up to 120 days to resolve the unpaid refund with the school. See [Subsection 13.8.H.](#))

If the lender fails to provide complete documentation, or if the lender has committed one or more violations that warrant [cancellation](#) of the loan's [guarantee](#) (for any claim except a closed school or false certification discharge claim), the claim will be returned to the lender unpaid within the applicable time frame noted above. Closed school and false certification discharge claims are not subject to review for servicing violations.

[§682.402(d)(6)(ii)(G)(1); §682.402(e)(6)(iv) and (e)(7)(ii); §682.402(h)(1)(i); §682.402(h)(1)(v)(B); §682.402(l)(2)(ii); §682.402(n)(1); §682.406(a)(8)]

13.3.A Claim Payment Amount

If a lender has complied with applicable servicing requirements and has not incurred interest penalties or violations sufficient to cause the loss of guarantee on the loan, a claim will be paid as follows:

- The guarantor will use the principal claimed amount provided by the lender on the Claim Form. This figure, which is the outstanding principal value of the claim, is calculated according to the following formula:

$$\begin{aligned} \text{Principal claimed} &= \text{Total amount disbursed} + \\ &\quad \text{Capitalized interest} - \\ &\quad \text{Principal repaid} - \\ &\quad \text{Cure interest capitalized} \end{aligned}$$

(See [Subsections 13.8.G](#), [13.8.B](#), and [13.8.D](#) regarding claim payment for total and permanent disability, closed school, and false certification claims.)

- The guarantor will not pay any type of claim for a total amount that is less than \$50.00.
- The guarantor will pay 98% of the outstanding principal and eligible interest for each of the following types of claims:
 - A default claim filed on a loan that was first disbursed or consolidated on or after October 1, 1993, but before July 1, 2006. [[§682.401\(b\)\(14\)\(ii\)](#)]

¹ Policy 1288 (Batch 195), approved May 16, 2013

Conversion to Repayment

A lender that repurchases a loan must immediately establish a [repayment schedule](#) with the borrower that meets the requirements applicable to other FFELP loans of the same type (see [Subsection 10.5.D](#)). 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).

[§682.209(a)(3)(ii)(D)]

13.6 Default

FFELP agreements between lenders and guarantors establish that the guarantor will reimburse the lender for all or part of the loan balance for a loan on which a borrower defaults.

13.6.A Default Claims

In order to collect insurance on a defaulted loan, the lender must file a timely and accurate [default claim](#) with the guarantor.

Payments after Default

If the lender receives a payment from or on behalf of the borrower before the date it files a default claim, the payment must be accepted and applied to the loan to reduce the [delinquency](#) or eliminate the default.

If the lender receives a payment after a default claim has been filed but before the claim has been purchased, the lender must determine whether the claim should be [recalled](#) (see [Subsection 13.2.B](#)). If the claim is not recalled, the payment should be held until the claim payment is received and then forwarded to the [guarantor](#) within 30 days of receiving the claim payment.

Some guarantors have additional or alternate requirements. These requirements are noted in [Appendix C](#).

A payment received after a default claim has been purchased must be forwarded to the guarantor for processing within 30 days of receipt. The payment should be clearly marked as a borrower payment received before claim payment.

Interest-Only Claims

Lenders may accrue or capitalize outstanding interest on FFELP loans whenever the borrower fails to fulfill his or her agreement to make interest-only payments during a period of [deferment](#) or [forbearance](#). A lender may not file a claim solely on the basis of delinquent interest-only payments—except when those payments are the result of an [income-sensitive repayment schedule](#) or a reduced-payment forbearance. For more information regarding collection activities on reduced-payment forbearance payments, see [Section 12.4](#).

[§682.202(b); DCL 90-G-175]

Forwarding Documentation of Other Claim Types

If, after filing a default claim, the lender receives documentation that the loan(s) ~~may qualify~~ ~~qualifies~~ for a different type of claim payment, the lender must forward the applicable documentation ~~or otherwise notify~~ to the guarantor within 30 days of receipt. The lender must forward any acceptable notification (including all supporting [documentation](#)) that demonstrates that one of the following situations has occurred:

- The borrower has died or the student for whom a parent PLUS loan was obtained has died.
- The borrower's disability discharge application has been approved. ~~has become totally and permanently disabled.~~¹
- The borrower has filed any type of [bankruptcy](#).
- The borrower has been determined to be ineligible for the loan.
- The borrower is entitled to loan [discharge](#) or partial discharge due to:
 - School closure.
 - An unpaid refund.
 - False certification by the school.
 - False certification as a result of the crime of identity theft.
 - The borrower qualifies as an eligible spouse or parent of a victim of the September 11, 2001, terrorist attacks.

¹ Policy 1288 (Batch 195), approved May 16, 2013

The guarantor may alter the original claim type to reflect the new status or may return the claim for additional information, if applicable.

If the lender has filed a claim with the guarantor and receives information from the Department that the borrower intends to file or has submitted total and permanent disability documentation to the Department, the lender must notify the guarantor to cancel the Default Aversion Assistance Request and if a default claim has been filed, and not yet purchased, recall the claim.¹

If a lender receives information indicating that a borrower has filed a bankruptcy petition on the loan, the lender should follow the additional instructions outlined in [Subsection 13.8.A](#).

If a lender receives information indicating an unpaid refund, or information that the borrower may qualify as an eligible spouse or parent of a victim of the September 11, 2001, terrorist attacks, the lender should follow the additional instructions outlined in [Subsections 13.8.F](#) and [13.8.H](#).

Filing Time Frames for Default Claims

A lender is strongly encouraged to file a default claim on or after the 300th day of delinquency and may not file a default claim before the 271st day of delinquency for loans with monthly installments. For a loan with installments due less frequently than monthly (e.g., quarterly), a lender is strongly encouraged to file a default claim on or after the 360th day of delinquency and may not file a default claim before the 331st day of delinquency.

The last day a lender may file a [default claim](#) and remain within the timely filing guidelines for a loan with monthly installments is the 360th day of [delinquency](#). For a delinquent account scheduled for repayment in installments less frequent than monthly (e.g., quarterly), the lender must file the default claim by the 420th day of delinquency. Failure to submit a default claim by the 360th day, or 420th day if applicable, will result in a timely filing violation and the [cancellation](#) of the [guarantee](#) on the loan. [[§682.406\(a\)\(5\)](#)]

A [lender](#) may attempt to [cure](#) a timely filing violation; if successful, the lender is entitled to resubmit the [claim](#) (see [Subsection 14.5.D](#)). However, the claim will be subject to an [interest](#) penalty, and the lender will be required to repay

all [interest benefits](#) and [special allowance](#) payments for amounts received or otherwise payable after the 330th day of [delinquency](#).

13.6.B Ineligible Borrower Claims

A loan for which the borrower is ineligible due to the borrower's or student's error (see [Subsection 5.17.A](#)) is treated as a default if the borrower fails to repay the full amount due within 30 days after the [final demand](#) letter is mailed.

[[§682.412\(e\)](#); [§685.211\(e\)\(3\)](#)]

A lender must file an [ineligible borrower](#) claim for the entire outstanding loan amount on or after the 30th day, and no later than the 120th day, after the date it mailed the final demand letter.

[[§682.412\(e\)\(2\)](#)]

Because a loan for which a borrower is determined to be ineligible loses eligibility for interest benefits, the amount of interest refunded to the [Department](#) becomes borrower accrued interest and may be capitalized. For claim payment purposes, this interest is treated like any other delinquent interest.

[[§682.412\(e\)\(1\)](#)]

For information on claim documentation, see [Subsection 13.1.D](#).

If an ineligible borrower claim is filed after 120 days from the date a timely final demand letter is mailed, the [guarantor](#) will purchase the claim with an interest penalty.

13.7 Rehabilitation of Defaulted FFELP Loans

To be eligible to [rehabilitate](#) a defaulted FFELP loan, a borrower must enter into a rehabilitation agreement with the guarantor or a collection agency acting on its behalf. A borrower who receives loan funds for which he or she is ineligible due solely to his or her error may not rehabilitate the ineligible funds or otherwise have his or her Title IV eligibility reinstated until the ineligible funds are repaid in full. A borrower may not include in a rehabilitation agreement a loan on which a judgment has been obtained or a loan on which the borrower has been convicted of, or has pled *nolo contendere* or guilty to, a crime involving fraud in obtaining Title IV funds. A loan may be rehabilitated only once. Any loan included in a rehabilitation agreement on or after August 14, 2008, may not be included in a future

¹ Policy 1288 (Batch 195), approved May 16, 2013

The lender may capitalize any interest accrued and not paid during this period.

[§682.407(c)(3); §685.218(c)(3)]

Claim Payment

The claim payment amount includes the sum of the remaining **principal balance** and interest accrued on the loan, unpaid **collection costs** incurred by the lender and applied to the borrower's account within 30 days of the date those costs were actually incurred, and unpaid interest up to the date the lender should have filed the claim.

In the case of a partial discharge of a Consolidation loan, the claim payment includes the amount specified in the preceding paragraph for the portion of the Consolidation loan attributable to the eligible victim or eligible public servant.

[§682.407(c)(9)]

The amount payable on an approved claim includes the unpaid interest that accrues during each of the following periods:

- During the period before the claim is filed, not to exceed 60 days from the date the lender determines that the borrower qualifies for a discharge.
- During a period not to exceed 30 days following the date the lender receives a claim returned by the guarantor for additional documentation necessary for the claim to be approved by the guarantor.
- During the period required by the guarantor to approve the claim and to authorize payment or to return the claim to the lender for additional documentation, not to exceed 90 days.

[§682.407(c)(10)]

Notifying the Borrower and Any Endorser

After being notified that the guarantor has paid a discharge claim, the lender must notify the borrower that the loan has been discharged, or partially discharged in the case of a Consolidation loan. Except in the case of a partially discharged Consolidation loan, the lender must return to the sender any payments received by the lender after the date the guarantor paid the discharge claim and notify the borrower and any **endorser** that there is no further obligation to repay the loan(s).

[§682.407(c)(11); §685.218(c)(5)]

13.8.G Total and Permanent Disability

Note: See Section 5.5 for more information about eligibility requirements that a borrower must meet in order for the borrower to receive a new loan after he or she has received a loan discharge due to total and permanent disability.

The lender must refer to the Department any borrower or borrower's representative who asserts that the borrower is totally and permanently disabled. The Department will notify the lender if the borrower notifies the Department of their intent to apply for a total and permanent disability and will instruct the lender to suspend collection activity for a period not to exceed 120 days. The Department will also notify the lender if it receives a loan discharge application, and will instruct the lender to suspend collection activities pending their review of the application. The lender must notify the guarantor that the borrower or some party to the loan has applied for total and permanent disability discharge and that the discharge application is under review.

[§682.402(c)(2)(ii) and §682.402(c)(2)(vi)]

A borrower typically is not eligible for discharge of a loan that has already been paid in full when the ~~loan holder~~ Department receives the borrower's total and permanent disability loan discharge ~~request~~ application.

~~*Note: If a loan is paid in full through involuntary payments within 30 days of a guarantor's receipt of a total and permanent disability loan discharge application, the guarantor, after contacting the Department's Total and Permanent Disability Servicer, may assign the loan to the Department. The Department may discharge some part of the loan balance in such cases.*~~

A total and permanent disability **discharge** request based on a determination by the U.S. Department of Veterans Affairs (VA) or the Social Security Administration (SSA) has different eligibility criteria than one that is not based on a VA or SSA determination, as applicable, as outlined below.

Note: References to "standard" total and permanent disability in Subsection 13.8.G include both the SSA total and permanent disability determinations and the physician certification determinations.¹

¹ Policy 1288 (Batch 195), approved May 16, 2013

Discharge Requests Based on VA Determinations

If any party to a loan claims to be totally and permanently disabled based on a determination by the Department of Veterans Affairs (VA), the lender must refer that party to the Department to begin the process of applying for loan discharge. An eligible party includes any one of the following:

- A borrower.
- One of two comakers on a PLUS or Consolidation loan.
- An endorser, if the lender is pursuing collection activities against the endorser.

The borrower's, comaker's, or endorser's representative, when authorized to do so, may work with the Department to provide the loan discharge application and copy of the VA documentation.

A borrower is eligible for loan discharge due to total and permanent disability if the borrower provides documentation from the VA showing that the VA has determined the borrower to be unemployable due to a service-connected condition, and this documentation is acceptable to the U.S. Department of Education (the Department). The borrower is not required to provide additional documentation to support the discharge; however, the borrower is required to complete Sections 1 and 3 of the Discharge Application: Total and Permanent Disability.

~~If the lender believes the borrower qualifies for discharge based on its review of the VA disability documentation, the lender must forward the loan discharge application and VA documentation to the guarantor for review.~~

~~If the guarantor determines that the borrower meets the criteria for discharge based on its review of the VA documentation, the guarantor must forward the VA documentation and the loan discharge application to the Department for determination of the borrower's eligibility for loan discharge. If the guarantor determines, based on its review of the VA documentation, that the borrower is not eligible for discharge, the guarantor will return the loan discharge application and VA documentation to the lender with an explanation of the reason for the denial.~~

~~If either the lender or the guarantor determines that the documentation from the VA does not indicate that the borrower is eligible for discharge, the lender must notify the borrower that the discharge request has been denied,~~

~~provide the reason for the denial, and advise the borrower that collection activities will resume. The lender also must inform the borrower that he or she may reapply for a regular total and permanent disability discharge if the documentation from the VA indicates that the veteran may qualify under regular disability provisions. The lender may treat the loan as if it was in forbearance during the evaluation process, and capitalize the interest.~~

If the Department ~~grants a final~~ approves the disability discharge application based on a VA determination, it will notify the ~~guarantor~~ borrower's loan holder(s) of the discharge. The Department also will notify each lender to file a claim with the guarantor. The guarantor will pay the disability claim and notify the lender. The lender will return any loan payments made on or after the effective date of the VA determination (that the borrower is unemployable due to a service-connected condition). The borrower is not subject to the 3-year conditional period or post-discharge monitoring period. ~~Title IV loans received prior to the effective date of the VA determination, including the underlying loans in a Consolidation loan, are eligible for discharge, as well as Title IV loans received on or after the effective date of the VA determination.~~

[§682.402(c)(89); §685.213(c)(2); DCL GEN-09-07/FP-09-05; Discharge Application: Total and Permanent Disability]

Discharge Requests Based on SSA Determinations

If any party to a loan claims to be totally and permanently disabled based on a determination by the Social Security Administration (SSA), the lender must refer that party to the Department to begin the process of applying for loan discharge. An eligible party includes any one of the following:

- A borrower.
- One of two comakers on a PLUS or Consolidation loan.
- An endorser, if the lender is pursuing collection activities against the endorser.

The borrower's, comaker's, or endorser's representative, when authorized to do so, may work with the Department to provide the loan discharge application and copy of the SSA documentation.¹

¹ Policy 1288 (Batch 195), approved May 16, 2013

A borrower is eligible for loan discharge due to total and permanent disability if the borrower provides documentation from the SSA that includes a notice of award for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits. The letter must include a statement that the borrower's next scheduled disability review will occur within 5 to 7 years. The borrower is not required to provide additional documentation to support the discharge; however, the borrower is required to complete Sections 1 and 3 of the Discharge Application: Total and Permanent Disability. [§682.402(c)(2)(iv)(B)]

Discharge Requests Based on Regular Determinations Physician Certification

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

- A borrower.
- One of two comakers on a PLUS or Consolidation loan.
- An endorser, if the lender is pursuing collection activities against the endorser.

The borrower's, comaker's, or endorser's representative, when authorized to do so, may work with the Department to provide the physician's certification loan discharge application if the borrower, comaker, or endorser is unable to do so.

In general, the ~~The~~ borrower, comaker, or endorser, or his or her representative, must submit to the Department a completed Discharge Application: Total and Permanent Disability or other form(s) approved by the Department. The physician's certification must state that the borrower, comaker, or endorser is unable to engage in any **substantial gainful activity** by reason of any medically determinable physical or mental impairment that meets any one of the following criteria:

- Can be expected to result in death.
- Has lasted for a continuous period of not less than 60 months.

- Is expected to last for a continuous period of not less than 60 months.

~~The borrower must submit the certification to the Department lender within 90 days of the date that the physician completed and certified the discharge application. If the borrower submits the discharge application after this 90-day time frame, the borrower must have the physician complete a new application and must submit the new application to the lender within 90 days of the physician's new certification.~~
[§682.200(b); §682.402(c)(2)(iv)-(v); §685.213(b)(1); *Federal Register* dated July 23, 2009, p. 36559]

Suspending Collection

If a borrower, comaker, or endorser, as applicable, contacts the Department regarding a total and permanent disability (TPD) loan discharge, the Department will notify the lender and provide receives information instructions to indicating that a borrower or one of two comakers on a PLUS or Consolidation loan has become totally and permanently disabled, the lender must continue suspend collection activities for 120 days until it receives the physician's certification or until it receives a written request from the physician requesting additional time to determine whether the borrower or comaker is totally and permanently disabled. If the lender receives reliable information indicating that an endorser has become totally and permanently disabled, the lender may not apply an administrative forbearance to the PLUS loan. If the borrower fails to submit the TPD loan discharge application to the Department, the lender must resume collection on the loan(s) and may capitalize interest accrued during the 120-day period.

If the borrower, comaker, or endorser submits the TPD loan discharge application and necessary documents, the Department will notify the lender to suspend collections while the Department reviews the application.
[§682.402(c)(5)(viii)]¹

~~If the lender receives a written request from the borrower's or comaker's physician requesting additional time to make a determination, the lender must suspend collection activity on the loan for up to 60 days or until the certification is received, whichever is earlier. If the lender determines that the borrower or comaker does not meet the definition of totally and permanently disabled, or if the lender does not receive the physician's certification of total and permanent disability within 60 days of the receipt of the physician's~~

¹ Policy 1288 (Batch 195), approved May 16, 2013

~~written request for additional time, the lender must resume collection activity and treat the loan as though forbearance had been granted during this period. A signed forbearance agreement is not required for this administrative forbearance period. The delinquency status, if any, that existed on the loan before the lender suspended its due diligence remains. The lender must resume due diligence immediately at the level of delinquency at which it was suspended. For more information on the use of administrative forbearance in conjunction with the lender's receipt of a physician's written request for additional time, see Subsection 11.21.R.~~
~~[§682.402(e)(5)]~~

For a comade Consolidation loan on which one comaker's loan discharge application will not result in the discharge of the entire loan balance, the lender must continue to service the portion of the loan that is not eligible for loan discharge. The lender must ensure that when the comaker who is claiming to be totally and permanently disabled resumes repayment on the remaining balance of the loan, the loan itself has not become delinquent or more delinquent during the conditional discharge period. The lender may apply an administrative forbearance to the entire Consolidation loan for the conditional discharge period, after first exploring with the non-disabled comaker any other available options, such as alternative repayment agreements, [deferment](#), discretionary forbearance, or reduced-payment forbearance.

For a comade PLUS loan on which one comaker is applying for loan discharge, the lender must continue to collect on the full balance of the loan from the non-disabled comaker. The lender must ensure that the loan status does not deteriorate during the conditional discharge period, and should work with the non-disabled comaker to discuss deferment options or to negotiate forbearance terms. The lender may apply an administrative forbearance to the entire loan balance if the non-disabled comaker is not eligible for other repayment options or does not choose to defer or forbear the loan. The administrative forbearance may be applied only for the time period that the nondisabled comaker is solely responsible for the loan's repayment and may not begin earlier than the date the loan holder receives ~~the disabled comaker's loan discharge application, or the notification from the guarantor that a loan discharge application was submitted to the Department guarantor, whichever is earlier.~~ The administrative forbearance may not end later than the date the lender receives notification of the final discharge determination.

For a PLUS loan on which the endorser is applying for loan [discharge](#), the lender may not collect from the endorser but must continue to collect the entire loan amount from the borrower.

General Requirements for Total and Permanent Disability Loan Discharge Based on a Physician Certification¹

If a doctor of medicine or osteopathy, legally authorized to practice in a state, certifies that the borrower, the [comaker](#), or the [endorser](#) on a PLUS loan is totally and permanently disabled, the borrower's, comaker's or endorser's obligation to repay all or a portion of the loan may be discharged. If a comaker on a joint Consolidation loan is determined to be totally and permanently disabled, the disabled comaker's underlying loans are discharged but the disabled comaker and the non-disabled comaker both remain jointly and severally liable for repayment of the balance of the loan. For a comade PLUS loan, if one comaker is determined to be totally and permanently disabled, that comaker's obligation on the loan is discharged and the non-disabled comaker assumes responsibility for repayment of the entire loan balance. If the lender has begun collection activities with respect to the endorser's obligation on a PLUS loan, and if the endorser is determined to be totally and permanently disabled, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance.
[\[§682.402\(a\)\(2\) and \(3\)\]](#)

For these purposes, a borrower, [comaker](#), or [endorser](#) is considered [totally and permanently disabled](#) if he or she is unable to engage in any [substantial gainful activity](#) by reason of any medically determinable physical or mental impairment that meets any one of the following criteria:

- Can be expected to result in death.
- Has lasted for a continuous period of not less than 60 months.
- Is expected to last for a continuous period of not less than 60 months.

Substantial gainful activity is defined as a level of work performed for pay or profit that involves doing significant physical or mental activities, or combination of both. "For profit" is intended to cover self-employed individuals who are not paid by an employer. It does not refer to income from sources other than employment.

¹ Policy 1288 (Batch 195), approved May 16, 2013

income will not be considered when determining whether a borrower is capable of substantial gainful activity.

[§682.200(b); *Federal Register* dated July 23, 2009, p. 36559]

If a borrower, comaker, or endorser receives a new **TEACH grant** or a new Title IV loan (with the exception of a Consolidation loan that does not include any loans that are in a conditional **discharge** status or post-discharge monitoring period) during the 3-year conditional discharge period or the 3-year post-discharge monitoring period, as applicable, the borrower, comaker, or endorser is not eligible for discharge on the loan on which he or she is a signatory or any loan made prior to that date. (See explanations of the terms “conditional discharge status” and “post-discharge monitoring period” later in this subsection under the subheading “Discharge Based on a Determination of Total and Permanent Disability.”)

~~The lender must review its records for any new loan(s) or disbursements of prior loans made to the borrower, comaker, or endorser after the date the physician certified the discharge application stating that he or she is totally and permanently disabled. If the lender’s records indicate (or the lender is otherwise aware) that a new loan(s) was made during the 3-year conditional discharge period or the 3-year post-discharge monitoring period, the lender must deny the discharge and inform the borrower, comaker, or endorser. If any FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that are disbursed after the date of the physician’s certification must be returned to the holder within 120 days of disbursement or the lender must deny the discharge and inform the borrower, comaker, or endorser. For information regarding a borrower’s eligibility for a new loan(s) after the conditional period, see Section 5.5. [§682.402(c)(4)(B) and (C); §685.213(b)(4)(i)(B) and (C)]~~

If a borrower, comaker, or endorser received a **TEACH grant** or Title IV loan prior to the date the physician certified the borrower’s discharge application and a disbursement of that loan or grant is made during the period from the date of the physician’s certification until the date the Department grants a discharge, the Department will suspend processing of the borrower’s loan discharge request until the borrower ensures that the full amount of the disbursement has been returned to the loan holder or to the Department, as applicable. If the full amount of the disbursement is not returned, the Department will deny the total and permanent disability (TPD) loan discharge application. If the borrower, comaker, or endorser receives a new loan or TEACH grant after the date that the borrower

became disabled and while the TPD loan discharge application is being reviewed, the Department will deny the discharge application and will instruct all holders of the borrower’s loans to return those loans to repayment.

[§682.402(c)(4)-(5); §685.213(b)(3)]

The Department may require the borrower to submit additional medical evidence if it determines that the borrower’s application does not conclusively prove that the borrower is totally and permanently disabled. As part of the Department’s review of the borrower’s discharge application, the Department may arrange for an additional review of the borrower’s condition by an independent physician at no expense to the borrower.

[§682.402(c)(3)(ii)(iv); §685.213(b)(2)]

Discharge When Guarantee Is Lost

If there have been servicing errors on the loan such that the loan has lost its **guarantee**, and those violations were not **cured** before the date the Department lender determined that the borrower was totally and permanently disabled, the lender must discharge the loan—even though the balance will not be reimbursed by the **guarantor**.

[§682, Appendix D, I.E.2]

Discharge Based on a Determination of Total and Permanent Disability

Total and permanent disability loan discharge applications submitted on or after July 1, 2013, are submitted to the Department. determinations made by the lender on or after July 1, 2002, and subsequently paid as a claim by the guarantor, may be permanently assigned to the Department. If the The Department then determines if that the certification and information provided by the borrower, comaker, or endorser support the conclusion that he or she meets the criteria for a total and permanent disability loan discharge, it will advise the lender to file a claim with the guarantor.

If the borrower has been approved for TPD under the standard process and the loan has not lost the guarantee, the loan will be assigned or, in the case of a comade Consolidation loan, referred to the Department after claim payment. Otherwise, if the borrower has been approved for a TPD loan discharge based on a VA determination and the loan has not lost the guarantee, the guarantor will pay the claim and the loan is not assigned or referred to the Department.¹

¹ Policy 1288 (Batch 195), approved May 16, 2013

If the Department determines that the certification and information provided by the borrower, comaker, or endorser do not support the conclusion that he or she meets the criteria for a total and permanent disability loan discharge, the Department notifies the borrower, comaker, or endorser that the application for a total and permanent disability loan discharge has been denied and that the loan is due and payable under the terms of the [promissory note](#). The Department notifies the lender of its determination and the lender must return the loans to repayment status, or other appropriate status based on other factors. [~~§682.402(c)(3)(iii)~~; §685.213(b)(2)(iii)]

For a total and permanent disability loan discharge application received on or after July 1, 2002, through June 30, 2010, a borrower who ~~met~~ meets certain eligibility criteria receives an initial disability determination and ~~was~~ is placed in a 3-year conditional discharge status. For a total and permanent disability loan discharge application received on or after July 1, 2010, a borrower who meets certain eligibility criteria receives a loan discharge and is placed in a 3-year post-discharge monitoring period.

4. Conditional Discharge Status

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

- The disabled borrower, comaker, or endorser is not required to make any payments on the loan.
- The disabled borrower, comaker, or endorser is not considered delinquent or in default on the loan, unless he or she was delinquent or in default at the time the conditional discharge was granted.
- The disabled borrower, comaker, or endorser must promptly notify the Department of any changes in address or phone number.
- The disabled borrower, comaker, or endorser must notify the Department if his or her annual earnings from employment exceed 100% of the poverty line for a family of two.

- ~~The disabled borrower, comaker, or endorser must provide the Department, upon request, with additional documentation or information related to his or her eligibility for a total and permanent disability loan discharge.~~ [~~§682.402(c)(4)(i)(C)(ii)(E)~~; §685.213(b)(5)(i)—(iii)]
- ~~The disabled borrower, comaker, or endorser must provide the Department, upon request, with additional medical evidence if the Department determines that the borrower's, comaker's, or endorser's application does not conclusively prove that the borrower, comaker, or endorser is disabled. As part of this review or at any time through the end of the conditional discharge period, the Department may arrange for an additional review of the borrower's, comaker's, or endorser's condition by an independent physician at no expense to the applicant.~~ [~~§682.402(c)(4)(v)~~; §685.213(b)(2)(iv)]
- ~~The disabled borrower, comaker, or endorser must not receive a new TEACH grant or a new loan under the Federal Perkins Loan Program, the FFELP, or the Federal Direct Loan Program, except for a FFELP or Direct Consolidation loan that does not include any loans that are in a conditional discharge status.~~ [~~§682.402(c)(4)(i)(B)~~; §685.213(b)(4)(i)(B)]
- ~~If any FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that are disbursed after the date of the physician's certification must be returned to the holder within 120 days of the disbursement date(s) to preserve the borrower's discharge eligibility.~~ [~~§682.402(c)(4)(i)(C)~~; §685.213(b)(4)(i)(C)]
- ~~If the borrower satisfies the criteria for a total and permanent disability loan discharge during and at the end of the conditional discharge period, the Department does both of the following:~~
 - ~~Discharges the balance of the loan.~~
 - ~~Returns to the person who made payments any that were received after the date that the physician completed and certified the borrower's loan discharge application.¹~~

The Department also notifies the disabled borrower, comaker, or endorser, for those loans assigned to the Department, that if at any time during the 3-year conditional discharge period he or she does not continue to

¹ Policy 1288 (Batch 195), approved May 16, 2013

~~meet the eligibility requirements for a total and permanent disability discharge, the Department or the loan holder, as applicable, will resume collection activity on the loan but will not require the borrower to pay any interest that accrued on the loan from the date of the initial determination of total and permanent disability through the end of the conditional discharge period.~~

~~§682.402(c)(4)(ii)(C)(ii)(E); §685.213(b)(4)(ii)(B)~~

~~2--Post-Discharge Monitoring Period~~

If the Department makes a determination that the borrower, comaker, or endorser is totally and permanently disabled, the Department ~~places the loan(s) into a~~ notifies the borrower, comaker, or endorser that the loan—or the comaker's or endorser's obligation on the loan—is discharged and that the loan is placed in a post-discharge monitoring period. The post-discharge monitoring period that will last for 3 years after the date the Department grants the discharge. (TPD determinations made based on VA documentation are not subject to the post-discharge monitoring requirement.)

The Department's notification identifies the following conditions that apply during the 3-year post-discharge monitoring period:

- The disabled borrower, comaker, or endorser must promptly notify the Department of any changes in his or her address or phone number.
- The disabled borrower, comaker, or endorser must promptly notify the Department if his or her annual earnings from employment exceed 100% of the poverty line for a family of two.
- The disabled borrower, comaker, or endorser must provide the Department, upon request, with documentation of his or her annual earnings from employment.
- If the TPD determination is made based on SSA documentation, the borrower must notify the Department if he or she receives notice from the Social Security Administration that the borrower is no longer considered disabled or that the borrower's continuing disability review will no longer fall into the five- to seven-year period indicated on the SSDI or SSI benefit notice originally submitted with the TPD application. [\[§682.402\(c\)\(7\)\]](#)

- The Department reinstates the borrower's, comaker's, or endorser's obligation to repay a loan that was discharged if any of the following conditions apply to the disabled borrower, comaker, or endorser:

- ~~He or she has a~~ Annual earnings from employment that exceed 100% of the poverty line for a family of two.
- ~~He or she receives~~ The Department receives notice that a new TEACH grant or a new Title IV loan is disbursed, except for a Federal or Direct Consolidation loan that includes loans that were not discharged.
- ~~He or she fails to ensure that the full amount of any~~ Some portion of a disbursement of a Title IV loan or TEACH grant received prior to the discharge date that is/was made during the 3-year period following the discharge date is not returned to the loan holder or to the Department, as applicable, within 120 days of the disbursement date.
- The Department receives notice that the borrower is no longer considered disabled or that the borrower's continuing disability review will no longer fall into the five- to seven-year period otherwise indicated on the SSDI or SSI benefit notice originally submitted with the total and permanent disability discharge application.

[\[§682.402\(c\)\(5\)\(i\)\(A\) – \(C\); §682.402\(c\)\(6\); §682.402\(c\)\(7\); §685.213\(b\)\(4\)\(i\)\(A\) – \(C\); §685.213\(b\)\(5\)\]](#)

NSLDS Reporting during ~~the Conditional and Post-discharge Period for Comade Loans~~

In cases where a comaker of a joint Consolidation or PLUS loan has applied for a total and permanent disability loan discharge, the lender must ensure accurate reporting to the guarantor for NSLDS purposes. The lender must report the correct status of the non-dischargeable portion to the guarantor for subsequent reporting to the NSLDS in a timely manner. The NSLDS currently reports joint Consolidation loans and comade PLUS loans under one primary borrower only. However, to ensure proper reporting during the ~~conditional or post-discharge monitoring period, as applicable,~~ the lender should report the non-dischargeable portion under the non-disabled borrower's name and **Social Security number (SSN)** to the guarantor.¹ If the borrower on record with the guarantor and the NSLDS is the disabled borrower, the guarantor's

¹ Policy 1288 (Batch 195), approved May 16, 2013

records and the NSLDS must be updated to reflect the non-disabled borrower as the borrower of record. If the discharge is denied, the lender may resume reporting the full balance of the loan under the borrower currently being reported. If a final discharge is granted, the lender continues to report the non-discharged portion of the Consolidation loan under the non-disabled borrower's name and SSN.

Total and Permanent Disability Loan Discharge Payment

Federal regulations require a guarantor to determine if the borrower, comaker, or endorser meets the eligibility criteria for a total and permanent disability (TPD) discharge. If the Department guarantor determines that the borrower, comaker, or endorser meets the criteria, the Department will advise the lender to file a claim with the guarantor. The guarantor will take the following actions, as appropriate:

- For a loan made solely to ~~the a single borrower, or a PLUS loan with an endorser where the borrower is the party applying for the loan discharge,~~ the guarantor will pay the lender the remaining balance on the loan, and, under the standard process, and assign the loan to the Department. Under the VA process, the guarantor will pay the claim but does not assign the loan.
- If the borrower satisfies the criteria for a total and permanent disability loan discharge, the Department discharges the balance of the loan and the loan holder returns to the person who made the payments any that were received after the date of disability as provided by the Department (on or after date of disability, if based on VA documentation), that the physician completed and certified the borrower's loan discharge application. The discharge and return of payments are made before the loan enters the post-discharge monitoring period. [[§682.402\(c\)\(3\)\(ii\)](#); [§685.213\(b\)\(2\)\(ii\)](#)]
- For a comade (spousal) Consolidation loan, the guarantor will pay the lender the amount that represents the disabled comaker's portion of the Consolidation loan. If the discharge was made under the standard process, the guarantor will refer the loan to the Department for monitoring of the comaker during the post-discharge monitoring period. The loan is not referred under the VA process. The guarantor will forward the disability documentation to the Department for determination of the final discharge eligibility.
- For a comade PLUS loan or a PLUS loan with an endorser where the endorser is the party applying for the loan discharge, the ~~guarantor will forward the~~

~~documentation to the Department for a determination of final discharge eligibility. The guarantor will not remit a claim payment to the lender but will correct any applicable records to remove the endorser or comaker information. If the discharge was granted under the standard process, the guarantor will refer the loan to the Department for monitoring of the borrower or endorser, as applicable, during the post-discharge monitoring period. The loan is not referred under the VA process.~~

Timely Filing Deadline for Total and Permanent Disability Claims

A lender must file a disability claim within 60 days of receiving notice from a complete loan discharge application or other form(s) approved by the Department that the borrower's discharge application has been approved. If a disability claim is not filed by the 60th day, the guarantor will still purchase the claim—unless prior servicing violations were not cured appropriately. However, the claim will be subject to an interest penalty, and the lender will be required to repay all interest benefits and special allowance payments for amounts received or otherwise payable after the expiration of the 60-day deadline.

[[§682.402\(g\)\(2\)\(ii\)](#)]

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

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

[[§682.402\(c\)\(5\)\(vi\)](#)]¹

~~After the lender receives payment of a total and permanent disability claim for a loan made solely to a single borrower or for a portion of a Consolidation loan attributable to a comaker, the lender must notify the borrower or comaker that the loan or a portion of the loan will be assigned to the~~

¹ Policy 1288 (Batch 195), approved May 16, 2013

~~Department for determination of eligibility for a total and permanent disability loan discharge. After the lender receives notification from the guarantor that the loan discharge application has been forwarded to the Department for a determination of total and permanent discharge eligibility, the lender must notify the PLUS loan borrower that the comaker's or endorser's discharge application has been forwarded to the Department. [§682.402(e)(5)(vi)]~~

~~If the guarantor determines that the borrower, comaker, or endorser is not eligible for loan discharge, the guarantor will notify the lender with an explanation of the reason for the denial. The lender must notify the borrower, comaker, or endorser that the application for a disability discharge has been denied, provide the basis for the denial, and inform the borrower, comaker, or endorser that the lender will resume collection activities on the loan. [§682.402(e)(5)(v)]¹~~

Resuming Loan Servicing on Comade or Endorsed Loans

If the Department grants a final discharge to a comaker for a portion of a Consolidation loan, the lender must resume collection activities on the remaining loan balance, collecting that balance from both the disabled and non-disabled spouses. If the Department denies the final loan discharge, the lender must refund to the guarantor the amount of the discharge payment previously received and return the loan to repayment with the corrected loan balance. No interest accrues on the disabled comaker's portion of the loan during the conditional discharge period.

If the Department grants a final discharge to a comaker of a PLUS loan, there is no reduction of the loan's principal and the lender must resume loan collection activities on the full loan amount. The disabled comaker's obligation on the loan is discharged and the lender may bill only the non-disabled comaker. If the Department denies the final discharge, the lender must resume collection activities with both comakers.

If the Department grants a final discharge for a PLUS loan endorser, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance. If the Department denies the final discharge, the lender may resume billing both the borrower and endorser, as appropriate.

Treatment of Payments

If the lender receives a payment from or on behalf of the borrower after the date the physician completed and certified the discharge application but before the lender receives the claim payment, the lender must hold the payment. After the lender receives the claim payment, the lender must forward the payment to the guarantor. [§682.402(c)(5)(vi)(B)(3); §685.213(b)(2)(ii)]

13.8.H Unpaid Refund

The [Higher Education Act](#) provides relief for borrowers who are entitled to, but did not receive, refunds from their respective schools. Borrowers who meet the criteria outlined in this subsection may be eligible to have a loan discharged, in full or in part.

To qualify for an unpaid [refund loan discharge](#), a borrower must complete, certify, and submit to his or her lender or [guarantor](#) a Loan Discharge Application: Unpaid Refund which includes a sworn statement (notarization is not required), made under penalty of perjury, that declares the following:

- That the borrower (or the student for whom a [parent](#) obtained a PLUS loan) received any part of the proceeds of the FFELP loan on or after January 1, 1986, to attend school. [§682.402(l)(4)(i)(A); §685.212(f); §685.216(c)(1)(i)(A)]
- That the borrower (or the student), within a time frame that entitled the borrower to a refund, withdrew from, was terminated from, or did not attend the school. [§682.402(l)(4)(i)(B); §685.216(c)(1)(i)(B)]
- That the borrower (or the student) did not receive the benefit of a refund to which the borrower was entitled either from the school or from a third party, such as a [holder](#) of a performance bond or a tuition recovery program. [§682.402(l)(4)(i)(C); §685.216(c)(1)(i)(C)]
- Whether the borrower has any other discharge application pending for this loan, in full or in part. [§682.402(l)(4)(ii); §685.216(c)(1)(ii)]
- That the borrower agrees to provide, upon request by the Department or the Department's designee other documentation reasonably available to the borrower

¹ Policy 1288 (Batch 195), approved May 16, 2013

- The student must certify under penalty of perjury that the school failed to determine or improperly determined his or her ability to benefit from the school’s training; and
- If the student withdrew from the school, the student must certify that he or she did not obtain employment in the field for which the school’s course of study was intended; or,
- If the student completed the course of study, the student must certify that he or she made a reasonable attempt and was unable to obtain employment in the field for which the course of study was designed, or obtained employment in that field only after receiving additional training from another school; or
- The student must certify that he or she did not, at the time of enrollment, meet the legal requirements for employment in the student’s state of residence in the field for which the course of study was preparatory because of a mental or physical condition, age, or criminal record, or other reason accepted by the Department.

Absence of Documentation/Evidence

A borrower’s statement that he or she (or, in the case of a PLUS loan, the student) was “falsely certified” or “improperly tested” would not be considered sufficient evidence of the borrower’s entitlement to [discharge](#) if it is not supported by some evidence that the student was admitted to a course of study to which he or she should not have been admitted as a result of improper administration of ATB provisions.

The [guarantor](#) is expected to obtain [documentation](#) and [records](#) from any available public or private agency which reviewed or had oversight responsibilities for the school. If the guarantor determines that evidence or documentation does not exist, it is the borrower’s responsibility to substantiate the claim with substantive persuasive evidence.

H.4 History of Statutory and Regulatory Waivers

H.4.A Waivers for Operations Desert Shield/Desert Storm

Several statutory and regulatory provisions were introduced in 1991 to provide additional benefits to borrowers who served on active duty in connection with Operations Desert Shield/Desert Storm. For additional information on these provisions, refer to DCLs GEN-91-11 and GEN-91-19 and the *Federal Register* dated September 16, 1991.

H.4.B HEROES Act Waivers

The [Higher Education Relief Opportunities for Students \(HEROES\) Act of 2003 \(P.L. 108-76\)](#) requires the Department to publish waivers or modifications to statutory or regulatory provisions applicable to the Title IV federal student aid programs. The HEROES Act directs the Department to publish waivers and modifications that are appropriate to assist “affected individuals” who are also federal student aid applicants and recipients. The Department originally announced the HEROES Act waivers in a [Federal Register notice dated December 12, 2003](#), effective until September 30, 2005. ~~In a [Federal Register notice dated October 20, 2005](#), the Department extended the waivers to September 30, 2007. The Department further extended the waivers to September 30, 2012, in a [Federal Register notice published December 26, 2007](#), unless the Department terminates or otherwise changes the provisions prior to that date. Subsequent extensions in 2005, 2007, and changes published in the [Federal Register notice September 27, 2012](#), again extend the waivers to September 30, 2017.¹~~

Not all waivers and modifications apply to all affected individuals. The Department designated four categories of waiver recipients, and identified specific waivers and modifications that apply to each category. In addition to granting waivers to affected individuals, the Department also granted waivers to the *dependents and spouses* of two categories of affected individuals (see [Figure H-2](#) under “HEROES Act Waivers and Modifications”).

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HEROES Act Waivers and Modifications

Figure H-2

WAIVER TOPIC	Current Requirement Reference	WAIVER RECIPIENT*					
		U.S. Armed Forces Member	Dependent or Spouse of U.S. Armed Forces Member	National Guard Member	Dependent or Spouse of National Guard Member	Individual Lived or Worked in Declared Disaster Area	Individual Suffered Direct Economic Hardship
1. Signatures required for the FAFSA, SAR, and ISIR	09-10 FSA Handbook, Application and Verification Guide, Chapter 2, p. AVG-39		X		X		
2. Reinstatement of Title IV Eligibility	5.2.E; 09-10 FSA Handbook, Volume 1, Chapter 3, p. 1-52	X		X		X	
3. Professional Judgment	6.5.D, 6.6.B; 09-10 FSA Handbook, Application and Verification Guide, Chapter 5, p. AVG-105	X		X		X	X
4. Need Analysis	6.6; 07-08 FSA Handbook, Application and Verification Guide, Chapter 3	X	X	X	X	X	X
5. Verification of AGI and Income Tax Paid	8.5; 09-10 FSA Handbook, Application and Verification Guide, Chapter 4, pp. AVG-87 and AVG-90	X		X			
6. Verification Signature Requirements	8.5; 09-10 FSA Handbook, Application and Verification Guide, Chapter 4, pp. AVG-86 to AVG-87		X		X		
7. Cash Management – Borrower Notice to Cancel Loan	8.2.D; 09-10 FSA Handbook, Volume 4, Chapter 1, pp. 4-3 to 4-5	X		X		X	
8. Cash Management – Required Authorizations	8.3; 09-10 FSA Handbook, Volume 4, Chapter 1, pp. 4-6 to 4-7	X		X		X	
9. Satisfactory Academic Progress	8.4; 09-10 FSA Handbook, Volume 2, Chapter 10, p. 2-125	X		X		X	
10. Delivering Credit Balances for a Withdrawn Student	8.8.D; 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-42 to 5-44	X		X		X	
11. Approved Leave of Absence	9.3; 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-32 to 5-38	X		X		X	

* See the subheading "Affected Individuals," above, for detailed information about criteria that HEROES Act waivers and modification recipients must meet.

WAIVER TOPIC	Current Requirement Reference	WAIVER RECIPIENT*					
		U.S. Armed Forces Member	Dependent or Spouse of U.S. Armed Forces Member	National Guard Member	Dependent or Spouse of National Guard Member	Individual Lived or Worked in Declared Disaster Area	Individual Suffered Direct Economic Hardship
12. Refund of Institutional Charges	9.5.A; 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-38 to 5-41	X		X			
13. Return of Title IV Funds – Post-withdrawal Disbursements	9.5.A; 09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-96	X		X		X	
14. Return of Title IV Funds – Grant Overpayments Owed by the Student	9.5.A; 09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-104	X		X		X	X
15. Return of Title IV Funds—Unearned Funds Owed by the School	9.5.A, 9.5.B; 09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-100	X		X		X	X
16-15. In-School and Grace Period	10.2, 10.3.C	X		X		X	
17-16. Deferment – In-School and Graduate Fellowship	11.5, 11.6; Figure 11-1	X		X		X	
18. Deferment – Armed Forces	11.3; Figure 11-1	X		X			
19-17. Forbearance	11.23.B	X		X		X	
20-18. Rehabilitation of Defaulted Loans	13.7	X		X		X	
21-19. Loan Forgiveness	13.9.A	X		X		X	
22-20. Consolidating Defaulted Title IV Loans	15.2	X		X		X	
23-21. Collection Activities on Defaulted Title IV Loans	§682.410; 07-08 FSA Handbook, Volume 6	X		X		X	
22. Annual Reevaluation Requirements for Income-Based Repayment	10.8.D	X		X		X*	

* See the subheading “Affected Individuals,” above, for detailed information about criteria that HEROES Act waivers and modification recipients must meet.

* Policy 1289 (Batch 195), approved May 16, 2013

14. *Return of Title IV Funds – Grant Overpayments Owed by the Student* (see [Subsection 9.5.A](#) and the [09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-104](#))

If a student withdraws and the [return of Title IV funds](#) calculation shows that the student must repay funds to a Title IV grant program, the student is obligated to return only one half of the unearned grant amount.

For a student who withdraws from a school because of his or her status as an affected individual, the student is not required to return or repay a grant overpayment based on the return of Title IV funds provisions. For these students, the following federal requirements are also waived:

- The school’s obligation to notify the student of a grant overpayment.
- The actions a student must take to resolve the overpayment.
- Denial of Title IV eligibility for a student who owes an overpayment and does not take any action to resolve the overpayment.
- The school’s obligation to refer an overpayment to the Department under certain conditions.

A school is not required to contact the student, notify the [National Student Loan Data System](#), or refer the overpayment to the Department. A school must document in the student’s file the amount of any overpayment as part of the documentation of this waiver’s application. A school must not apply a Title IV credit balance to the grant overpayment before paying any amount of the Title IV credit balance to the student or [parent](#) borrower. (See *Delivering Credit Balances for a Withdrawn Student*, above, for more information about the waiver that applies to delivering credit balances for affected individuals.)

15. *Return of Title IV Funds—Unearned Funds Owed by the School* (see [Subsections 9.5.A](#) and [9.5.B](#), and the [09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-100](#))

~~A school must return to the appropriate Title IV program its share of unearned funds for a withdrawn student. The amount that must be returned is the lesser of the amount of Title IV funds that the student did not earn, or the amount of institutional charges incurred by the student for the payment period or period of enrollment, multiplied by the percentage of funds not earned.~~

~~A school must return unearned funds for an affected individual as it must for any student who withdraws. However, for a student who withdraws because of his or her status as an affected individual, the amount of any charges that the school is required to cover, and has covered, with non Title IV sources of aid is excluded from the student’s total institutional charges.~~

Example: A student receives a state grant of \$800 that must be used only for tuition charges. The school applies the state grant toward the total institutional charges of \$1,000. The student withdraws. The school uses \$200, the difference between the full institutional charges and the amount of the state grant the school was required to apply to institutional charges, as the student’s total institutional charges for the payment period or period of enrollment when determining the amount of unearned Title IV funds that the school must return.

15. ~~16.~~ *In-School and Grace Period* (see [Section 10.2](#) and [Subsection 10.3.C](#))

The [in-school period](#) on a loan begins on the date the student begins at least half-time enrollment and ends when the student ceases to be continuously [enrolled](#) at least half time. A Stafford loan borrower who has a loan in an in-school status that would subsequently enter a [grace period](#), or has a loan in a grace period, and who is serving on active duty, performing qualifying National Guard duty, or residing or employed in a disaster area, is entitled to one or more extensions of the in-school or grace period. (For more information about the groups of affected individuals who are eligible for this waiver, see the subheading “Affected Individuals.”) Any single extended period may not exceed 3 years. The maximum 3-year extension for any single extended period includes the time necessary for a borrower to resume enrollment at the next available and regularly scheduled period of enrollment, if the borrower plans to return to school. The Department pays the interest that accrues on subsidized Stafford loans during any extended period. Affected individuals are entitled to a full six-month or nine-month grace period, as applicable, upon completion of the excluded period.

16. ~~17.~~ *Deferment – In School and Graduate Fellowship* (see [Sections 11.5](#) and [11.6](#), and [Figure 11-1](#))¹

Once the [repayment period](#) has begun, a qualified borrower is entitled to defer principal payments on a FFELP loan while enrolled at an eligible school or in an eligible graduate fellowship program. Generally

¹ Policy 1289 (Batch 195), approved May 16, 2013

speaking, a borrower's [deferment](#) period ends when the condition establishing the borrower's eligibility for the [deferment](#) ends. (See [Sections 11.5](#) and [11.6](#), and [Figure 11-1](#) for detailed information about in-school and graduate fellowship deferment eligibility criteria.)

The Department waives the statutory and regulatory eligibility requirements for in-school and graduate fellowship deferments for borrowers who are required to interrupt a graduate fellowship or who are in an in-school deferment but must leave school because of their status as an affected individual. The loan holder is required to maintain the loan in a graduate fellowship or in-school deferment status for a period not to exceed 3 years during which the borrower was an affected individual. This period includes the time necessary for the borrower to resume his graduate fellowship program or resume enrollment in the next regular enrollment period if the borrower returns to school. The Department pays interest that accrues on a subsidized Stafford loan as a result of extending a borrower's eligibility for either type of deferment under this waiver.

- ~~18. *Deferment—Armed Forces* (see [Section 11.3](#) and [Figure 11-1](#)): Certain borrowers are entitled to defer principal payments on a FFELP loan for periods not to exceed 3 years when the borrower is on active duty status in the U.S. Armed Forces, or a member of the National Guard or Reserves serving a period of full-time active duty in the Armed Forces. To qualify for deferment, the borrower must provide the loan holder with documentation establishing his or her eligibility for the deferment. (See [Section 11.3](#) for detailed information about military deferment criteria.)~~

~~The Department modifies the 3-year cumulative limit on armed forces deferment so that the time during which affected individuals are serving on active duty is excluded from the time limit. The Department pays interest that accrues on subsidized Stafford loans during an extended deferment period under this modification. In addition, the Department waives the requirement that a borrower request the deferment. A loan holder may grant deferment to an affected individual based on a request from a family member or other reliable source. Further, the Department waives documentation requirements to allow a loan holder to grant an affected individual an armed forces deferment for a 1-year period without documentation. In order to grant a military deferment beyond the initial 1-year period, the loan holder must obtain supporting documentation from the borrower, a member of the borrower's family, or another reliable source.~~

17. *19-Forbearance* (see [Subsection 11.23.B](#)): A loan holder must require a borrower who requests [mandatory administrative forbearance](#) because of military mobilization to provide documentation showing that the borrower is subject to a military mobilization.

The Department waives this requirement to allow a borrower to receive [forbearance](#) at the request of the borrower, a member of the borrower's family, or another reliable source, for a one-year period, including a 3-month transition period that immediately follows, without providing the loan holder with documentation. In order to grant the borrower forbearance beyond this initial, fifteen-month period, the loan holder must obtain documentation supporting the borrower's military mobilization.

18. *20-Rehabilitation of Defaulted Loans* (see [Section 13.7](#))

To be eligible for [rehabilitation](#), a defaulted borrower must make nine on-time (received within 20 days of the due date), full, monthly payments to the appropriate holder of each defaulted loan during a period of 10 consecutive months. These payments must be made voluntarily (directly by the borrower, regardless of whether there is a judgment against the borrower), and must be reasonable and affordable.

The requirement that the borrower make payments as described in the preceding paragraph in order to rehabilitate a defaulted loan is waived. Guarantors should not treat any payment missed during the time that a borrower is an affected individual as an interruption in the requisite nine on-time, monthly payments during a period of 10 consecutive months. When the borrower is no longer considered to be an affected individual, or in a 3-month transition period that immediately follows, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status.

19. *21-Loan Forgiveness* (see [Subsection 13.9.A](#))¹

Borrowers may qualify for loan [forgiveness](#) if they are employed full-time in specified occupations (e.g., as per the Teacher Loan Forgiveness Program). Generally, to qualify for loan forgiveness, borrowers must perform uninterrupted, otherwise qualifying service for a specified length of time or for consecutive periods of time.

¹ Policy 1289 (Batch 195), approved May 16, 2013

The requirement that periods of service be uninterrupted and/or consecutive is waived, if the reason for the interruption is related to the borrower's status as an affected individual. The period during which the borrower is an affected individual, including a 3-month transition period that immediately follows, will not be considered an interruption in the required service for the borrower to receive loan forgiveness.

individual. The loan holder is not required to obtain evidence of the borrower's status as an affected individual. Collection activities must resume after the borrower has notified the loan's holder that he or she is no longer an affected individual, and must include the 3-month transition period that immediately follows. The loan holder must document in the loan file the reason that it suspended collection activities.

20. ~~22~~—Consolidating Defaulted Loans (see [Section 15.2](#))

A defaulted Title IV loan is eligible for consolidation if, at the time of application for the Consolidation loan, the borrower has agreed to repay the Consolidation loan under an income-sensitive or income-based repayment schedule, or the borrower has made satisfactory repayment arrangements. Satisfactory repayment arrangements for Consolidation loan eligibility purposes are defined as three, consecutive, on-time (received within 15 days of the due date), voluntary, full monthly payments. These payments must be reasonable and affordable with respect to the borrower's financial situation and must be received by the holder of the defaulted loan during the 3 months immediately preceding the receipt of a consolidating lender's verification certificate.

For an affected individual who establishes eligibility to consolidate a defaulted loan by making satisfactory repayment arrangements, the requirement for consecutive monthly payments is waived. Guarantors should not treat any payment missed during the time that a borrower is an affected individual as an interruption in the requisite three consecutive, monthly, on-time payments. When the borrower is no longer considered to be an affected individual, or in a 3-month transition period that immediately follows, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status.

21. ~~23~~—Collection Activities on Defaulted Loans (see [34 CFR 682.410](#) and the [07-08 FSA Handbook, Volume 6](#))

Title IV loan holders must attempt to recover amounts owed from defaulted loan borrowers.

The provisions that require collection activities on defaulted Title IV loans are waived for the time period during which the borrower is an affected individual. Collection activities may cease upon notification by the borrower, a member of the borrower's family, or another reliable source that the borrower is an affected

22. ~~Annual Reevaluation Requirements for the Income-Based Repayment (IBR) Plan~~

The lender must verify annually the borrower's income and family size, and determine whether the borrower continues to have a partial financial hardship (PFH), and requests annual documentation from each borrower repaying under an IBR. A borrower who fails to provide the information required annually to confirm the PFH will have his or her monthly payment amount adjusted to the amount the borrower would pay under the ten-year standard payment plan.

Under the waiver, the lender must maintain the payment amount determined under the most recent PFH calculation if the borrower's status as an affected individual results in his or her inability to provide documentation of updated income and family size. The waiver persists for a three-year period followed by a three-month transition.¹

Documentation Requirements

A school, lender, or guarantor must document the application of a waiver or modification in such a way that it can report to the Department, upon request, the effect of the waivers and modifications.

**H.4.C
Higher Education Hurricane Relief Act
Waivers**

The [Higher Education Hurricane Relief Act of 2005 \(P.L. 109-148\)](#) authorized the Department to waive or modify any statutory or regulatory provision applicable to the Title IV programs, or any student or institutional eligibility provision in the HEA, as the Department deems necessary in connection with a Gulf hurricane disaster.

Based on this authority, on February 23, 2006, the Department published [Electronic Announcement #9](#) and [Electronic Announcement #12](#), stating that affected schools

¹ Policy 1289 (Batch 195), approved May 16, 2013