

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
903	Institutional Eligibility and Reporting Requirements	<p><u>4.1.A Establishing Eligibility</u> <u>4.1.C Maintaining Eligibility</u></p> <p>Clarifies that, in order to establish or maintain eligibility, schools must submit requests for approval to participate in the Title IV programs and report changes to its current participation agreement to the Department electronically, using the Application for Approval to Participate in Federal Student Financial Aid Programs (E-App).</p>	Federal	<p>Applications for recertification, reinstatement, or changes in ownership submitted by the school on or after the publication date of the 1998-1999 <i>Federal Student Aid Handbook</i>. Applications for reporting changes to a current approval submitted by the school on or after the publication date of the 1999-2000 <i>Federal Student Aid Handbook</i>. Applications for initial certification submitted by the school on or after the publication date of the 2000-2001 <i>Federal Student Aid Handbook</i>.</p>
904	Single Holder Rule	<p><u>15.2 Borrower Eligibility and Underlying Loan Holder Requirements</u> <u>15.3.C Reviewing the Loan Verification Certificate</u></p> <p>Revised policy allows a borrower to seek consolidation with any consolidation lender, even if the borrower's loans are held by one holder.</p>	Federal	Federal Consolidation loan applications received by the lender on or after June 15, 2006.
905	Cohort Default Rate Notification	<p><u>16.1 Overview of Cohort Default Rates and Terminology</u></p> <p>Adds information regarding the electronic process that the Department uses to notify schools of draft and official cohort default rates.</p>	Federal	Domestic school's receipt of draft and of official cohort default rate notifications on or after June 1, 2005.
906	Federal Default Fee Versus Guarantee Fee	<p><u>10.11.E Applying Funds Returned by the School</u> <u>B.2 Option 2: Refinancing to Secure a Variable Interest Rate</u></p> <p>Clarifies that, if a lender</p>	Correction	Federal Stafford and PLUS loans guaranteed on or after July 1, 2006.

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
		<p>deducted the federal default fee (or guarantee fee), or origination fee from the borrower's loan proceeds, the lender must reduce the fee proportionate to the amount of returned loan funds that a lender receives from a school.</p> <p>Clarifies in appendix B, section B.2 that neither the guarantor nor the lender may charge a borrower a federal default fee (formerly guarantee fee) for refinancing loans to secure a variable interest rate.</p>		
907	Refinancing Fixed-Rate PLUS or SLS Loans	<p><u>B.2 Refinancing to Secure a Variable Interest Rate</u> <u>B.3 Refinancing by Obtaining a New Loan</u></p> <p>Adds the statutory limitations that define which loans may be refinanced for the purpose of changing a fixed-rate PLUS or SLS Loan to a variable-rate loan.</p>	Correction	PLUS or SLS loans first disbursed prior to July 1, 1987.

Batch 134

trans

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: October 19, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Oct 19

SUBJECT: Institutional Eligibility and Reporting Requirements

AFFECTED SECTIONS: 4.1.A Establishing Eligibility
4.1.C Maintaining Eligibility

POLICY INFORMATION: 903/Batch 134

EFFECTIVE DATE/TRIGGER EVENT: Applications for recertification, reinstatement, or changes in ownership submitted by the school on or after the publication date of the 1998-1999 *Federal Student Aid Handbook*. Applications for reporting changes to a current approval submitted by the school on or after the publication date of the 1999-2000 *Federal Student Aid Handbook*. Applications for initial certification submitted by the school on or after the publication date of the 2000-2001 *Federal Student Aid Handbook*.

BASIS:

1998-1999 *Federal Student Aid Handbook*, Chapter 3, Section 9, page 3-202; 1999-2000 *Federal Student Aid Handbook*, Chapter 10, page 210; and the 2000-2001 *Federal Student Aid Handbook*, Volume 2, Chapter 10, page 2-232.

CURRENT POLICY:

Current policy states that, in order to establish or maintain eligibility to participate, a school must submit a request to participate in the Title IV programs and report changes to its current participation agreement by means of an application or in a manner specified by the Department.

REVISED POLICY:

Revised policy clarifies that, in order to establish or maintain eligibility to participate, a school must submit a request for approval to participate in the Title IV programs and report changes to its current participation agreement to the Department electronically, using the Application for Approval to Participate in the Federal Student Financial Aid Programs (E-App).

REASON FOR CHANGE:

This change is necessary to include the Department's requirement that a school use the E-App to apply for initial certification, recertification, or reinstatement; to reestablish eligibility after a change in ownership or status; and to report changes to its current participation agreement.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise subsection 4.1.A of the July 2005 *Common Manual*, page 1, column 2, paragraph 2, bullets 1 and 2, as follows:

- The school must submit an ~~a~~ Application for Approval to Participate in the Federal Student Financial Aid Programs (E-App) to the Department to request a determination that it qualifies as an eligible institution.
[\$600.20(a)]
- The school must include in the ~~application for determination~~ E-App a request for certification to participate in the program and must submit all the documentation indicated on that application. To be certified for participation, a school must meet the following standards:

Revise subsection 4.1.C of the July 2005 *Common Manual*, page 5, column 1, paragraph 3, as follows:

Reporting Requirements

A school must report to the Department, ~~in a manner specified by the Department~~ via the Application for Approval to Participate in the Federal Student Financial Aid Programs (E-App) and report in writing to each applicable guarantor no later than 10 days after any of the following occurs:

- ...

Revise subsection 4.1.C of the July 2005 *Common Manual*, page 5, column 2, paragraph 5, as follows:

To continue eligibility to participate in Title IV programs, a school experiencing such a change in ownership or status must submit an ~~application~~ E-App so that it is received by the Department no later than 10 business days after the change. The application must ~~contain~~ include the following documentation:
[§600.20(g)(1)]

- ...

Revise subsection 4.1.C of the July 2005 *Common Manual*, page 8, column 2, paragraph 4, as follows:

School and Program Eligibility at Additional Locations

The eligibility of a school and its programs does not automatically include each separate location of the school. When a school adds a licensed and accredited location that offers at least 50% of an educational program, the school must report specific information to the Department by submitting an ~~electronic application~~ E-App and other required documentation. Further information on these requirements can be found in 34 CFR 600.20 and in the *Federal Student Aid Handbook*, School Eligibility and Operations Reference. Generally, after reporting to the Department, a school may immediately deliver Title IV funds to eligible students attending the added location. However, a school must have approval from the Department before it can deliver Title IV funds to eligible students attending the added location if any of the following criteria applies:

- ...

PROPOSED LANGUAGE - COMMON BULLETIN:

Institutional Eligibility and Reporting Requirements

The *Common Manual* has been revised to state that schools must submit requests for initial certification, recertification, reinstatement, a change in ownership, updates to a current approval or designation as an eligible institution to the Department via the Application for Approval to Participate in the Federal Student Financial Aid Programs (E-App).

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

The school must submit requests for initial certification, recertification, or reinstatement and report changes to the Department using the E-App.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
AES

DATE SUBMITTED TO CM POLICY COMMITTEE:
July 28, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
October 12, 2006

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

Comments Received From:
AES/PHEAA, CSLF, EAC, Great Lakes, HESC, KHEAA, NASFAA, NCHelp, OGSLP, PPSV, SCSLC, SLMA, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

One commenter stated that experience indicated that most guarantors did not want to be notified of a school's change in ownership, as required in subsection 4.1.C.

RESPONSE:

The regulations in 34 CFR 600.21 require only that the school notify the Department within 10 days of the applicable changes; however, notification to the guarantor is a policy that the *Common Manual* participants have previously approved. Removal of the requirement for guarantor notification will be considered and presented to the community for comment in a separate proposal.

Change:

None.

COMMENT:

One commenter recommended that the second and third effective dates be clarified to specify July 1, 1999 and July 1, 2000.

RESPONSE:

While the *Federal Student Aid Handbooks* on which this policy was based presumably took effect on July 1 of each year, there have been years in which the *Handbook* was not published until after July 1. Due to the retroactive nature of this policy, the Committee is reluctant to impose effective dates that are more stringent than was specified by the Department, or impose effective dates in cases where the Department specified none.

Change:

The effective dates have been modified to reflect the publication dates of the *Federal Student Aid Handbooks* in which the requirement first appeared.

COMMENT:

One commenter recommended that definitions of "Application for Approval to Participate in the Federal Student Financial Aid Program" and "E-App" be added to the *Common Manual* glossary.

RESPONSE:

The *Common Manual* style convention is to include words in the glossary in instances in which a term is found in more than one section of the *Common Manual*. Because these terms are currently used only in section 4.1,

they have not been added to the glossary.

Change:

None.

COMMENT:

One commenter recommended that a specific cite in the *Federal Student Aid Handbook* be provided in subsection 4.1.C, page 8, column 2, paragraph 4.

RESPONSE:

The Committee agrees with the commenter that a specific cite in the *Federal Student Aid Handbook* is helpful; however, this change had previously been made through the technical edit process, and will appear in the next publication of the *Common Manual*.

Change:

None.

ke/edited - chh

1003

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: October 19, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Oct 19

SUBJECT: Single-Holder Rule

AFFECTED SECTIONS: 15.2 Borrower Eligibility and Underlying Loan Holder Requirements
15.3.C Reviewing the Loan Verification Certificate

POLICY INFORMATION: 904/Batch 134

EFFECTIVE DATE/TRIGGER EVENT: Federal Consolidation loan applications received by the lender on or after June 15, 2006.

BASIS:

Higher Education Act of 1965, Section 428C(b)(1)(A)(i) and (ii), as amended by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Hurricane Recovery, 2006 (P.L. 109-234); *Dear Colleague Letter* GEN-06-12.

CURRENT POLICY:

Current policy states that a borrower whose FFELP loans are held by a single lender must request consolidation from that lender.

REVISED POLICY:

Revised policy allows a borrower to seek consolidation from any consolidation lender, even if the borrower's loans are held by one holder.

REASON FOR CHANGE:

This change is made to comply with the statutory changes derived from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Hurricane Recovery, 2006 (P.L. 109-234).

PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 15.2 of the July 2005 *Common Manual*, page 3, column 2, paragraph 1, bullet 7 as follows:

This section was previously updated by proposal 868/Batch 131 approved by the Governing Board on June 15, 2006.

~~If a borrower has FFELP loans held by multiple lenders, A borrower may request consolidation may be requested from any participating consolidation lender, regardless of whether the consolidating lender is a holder of any of the borrower's loans.~~
[§682.201(c)(2)(iii)]

Revise section 15.2 of the July 2005 *Common Manual*, page 4, column 1, paragraph 1 as follows:

- ~~• A borrower whose FFELP loans are held by a single lender must request consolidation from that lender. A borrower who requests consolidation from a lender that is not the borrower's sole FFELP loan holder must certify one of the following:~~
 - ~~— That the borrower sought and was unable to obtain a Federal Consolidation loan through the holder of the borrower's FFELP loans.~~
 - ~~— That the holder declined to provide a Consolidation loan to the borrower with an income-sensitive repayment schedule.~~
~~{§682.102(d)}~~

...

Revise subsection 15.3.C of the July 2005 *Common Manual*, page 7, column 1, paragraph 3, as follows:

Additional circumstances that may prevent a holder from completing the LVC include those in which:

- There is a judgment against the borrower on the loan for which the borrower has requested consolidation.
- The loan has been sold.
- The loan is more than 270 days past due and a default claim has been submitted to the guarantor.
- ~~The holder believes that it is the single holder of the borrower's FFELP loans and that the borrower does not qualify for consolidation with the consolidating lender.~~

If the holder is unable to certify the LVC due to one of these additional circumstances, the reason should be included on the LVC and the holder should return the LVC, or other written explanation, to the consolidating lender within 10 business days of the loan holder's receipt of the LVC.

~~If the holder is unable to certify the LVC because the holder believes that it is the single holder of all the borrower's FFELP loans, thereby asserting that the borrower does not qualify for consolidation with the consolidating lender, the holder must provide written notification to the consolidating lender and provide documentation supporting the single-holder assertion (see section 15.2 for more information on this single-holder provision). The supporting documentation may include National Student Loan Data System (NSLDS) records or a statement from the guarantor indicating the single-holder status. It is not the borrower's responsibility to demonstrate to the loan holder that multiple lenders hold his or her FFELP loans. [§682.209(j); DCL FP-04-02]~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Elimination of the Single-Holder Rule

The *Common Manual* has been revised to reflect statutory changes resulting from the Emergency Supplemental Appropriations Act, that allow a borrower of loans eligible for FFELP loan consolidation to seek consolidation from any lender even if the borrower's eligible loans are held by one holder.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower is now allowed to seek consolidation from any participating lender, even if his or her loans are held by one holder.

School:

A school may need to modify its counseling materials.

Lender/Service:

A participating lender may now accept a Consolidation loan application from any borrower and may not decline to certify a Loan Verification Certificate solely because it is the single holder of the borrower's loans.

Guarantor:

A guarantor may need to modify program review procedures.

U.S. Department of Education:

The Department may need to modify program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
July 27, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
October 12, 2006

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

Comments Received From:
AES/PHEAA, CSLF, EAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, OGSLP, PPSV, SCSLC, SLMA, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

Two commenters requested the basis reference be changed to 428C(b)(1)(A)(i) and (ii) to cover both the references to the single-holder rule and income-sensitive repayment.

Response:

The Committee agrees.

Change:

The basis has been changed as noted above.

COMMENT:

One commenter recommended that the basis include the *Federal Register*, dated August 9, 2006.

Response:

The Committee disagrees. The Department has provided guidance on this issue through a *Dear Colleague Letter*, which contains all the information necessary to amend *Common Manual* policy. The subsequently published *Federal Register* containing the regulatory changes from the Higher Education Reconciliation Act (HERA) did not provide any additional guidance than what had already been provided by the Department. Therefore, the Committee does not see the need to add a reference to the *Federal Register* dated August 9, 2006.

Change:

None.

COMMENT:

One commenter suggested that the text be revised to clarify that the holder of a loan is also an eligible lender. The commenter suggested that the current policy statement be revised as follows: "Current policy states that a borrower whose FFELP loans are held by a single lender must request consolidation from that ~~lender~~ holder."

Response:

The Committee disagrees. The purpose of the current policy statement is to explain the policy that will be changed. In this case, the current text uses the term "lender" instead of "holder". The use of the word "lender" accurately depicts this policy as it is now.

Change:

None.

COMMENT:

One commenter noted that in Section 15.2, page 3, column 2, last paragraph, the following section should also be revised to clarify that a borrower may “consolidate” a single, eligible loan. The commenter suggested language as follows:

“If a borrower has a FFELP loan(s) held by multiple lenders, consolidation may be requested from any participating consolidation lender...”

Response:

The Committee agrees with the commenter that a borrower may consolidate a single, eligible loan. However, as written, the Committee notes that the policy text may also erroneously infer that, in all cases, a borrower must have one or more FFELP loans to qualify for a FFELP Consolidation loan. Rather than attempt to comprehensively address borrower and underlying loan eligibility criteria in this succinct policy statement, the Committee believes that it is more appropriate to rely upon existing policies found elsewhere in section 15.2 (see page 4, column 1, bullet 2, and page 4, column 2, under the subheading “Loans That May Be Consolidated”), and focus here on the impact of the single-holder rule repeal.

Change:

The text has been revised as follows:

~~If a borrower has FFELP loans held by multiple lenders,~~ A borrower may request consolidation ~~may be requested~~ from any participating consolidation lender, regardless of whether the consolidating lender is a holder of any of the borrower’s loans.

COMMENT:

One commenter suggested that the text be revised to clarify that more than one circumstance may exist that would prevent a holder from certifying an LVC. The commenter suggested the following change to subsection 15.3.C, page 7, column 1, paragraph 3, as follows:

“If the holder is unable to certify the LVC due to ~~one~~ any of these additional circumstances...”

Response:

While the Committee understands the intent of this suggestion, the Committee believes this change is outside the scope of this proposal. Further, the current text provides a nonexclusive list of circumstances that may prevent a holder from completing the LVC, of which any may apply.

Change:

None.

COMMENT:

Two commenters noted that the regulatory references at the end of the paragraph in subsection 15.3.C should not be eliminated since the references are still valid.

Response:

The Committee agrees.

Change:

The reference cites have been restored to the text.

COMMENT:

Four commenters requested the School Implications section be revised as follows: “A school may need be ~~required~~ to modify its ~~their~~ counseling materials”. The first change clarifies that a school would not be mandated to change its counseling materials, but would need to do so in order to provide accurate information. The second change of “their” to “its” is a grammatical correction.

Response:

The Committee agrees.

Change:

The text has been modified to reflect the above changes.

COMMENT:

Two commenters suggested that the Lender Implications section be revised to clarify that a borrower may have only one Consolidation loan application pending at a given time. The commenter suggested that the text be revised as follows: "A participating lender may now accept a Consolidation loan application ~~applications~~ from any borrower and may not decline to certify a Loan Verification Certificate solely because it is the single holder of the borrower's loans."

Response:

The Committee agrees.

Change:

The suggested changes have been incorporated into the text.

djo/edited-as

H100

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: October 19, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Oct 19

SUBJECT: Cohort Default Rate Notification

AFFECTED SECTIONS: 16.1 Overview of Cohort Default Rates and Terminology

POLICY INFORMATION: 905/Batch 134

EFFECTIVE DATE/TRIGGER EVENT: Domestic school's receipt of draft and official cohort default rate notifications on or after June 1, 2005.

BASIS:
Dear Colleague Letter GEN-03-05; 2006-2007 *Federal Student Aid Handbook*, Volume 2, Chapter 10, page 2-182.

CURRENT POLICY:
Current policy states that the Department notifies schools of draft and official cohort default rates.

REVISED POLICY:
Revised policy adds information regarding the electronic process that the Department uses to notify domestic schools of draft and official cohort default rates.

REASON FOR CHANGE:
This change is necessary to include the Department's requirement for a domestic school to enroll in, and receive its draft and official cohort default rates electronically through, the Student Aid Internet Gateway (SAIG).

PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 16.1 of the July 2005 *Common Manual*, page 1, column 2, paragraph 2, by adding a new bullet 3, as follows:

Cohort Default Rate Terminology

Following are terms used throughout this chapter, defined solely as they pertain to cohort default rates:

- ...
- ...
- Cohort default rate notification: The process by which the Department notifies a school of its draft and official cohort default rates. The Department notifies a school of its cohort default rates as follows:
 - :- The Department uses an electronic cohort default rate (eCDR) process through the Student Aid Internet Gateway (SAIG) to notify a domestic school of its cohort default rates. All domestic schools must designate a SAIG destination point that will receive the school's eCDR notification packages. The designation of the eCDR destination point must be conducted through the SAIG enrollment process.
 - :- The Department notifies a foreign school of its cohort default rates via mail. [Cohort Default Rate Guide]
- ...

PROPOSED LANGUAGE - COMMON BULLETIN:

Cohort Default Rate Notification

The *Common Manual* has been revised to include an explanation of the electronic process by which the Department notifies a domestic school of its draft and official cohort default rates (eCDR) through the Student Aid Internet Gateway (SAIG). All domestic schools are required to enroll in the SAIG. Schools are required to designate a SAIG destination point for the receipt of the eCDR notifications. The Department mails draft and official cohort default rate notifications foreign schools.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

A domestic school must enroll in the SAIG and check its SAIG mailbox for draft and official cohort default rate notifications.

Lender/Servicer:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee**POLICY CHANGE PROPOSED BY:**

AES

DATE SUBMITTED TO CM POLICY COMMITTEE:

July 28, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

October 12, 2006

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, CSLF, EAC, Great Lakes, HESC< KHEAA, NASFAA, NCHELP, OGSLP, PPSV, SCSLC, SLMA, SLSA, TG, USA Funds, VSAC.

Responses to Comments

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

COMMENT:

Two commenters suggested that the proposed language for section 16.1, page 1, column 2, paragraph 2, new bullet 3 be revised to more closely follow the guidance in DCL GEN-03-05. Another commenter recommended the insertion of a definition of the term "Cohort default rate notification," and citing the *Cohort Default Rate Guide*.

RESPONSE:

The Committee agrees.

Change:

The proposed language for section 16.1, bullet 3 has been revised as follows:

- Cohort default rate notification: The process by which the Department notifies a school of its draft and official cohort default rates. The Department notifies a school of its cohort default rates as follows:
 - The Department uses an electronic cohort default rate (eCDR) process through the Student Aid Internet Gateway (SAIG) to notify a domestic school of its ~~draft and official~~ cohort default rates. All domestic schools must designate a SAIG destination point that will receive the school's eCDR notification packages. The designation of the eCDR destination point must be conducted through the ~~are required to enroll in SAIG enrollment process.~~
 - ~~Draft and official cohort default rate notifications are mailed to~~ The Department notifies a Fforeign school of its cohort default rates via mail.
[Cohort Default Rate Guide]

ke/edited - chh

I004

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: October 19, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Oct 19

SUBJECT: Federal Default Fee Versus Guarantee Fee

AFFECTED SECTIONS: 10.11.E Applying Funds Returned by the School
B.2 Option 2: Refinancing to Secure a Variable Interest Rate

POLICY INFORMATION: 906/Batch 134

EFFECTIVE DATE/TRIGGER EVENT: Federal Stafford and PLUS loans guaranteed on or after July 1, 2006.

BASIS: Higher Education Act of 1965, Section 428(b)(1)(H)(i) and (ii) and Section 428H(h), as amended by the Higher Education Reconciliation Act (HERA) of 2005; Dear Colleague Letter GEN-06-02.

CURRENT POLICY:

Current policy requires a lender that receives loan funds being returned by a school to apply the funds to the unpaid principal balance of the loan and reduce the guarantee and origination fee proportionate to the returned amount. Current policy also states that a borrower is not charged a guarantee fee for refinancing loans to secure a variable interest rate.

REVISED POLICY:

Revised policy in subsection 10.11.E clarifies that if a lender deducted the federal default fee (or guarantee fee), and/or origination fee from the borrower's loan proceeds, the lender must reduce the fee(s) proportionate to the amount of returned loan funds that a lender receives from a school. Revised policy in section B.2 clarifies that in refinancing a loan to secure a variable interest rate, the guarantor may not charge the borrower a federal default fee (formerly guarantee fee), nor may the lender deduct the fee from the borrower's loan proceeds.

REASON FOR CHANGE:

This change is made to comply with the statutory changes derived from the HERA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise subsection 10.11.E of the July 2005 *Common Manual*, page 21, column 2, paragraph 4, as follows:

10.11.E Applying Funds Returned by the School

Funds that the lender receives from a school must be applied to the unpaid principal balance of the loan but must not affect the borrower's next payment due date. How a lender processes the borrower's loan fees depends on which party originally paid the fees, as follows:

- If the lender deducted the federal default fee (or guarantee fee), and/or the origination fee from the borrower's loan proceeds, the lender must reduce the guarantee fee(s) and origination fee proportionate to the returned amount.
- If the lender paid the federal default fee (or guarantee fee) and/or origination fee instead of deducting the fee(s) from the borrower's loan, the lender may retain the fee(s) and is not required to refund the fee(s) to the borrower.

The lender must notify the guarantor promptly whenever funds returned by the school are applied to a loan and must provide the amount of the returned funds and the date returned funds were received from the school. The lender may provide notification using a guarantor's loan status change document or an equivalent tape file or electronic exchange. See subsections 7.8.C and 7.9.C for more information about the refund of ~~guarantee and origination fees.~~

[§682.202(c)(7) and (d)(4)]

...

Revise section B.2 of July 2005 *Common Manual*, page 2, column 1, paragraph 2, as follows:

In refinancing loans under Option 2, the guarantor may not charge the borrower a borrower is not charged a federal default fee (formerly guarantee fee), nor may the lender deduct the fee from the borrower's loan proceeds for refinancing loans under Option 2. However, the lender may opt to charge a borrower whose PLUS or SLS loans are refinanced under Option 2 an administrative fee of up to \$100. Only one such administrative fee may be charged on each refinancing transaction. If the lender charges an administrative fee for refinancing under Option 2, the lender must collect the fee from the borrower up front—the lender cannot capitalize the fee. Also, when advising the borrower of the advantages of refinancing his or her loans under Option 2, the lender must subtract this fee from any cost savings the borrower may realize during the repayment period.
[§682.202(e);§682.209(e)]

...

PROPOSED LANGUAGE - COMMON BULLETIN:

Return of the Federal Default Fee (or Guarantee Fee)

Subsection 10.11.E of the *Common Manual* has been revised to reflect the change in terminology from guarantee fee to federal default fee and to clarify that if a lender deducted the federal default fee (or guarantee fee), and/or origination fee from the borrower's loan proceeds, the lender must reduce the fee(s) proportionate to the amount of returned loan funds that the lender receives from a school. In addition, section B.2 has been revised to clarify that in refinancing a loan to secure a variable interest rate, the guarantor may not charge the borrower a federal default fee (formerly guarantee fee), nor may the lender deduct the fee from the borrower's loan proceeds.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

August 1, 2006

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PROPOSAL DISTRIBUTED TO:

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Interested Industry Groups and Others
Common Manual Governing Board Representatives

Comments Received From:

AES/PHEAA, CSLF, EAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, OGSLP, PPSV, SCSLC, SLMA, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

One commenter suggested adding FP-06-05, FP-06-07, and the *Federal Register* dated August 9, 2006 to the basis of the proposal.

Response:

The Committee does not agree with adding FP-06-05 as its primary focus is on the new Grad PLUS program parameters and not the federal default fee. In addition, although the Committee understands that the federal default fee is discussed in FP-06-07, this DCL is targeted towards a guarantor's reporting of such fee on Form 2000 and not on when the fee is to be charged or not charged. Finally, the statutory citations and DCL identified in the basis statement contain all the information necessary to amend *Common Manual* policy. The subsequently published *Federal Register* related to HERA regulatory changes did not add any additional guidance to what has already been provided by the Department. Therefore, the Committee does not see the need to add reference to the *Federal Register* dated August 9, 2006.

Change:

None.

COMMENT:

One commenter suggested wording changes to the revised policy statement, section B.2, and the Common Bulletin language to clarify that the federal default fee is not charged by a lender, it is charged by the guarantor.

Other commenters noted that the Common Bulletin language should be revised to reflect the primary focus of the policy proposal rather than the change in terminology from guarantee fee to federal default fee.

Response:

The Committee agrees.

Change:

The following have been revised to reflect the commenters' concerns:

REVISED POLICY:

Revised policy in section B.2 clarifies that in refinancing a loan to secure a variable interest rate, neither the guarantor may not charge the borrower a federal default fee (formerly guarantee fee), nor may the lender deduct the a federal default fee (or formerly guarantee fee) from the borrower's loan proceeds.

Section B.2

In refinancing loans under Option 2, the guarantor may not charge the borrower Neither the guarantor nor the lender may charge a borrower a federal default fee (formerly guarantee fee), nor may the lender deduct the fee from the borrower's loan proceeds for refinancing loans under Option 2.

Common Bulletin Language:

Return of the Federal Default Fee (or Guarantee Fee) Versus Guarantee Fee

The *Common Manual* has been revised to reflect the change from guarantee fee to federal default fee as made to the HEA through the HERA of 2005: Subsection 10.11.E of the *Common Manual* has been

revised to reflect the change in terminology from guarantee fee to federal default fee and to clarify clarifies that if a lender deducted the federal default fee (or guarantee fee), and/or origination fee from the borrower's loan proceeds, the lender must reduce the fee(s) proportionate to the amount of returned loan funds that the lender receives from a school. In addition, section B.2 has been revised to clarify that neither the guarantor nor the lender may charge a borrower a federal default fee (formerly guarantee fee) for in refinancing a loan to secure a variable interest rate, the guarantor may not charge the borrower a federal default fee (formerly guarantee fee), nor may the lender deduct the fee from the borrower's loan proceeds.

COMMENT:

Several commenters suggested revisions to clarify that the lender is able to deduct the federal default fee and/or the origination fee. The commenters noted that, as written, the text in subsection 10.11.E implies that the lender is only permitted to deduct one or the other and not both. Another commenter suggested a formatting change to the paragraph so it reads more easily. In addition, several commenters suggested adding reference to §682.202(d)(4) as it, too, applies to the return of the federal default fee (or guarantee fee).

Response:

The Committee agrees.

Change:

The text of subsection 10.11.E is revised as follows:

10.11.E Applying Funds Returned by the School

Funds that the lender receives from a school must be applied to the unpaid principal balance of the loan but must not affect the borrower's next payment due date. How a lender processes the borrower's loan fees depends on which party originally paid the fees, as follows:

- If the lender deducted the federal default fee (or guarantee fee), and/or the origination fee from the borrower's loan proceeds, the lender must reduce the ~~guarantee fee(s) and origination fee~~ proportionate to the returned amount.
- If the lender paid the federal default fee (or guarantee fee) and/or origination fee instead of deducting the fee(s) from the borrower's loan, the lender may retain the fee(s) and is not ~~required to~~ refund the fee(s) to the borrower.

The lender must notify the guarantor promptly whenever funds returned by the school are applied to a loan, and must provide the amount of the returned funds and the date returned funds were received from the school. The lender may provide notification using a guarantor's loan status change document or an equivalent tape file or electronic exchange. See subsections 7.8.C and 7.9.C for more information about the refund of ~~guarantee and origination~~ fees.
[§682.202(c)(7) and (d)(4)]

Corresponding changes were also made to the revised policy statement to reflect this comment.

COMMENT:

Several commenters suggested adding reference to §682.209(f) to section B.2, page 2, column 1, paragraph 2.

Response:

The Committee disagrees with the addition of §682.209(f), as this regulation speaks to the ability of a borrower to obtain a variable-rate loan by discharge of the borrower's previous fixed-rate loan, not a refinancing of the fixed rate loan. The Committee, however, does see the need to add reference to §682.209(e), which is the applicable cite that relates to a lender's ability to charge an administrative fee when refinancing a fixed rate PLUS or SLS loan to secure a variable interest rate.

Change:

The regulatory citation has been added.

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: October 19, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Oct 19

SUBJECT: Refinancing Fixed-Rate PLUS or SLS Loans

AFFECTED SECTIONS: B.2 Option 2: Refinancing to Secure a Variable Interest Rate
B.3 Option 3: Refinancing by Obtaining a New Loan

POLICY INFORMATION: 907/Batch 134

EFFECTIVE DATE/TRIGGER EVENT: PLUS or SLS loans first disbursed prior to July 1, 1987.

BASIS:

Higher Education Act of 1965, Section 428B(e)(2) and (3), as amended; §682.209(e) and (f).

CURRENT POLICY:

Current policy does not explain the disbursement date limitations applicable to the refinancing options for a fixed-rate PLUS or SLS loan.

REVISED POLICY:

Revised policy adds the statutory limitations that define which loans may be refinanced for the purpose of changing a fixed-rate PLUS or SLS loan to a variable-rate loan.

REASON FOR CHANGE:

Current policy is incomplete. Given that PLUS loans are made at fixed rates beginning July 1, 2006, there may be some confusion regarding the applicability of the fixed-rate option.

PROPOSED LANGUAGE - COMMON MANUAL:

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

**B.2
Option 2: Refinancing to Secure a Variable Interest Rate**

At a borrower's request, the lender may refinance a fixed interest rate PLUS or SLS loan that was first disbursed prior to July 1, 1987, at a variable interest rate. The variable interest rate is determined annually and is effective from July 1 through June 30 of the following year. The rate is equal to the bond equivalent rate of the 52-week Treasury bills auctioned at the final auction held before June 1 of each year, plus 3.25%—not to exceed 12%.
[HEA 428B(e)(2) and (3); §682.202(a)(2)(ii) and (3)(ii); §682.209(e) and (f)]

Revise section B.3, page 2, column 2, paragraph 1, as follows:

If a lender holding a fixed-rate PLUS or SLS loan(s) that was first disbursed prior to July 1, 1987, denies the borrower the option of refinancing his or her eligible PLUS or SLS loan(s) to secure a variable rate, the borrower may apply to another lender for a new loan that pays the loan held by the original lender in full. Under this option, the lender making the new loan must send the proceeds of the new loan to the current holder to retire the borrower's original debt.
[HEA 428B(e)(2) and (3); §682.209(e) and (f)(1)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Refinancing Fixed-Rate PLUS or SLS Loans

Appendix B of the *Common Manual* explains policies for the refinancing of fixed-rate PLUS and SLS loans to obtain a variable interest rate or to combine repayment. Revised policy clarifies that these refinancing options are applicable only to fixed-rate PLUS or SLS loans first disbursed prior to July 1, 1987.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

March 17, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

October 12, 2006

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

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AES/PHEAA, CSLF, EAC, Great Lakes, HESC, KHEAA, NASFAA, NCHELP, OGSLP, PPSV, SCSLC, SLMA, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

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COMMENT:

One commenter suggested adding the statutory and regulatory citations listed in the basis statement to the paragraphs where changes are being made.

Response:

The Committee agrees.

Change:

The statutory and regulatory cites have been added as suggested.

COMMENT:

One commenter was confused by the proposal questioning the fact that since PLUS loans can no longer be made at a variable interest rate, how could they then be refinanced to secure a variable interest rate? The commenter also stated that the change may create confusion for staff new to the *Common Manual*.

Response:

Federal regulations continue to allow for the refinancing of a fixed rate PLUS or SLS loan that was first disbursed prior to July 1, 1987. This change is being made to clarify that refinancing is limited to these specific loans and not new fixed-rate PLUS loans disbursed on or after July 1, 2006. The Committee feels that without this clarifying language, readers (particularly those new to the industry) would be more confused and may extend the refinance ability to new fixed-rate loans.

Change:

None.

bg-jcs-nm/edited-aes