

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
911	Claim file Documentation Requirements Moved to "Considered" by the Policy Committee	<u>13.1.D Claim File Documentation</u> Revised policy moves the statement that the guarantor may require additional documentation or information for a claim to a more prominent location, and revises text to emphasize that the documentation or information may be required before completing processing of a claim or after claim payment in order to resolve a borrower dispute or assist in the school's review of its cohort default rate. Revised policy also states that the Claim form or its electronic equivalent format must be complete and legible.	Guarantor	Claims filed by the lender on or after the guarantor's implementation of the Common Claim Initiative.
909	NSLDS Ad Hoc Reporting Previously distributed in Batch 135.	<u>9.2 Student Enrollment Status Reporting</u> <u>9.2.B Reporting Student Enrollment Changes to the Lender or Guarantor</u> Revised policy states that in addition to submitting regular reports to the NSLDS, a school may be required to report a change in the student's enrollment status that affects the grace period, repayment responsibility, or deferment privileges of a borrower through an ad hoc report. An ad hoc report must be submitted within 30 days unless the school expects to submit a Submittal File within the next 60 days. Revised policy also provides ad hoc reporting methods a school may use. In addition, subsection 9.2.B has been renamed "Ad Hoc Reporting" and a new subsection 9.2.C "Information Sharing with the Department, a Lender, or a Guarantor" has been added.	Federal	Enrollment status changes reported by the school on or after March 1, 1997.

912	Guarantor Review of Exceptional Performer Claims	<p><u>13.2 Claim Returns</u></p> <p>Revised policy adds that a guarantor may not return a claim due to errors in repayment conversion, due diligence, or timely filing for a lender or lender servicer designated as an exceptional performer. However, if the lender is unable to provide a complete claim or if the loan is otherwise ineligible for claim payment (such as ineligibility for claim payment due to a previous, unresolved loss of loan guarantee) the claim file must be returned despite the lender's or servicer's exceptional performer designation.</p>	Federal	Claims filed by exceptional performer lenders and lender servicers on or after March 2004.
913	Lender Disbursement through an Escrow Agent	<p><u>7.7 Disbursing the Loan</u></p> <p>Revised policy requires a lender that disburses loan proceeds through an escrow agent to make funds available to the escrow agent no earlier than 10 days prior to the date of the scheduled disbursement.</p>	Federal	Loan proceeds paid by a lender to an escrow agent on or after July 1, 2006.
914	Bankruptcy Claims and Exceptional Performer Lenders	<p><u>13.1.A Claim Filing Requirement</u> <u>13.5 claim Purchase</u></p> <p>Revised policy adds a statement that bankruptcy claims filed by exceptional performers are subject to a review of the lender's compliance with standard bankruptcy policies and requirements. The lender's failure to comply with those requirements may result in the guarantor's return of the bankruptcy claim to the lender, or, if the claim has been purchased, the lender's repurchase of the loan(s).</p>	Federal	Bankruptcy notifications received by the lender or after July 1, 2007, unless implemented earlier by the guarantor.
915	False Certification Claim Purchase Time Frame	<p><u>13.3 Claim Purchase or Discharge Payment</u> <u>13.8.D False Certification by the School</u></p> <p>Revised policy creates consistency between two pieces of text and inserts text to acknowledge the various ways in which a borrower may be determined eligible for false certification loan discharge.</p>	Correction	Retroactive to the implementation of the <i>Common Manual</i> .

916	Stafford Loan Limits	<p><u>Figure 6-4 Stafford Annual Loan Limits</u></p> <p>Revised policy clarifies the content of Figure 6-4 by changing the title to "Stafford Undergraduate Annual and Aggregate Loan Limits," and corrects the numerator of the loan proration formula for a program of study that is less than one academic year in length, to read "number of weeks <i>enrolled</i> in program."</p>	Correction	Retroactive to the implementation of the <i>Common Manual</i> .
917	Deferment Eligibility	<p><u>11.2 ACTION Program Deferment</u> <u>11.3 Armed Forces Deferment</u> <u>11.4 Economic Hardship Deferment</u> <u>11.6 In-School Deferment and Summer Bridge</u> <u>11.7 Internship/Residency Deferment</u> <u>11.8 Military Deferment</u> <u>11.9 National Oceanic and Atmospheric Administration Corps Deferment</u> <u>11.10 Parental Leave Deferment</u> <u>11.11 Peace Corps Deferment</u> <u>11.12 Public Health Service Deferment</u> <u>11.14 Tax-Exempt Organization Volunteer Deferment</u> <u>11.15 Teacher Shortage Area or Targeted Teacher Deferment</u> <u>11.18 Working Mother Deferment</u></p> <p>Revised policy states that deferment is <i>available to a borrower</i> who is experiencing conditions that qualify the borrower for the deferment.</p>	Correction	Retroactive to the implementation of the <i>Common Manual</i> .
918	Delinquency Period and the Default Definition	<p><u>appendix G</u></p> <p>Revised policy removes the reference to 270 "consecutive" days, and defines "default" in the glossary as the failure of a borrower (or endorser or comaker, if any) to make installment payments when due, provided that this failure persists for the most recent period of 270 days for a loan repayable in monthly installments.</p>	Correction	Retroactive to the implementation of the <i>Common Manual</i> .

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: NSLDS Ad Hoc Reporting

AFFECTED SECTIONS: 9.2 Student Enrollment Status Reporting
9.2.B Reporting Student Enrollment Changes to the Lender or Guarantor

POLICY INFORMATION: 909/Batch 135

EFFECTIVE DATE/TRIGGER EVENT: Enrollment status changes reported by a school on or after March 1, 1997.

BASIS:

§682.610(c)(2); *Dear Colleague Letters* GEN-96-17 and GEN-96-L-189; October 2005 *NSLDS Enrollment Reporting Guide*, Chapter 3, Section 3.3.

CURRENT POLICY:

Current policy states that federal regulations specify conditions under which a school is to report changes in the student's enrollment status directly to the applicable lender or guarantor. Current policy also states that unless a school expects to report to either the NSLDS or a third-party servicer within 60 days of discovering a change in an enrolled borrower's permanent address, the school should notify the holder of the loan directly or through the guarantor of changes in an enrolled borrower's permanent address within 30 days.

REVISED POLICY:

Revised policy states that in addition to submitting regular reports to the NSLDS, a school may be required to report a change in the student's enrollment status that affect the grace period, repayment responsibility, or deferment privileges of a borrower through an ad hoc report. An ad hoc report must be submitted within 30 days unless the school expects to submit a Submittal File within the next 60 days. Revised policy also provides ad hoc reporting methods the school may use. In addition, subsection 9.2.B has been renamed "Ad Hoc Reporting" and new subsection 9.2.C "Information Sharing with the Department, a Lender, or a Guarantor" has been added.

REASON FOR CHANGE:

This change is necessary to align *Common Manual* language with federal regulations.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 9.2, page 2, column 2, paragraph 2, of the October 2006 *Common Manual*, as follows:

Reporting by All Schools Except Foreign Schools

All schools . . . If a student's enrollment status changes and the school does not expect its NSLDS enrollment reporting to be completed within the next 60 days, the school must submit an ad hoc report within 30 days. See subsection 9.2.B.
[§682.610(c)]

Revise subsection 9.2.B, page 5, column 1, paragraph 3, as follows:

9.2.B

**Reporting Student Enrollment Status Changes to the Lender or Guarantor
Ad Hoc Reporting**

In addition to being required to submit regular reports to the National Student Loan Data System (NSLDS), a school may be required to report changes in the student's enrollment status that affect the grace period, repayment responsibility, or deferment privileges of a borrower through an ad hoc report.

requiring the timely completion of student enrollment reporting, federal regulations specify conditions under which a school is to report changes in the student's enrollment status directly to the applicable lender or guarantor:

Unless the school expects to submit a Submittal File within the next 60 days, the school (or its third-party servicer) must ~~report to the lender or guarantor~~ submit an ad hoc report to the NSLDS within 30 days of discovering that a student for whom a FFELP loan was made:

- Has dropped to less-than-half-time enrollment.
- Has failed to enroll on at least a half-time basis.
- Has ceased to be enrolled on a full-time basis.
[§682.610(c)(2)]

Ad hoc reporting to the NSLDS can be done by one of the following methods:

- Submitting an unscheduled Submittal File containing detail for enrollment status changes (created on a PC or mainframe).
- Updating the student records online using the Enrollment Update functions on the NSLDS Website under the ENROLL tab.
- Updating and returning an unscheduled Enrollment Reporting roster file requested from the NSLDS. It may be updated and returned as a Submittal File through the Student Aid Internet Gateway (SAIG) or updated online.

~~A school should notify the lender and/or guarantor of an enrollment status change by any means acceptable to the guarantor (such as an individual letter on school letterhead, a computer-generated report, or a specific form provided by the guarantor):~~

By providing notice of a change in student status as outlined in this subsection, participating schools help the lender promptly establish repayment terms with the borrower. This will help prevent FFELP loan defaults and assist in controlling the school's cohort default rate.
[October 2005 NSLDS Enrollment Reporting Guide, Chapter 3, Section 3.3]

9.2.C

Information Sharing with the Department, a Lender, or a Guarantor

A school (or its designated servicer) is required—upon request by the Department, a lender, or a guarantor—to promptly provide any information the school has regarding the last known address, full name, telephone number, enrollment information, employer and employer address of a ~~borrower~~ student who attends or has attended the school. The school should respond to such a request within 30 days.

[§668.24(f)(4)]

In addition, a school (or its designated servicer) must respond to all requests for borrower information from guarantors and lenders, including information needed to locate the borrower, to determine the borrower's eligibility for deferment, or to establish the borrower's repayment schedule.

[2006-07 Federal Student Aid Handbook, Volume 2, Chapter 10, p. 2-172]

If the school discovers that a student who is enrolled and who has received a Stafford or SLS loan has changed his or her permanent address, the school is required to notify the holder of the loan of the new address within 30 days, either directly or through the guarantor.

[§682.610(c)(2)(iv)]

~~Schools should be aware that the National Student Loan Data System (NSLDS) and some third-party servicers, in addition to reporting enrollment status changes, are capable of reporting to lenders and guarantors changes in an enrolled borrower's full name, permanent address, telephone number, enrollment information, employer, and employer address. However, the reporting frequencies of the~~

NSLDS or the third-party servicer may not comply with the required federal 30-day time frame for school reporting of changes in an enrolled borrower's address.

Unless a school expects to report to either the NSLDS or a third-party servicer within 30 days of discovering a change in an enrolled borrower's permanent address, the school should notify the holder of the loan directly or through the guarantor of changes in an enrolled borrower's permanent address. [~~§668.24(f)(4); §682.610(e)(2); DCL 96-L-186/96-G-287~~]

PROPOSED LANGUAGE - COMMON BULLETIN:

NSLDS Ad Hoc Reporting

The *Common Manual* has been updated to include information regarding the National Student Loan Data System (NSLDS) ad hoc reporting. In addition to submitting regular reports to the NSLDS, a school is required to report enrollment status changes that affect the grace period, repayment responsibility, or deferment privileges of a borrower. An ad hoc report must be submitted within 30 days unless the school expects to submit a Submittal File within the next 60 days. Revised policy also provides ad hoc reporting methods the school may use.

A school (or its designated servicer) must respond to all requests for borrower information from guarantors and lenders for information about recipients of Title IV loan funds—including information needed to locate the borrower, to determine the borrower's eligibility for deferment, or to establish the borrower's repayment schedule.

In addition, subsection 9.2.B has been renamed "Ad Hoc Reporting" and a new subsection 9.2.C "Information Sharing with the Department, a Lender, or a Guarantor" has been added.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

A school (or its designated servicer) may need to update procedures to ensure that all enrollment reporting is submitted through the National Student Loan Data System (NSLDS) within the required time frame.

Lender/Servicer:

None.

Guarantor:

Guarantors may need to update internal policies and procedures.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

December 16, 2004

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others

Comments Received From:

AES/PHEAA, ASA, EAC, Great Lakes, 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 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:

Three commenters suggested revising the Effective Date/Trigger Event to March 1, 1997, due to guidance within DCL GEN-96-17 that provided a revised implementation date for NSLDS SSCR reporting.

Response:

The Committee agrees.

Change:

The Effective Date/Trigger Event has been changed to reflect the March 1, 1997, effective date.

COMMENT:

One commenter felt that requiring a school to submit an ad hoc report to the NSLDS when reporting a change in a student's permanent address may be incorrect as they could not find any reference to this within the NSLDS Enrollment Reporting Guide. The commenter also stated that current policy indicates that this type of change is to be reported by the school to the loan holder or guarantor directly.

Response:

The Committee agrees that the NSLDS Reporting Guide covers only enrollment reporting.

Change:

Language regarding the requirement that a school report a change in a student's permanent address has been deleted from subsection 9.2.B, Ad Hoc Reporting. This language has been reinstated in subsection 9.2.C, Information Sharing with the Department, a Lender, or a Guarantor.

COMMENT:

One commenter suggested that the manual would be more usable if the text included an explanation of what ad hoc reporting involves.

Response:

The proposal text now includes information about all methods a school might employ to facilitate Ad Hoc reporting.

Change:

Subsection 9.2.B has been further revised to add a new paragraph four as follows:

Ad hoc reporting to the NSLDS can be done by one of the following methods:

- Submitting an unscheduled Submittal File containing detail for enrollment status changes (created on a PC or mainframe).
- Updating the student records online using the Enrollment Update functions on the NSLDS Website under the ENROLL tab.
- Updating and returning an unscheduled Enrollment Reporting roster file requested from the NSLDS. It may be updated and returned as a Submittal File through the Student Aid Internet Gateway (SAIG) or updated online.

om/edited-kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: Guarantor Review of Exceptional Performer Claims

AFFECTED SECTIONS: 13.2 Claim Returns

POLICY INFORMATION: 912/Batch 136

EFFECTIVE DATE/TRIGGER EVENT: Claims filed by exceptional performer lenders and lender servicers on or after March 2004.

BASIS:

§682.415(b)(5)(i) and (ii); *Dear Colleague Letter* FP-04-04, Q1.17/A1.17, Q1.22/A1.22, and Q1.24/A1.24.

CURRENT POLICY:

Current policy states that a claim filed by an exceptional performer lender or lender servicer is paid at 99% of the amount of interest and principal on the loan.

REVISED POLICY:

Revised policy adds that a guarantor may not return a claim due to errors in repayment conversion, due diligence, or timely filing for a lender or lender servicer designated as an exceptional performer. However, if the lender is unable to provide a complete claim or if the loan is otherwise ineligible for claim payment (such as ineligibility for claim payment due to a previous, unresolved loss of loan guarantee) the claim file must be returned despite the lender's or servicer's exceptional performer designation.

REASON FOR CHANGE:

The Department's guidance stipulates that a guarantor may not return a claim for violations of due diligence, timely filing, or repayment conversion errors. However, if the claim evidences other material errors in the loan's servicing or the lender or lender servicer is unable to provide a complete claim, the claim must be returned, even to an exceptional performer lender or lender servicer.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 13.2 of the October 2006 *Common Manual*, page 5, column 2, by inserting a new paragraph 3, as follows:

**13.2
Claim Returns**

A guarantor will return (send back) a claim to the lender under certain circumstances. The guarantor will notify the lender of the reason for the return. Most claim returns occur for one or more of the following reasons:

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

A guarantor may not return a claim due to errors in repayment conversion, due diligence, or timely filing to a lender or lender servicer designated as an exceptional performer. However, if the lender is unable to provide a complete claim or if the loan is otherwise ineligible for claim payment (such as due to a previous, unresolved loss of loan guarantee) the guarantor must return the claim file despite the lender's or servicer's exceptional performer designation.
[§682.415(b)(5)(i); DCL FP-04-04]

PROPOSED LANGUAGE - COMMON BULLETIN:

Guarantor Review of Exceptional Performer Claims

The *Common Manual* has been revised to state that a guarantor may not return a claim due to errors in repayment conversion, due diligence, or timely filing to a lender or lender servicer designated as an exceptional performer. However, if the lender is unable to provide a complete claim or if the loan is otherwise ineligible for claim payment (such as due to a previous, unresolved loss of loan guarantee) the guarantor must return the claim file despite the lender's or servicer's exceptional performer designation.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Servicer:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 8, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Guarantor Representatives

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESC, KHEAA, NCHELP, NSLP, OGSLP, PPSV, SLND, SLSA, SCSLC, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter noted that the basis of this proposal language comes from the "Claim Review" section of DCL FP-04-04 and is not applicable to Exceptional Performer Designation in section 3.9 of the manual. The

commenter suggests that the language is more applicable to the claim review process located in section 13.2. The commenter also suggested slight rewording of the newly added language to ensure that when the text is moved to 13.2, it accurately references its applicability to a lender or lender servicer designated as an exceptional performer.

Response:

The Committee agrees that the language fits well in section 13.2 and thanks the commenter for the suggestion regarding placement of the proposed language. However, the Committee believes that the best placement within section 13.2 is after the first set of bullets.

Change:

The proposed language is relocated for placement in section 13.2, page 5, column 2, as a new paragraph 3, as follows:

**“13.2
Claim Returns**

A guarantor will return (send back) a claim to the lender under certain circumstances. The guarantor will notify the lender of the reason for the return.

Most claim returns occur for one or more of the following reasons:

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

A guarantor may not reject or return a claim due to errors in repayment conversion, due diligence, or timely filing to a lender or lender servicer designated as an exceptional performer. However, if the claim file is incomplete or the loan(s) is otherwise ineligible for claim payment (such as due to a previous, unresolved loss of loan guarantee) the claim file may be returned or the claim may be rejected despite the lender's or servicer's exceptional performer status.

[DCL FP-04-04]

COMMENT:

Two commenters suggested deleting the citation §682.415(a)(1) from the first paragraph in section 3.9 and replacing it with §682.415(a)(5) and (b)(5)(i). A third commenter suggested deleting the citation §682.415(b)(5)(i) from section 3.9, paragraph 3 and adding it as a citation to the first paragraph.

Response:

The Committee researched the regulatory citations and found that §682.415(a)(1) accurately supports some of the current language in the first paragraph of section 3.9. Further, the Committee found that language in §682.415(b)(5)(i) does support part of the proposed language which is now being inserted in section 13.2 based on the first change statement above.

Change:

The citation §682.415(b)(5)(i) has been added to section 13.2, page 5, column 2, under the new paragraph 3.

COMMENT:

One commenter suggested adding a sentence to the end of the newly inserted paragraph, as follows: “A guaranty agency also may require a lender servicer to repurchase a loan if the agency determines after claim payment that the loan should not have been submitted as a claim.”

Response:

The Committee agrees that this suggestion has merit, but the section on claim returns may not be the best placement for this repurchase language. The Committee will consider adding this information to the claim repurchase section of the manual in a separate policy proposal.

Change:

None.

COMMENT:

One commenter suggested changes to the proposed language based on FP-04-04, Q1.22/A1.22, which states that if the guarantor determines that the claim is incomplete or otherwise ineligible, it *must* reject the claim.

Response:

The Committee agrees. However, as the Committee researched comments to this proposal, it discussed the terms “returned” and “rejected” being used interchangeably within the context of the newly added paragraph. The Committee found that the previous discussion regarding these terms had taken place during the comment response process for approved policy 138 in batch 32. As the result of that policy, the industry adopted the term “return” to describe cases when a guarantor could not process a claim because of circumstances that include incomplete documentation or loss of guarantee (see section 13.2). For that reason, it was decided that the term “return” would be used rather than “reject.” In addition, while the Committee agrees that the guidance provided in FP-04-04 states an incomplete claim must be returned, existing common policy in subsection 13.1 E permits a guarantor to attempt to obtain missing documentation instead of immediately returning an incomplete claim after the initial review. The Committee believes that the proposed policy statement in 13.2 regarding incomplete claims should recognize the flexibilities provided for in subsection 13.1.E.

Change:

The proposed text has been revised as follows:

A guarantor may not ~~reject or~~ return a claim due to errors in repayment conversion, due diligence, or timely filing to a lender or lender servicer designated as an exceptional performer. However, if the ~~claim file is incomplete~~ lender is unable to provide a complete claim or the loan(s) is otherwise ineligible for claim payment (such as ineligibility for claim payment due to a previous, unresolved loss of loan guarantee) the guarantor must return the claim file ~~may be returned or the claim may be rejected~~ despite the lender's or servicer's exceptional performer designation.

Also, Q1.22/A1.22 has been added to the basis.

bg/edited-tm

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: Lender Disbursement through an Escrow Agent

AFFECTED SECTIONS: 7.7 Disbursing the Loan

POLICY INFORMATION: 913/Batch 136

EFFECTIVE DATE/TRIGGER EVENT: Loan proceeds paid by a lender to an escrow agent on or after July 1, 2006.

BASIS:

Higher Education Act of 1965, section 428(i)(1), as amended by the Higher Education Reconciliation Act (HERA) of 2005; *Dear Colleague Letter* GEN-06-02/FP-06-01.

CURRENT POLICY:

Current *Common Manual* policy does not address the time frame in which the lender must fund the escrow account prior to disbursement.

REVISED POLICY:

Revised policy requires a lender that disburses loan proceeds through an escrow agent to make funds available to the escrow agent no earlier than 10 days prior to the date of the scheduled disbursement.

REASON FOR CHANGE:

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

PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 7.7 of the October 2006 *Common Manual*, page 12, column 1, paragraph 1, as follows:

A lender that disburses loan proceeds through an escrow agent must make funds available to the escrow agent no earlier than 10 days prior to the date of the scheduled disbursement to the school or borrower and must require the escrow agent to disburse loan proceeds no later than 10 days after receiving the proceeds from the lender.
[HEA 428(i)(1)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Lender Disbursement through an Escrow Agent

The *Common Manual* has been revised to reflect statutory changes derived from the HERA requiring a lender that disburses loan proceeds through an escrow agent to make funds available to the escrow agent no earlier than 10 days prior to the date of the scheduled disbursement.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

Lenders may need to modify disbursement procedures for funds disbursed through an escrow agent.

Guarantor:

Guarantors 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:

TG

DATE SUBMITTED TO CM POLICY COMMITTEE:

July 12, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, KHEAA, NCHELP, NSLP, NYHESC, PPSV, OGSLP, SCSLC, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Several 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 asked that the basis be corrected to Higher Education Act of 1965, section 428(i)(1) instead of 428(l)(1).

Response:

The Committee agrees.

Change:

The basis has been corrected accordingly.

COMMENT:

Three commenters asked that the basis be corrected to reflect the *Dear Colleague Letter* as both GEN-06-02 and as FP-06-01.

Response:

The Committee agrees with this correction.

Change:

The basis has been corrected to reflect the *Dear Colleague Letter* as GEN-06-02/FP-06-01.

COMMENT:

One commenter suggested that, in order to distinguish between payment of fees to an escrow agent for services rendered versus transfer of funds between parties, the proposed language in section 7.7 be revised as follows:

“A lender that disburses loan proceeds through an escrow agent must make ~~payment of funds~~ available to the escrow agent no earlier than 10 days prior to the date the funds are disbursed to the borrower...”

Response:

The Committee agrees that using the words “funds available” is clearer than “payment of funds”.

Change:

The above change has been incorporated into the text of the proposed language.

COMMENT:

One commenter suggested the following change to section 7.7, to keep terminology consistent:

“A lender that disburses loan proceeds through an escrow agent must make funds available to the escrow agent no earlier than 10 days prior to the date the ~~funds loan proceeds~~ are disbursed to the borrower and must require the escrow agent to disburse loan proceeds no later than 10 days after receiving the proceeds from the lender.”

Two other commenters suggested a different change to the same policy proposal text to clarify that changes may occur to the disbursement date that are beyond the lender’s control after the date the lender delivers funds to the escrow agent.

Response:

The Committee agrees with the change recommended by the two commenters referenced immediately above.

Change:

The policy proposal text in section 7.7 has been revised as follows:

“A lender that disburses loan proceeds through an escrow agent must make funds available to the escrow agent no earlier than 10 days prior to the date ~~the funds are disbursed~~ of the scheduled disbursement to the borrower...”.

COMMENT:

Two commenters suggested that the proposed language in section 7.7 be revised as follows:

“A lender that disburses loan proceeds through an escrow agent must make payment of funds to the escrow agent no earlier than 10 days prior to the date the funds are disbursed to the borrower or school. . .”

Response:

The Committee agrees. 34 CFR 682.408(c)(1) includes references to the transfer of Stafford and PLUS loan proceeds from the escrow agent to the school or borrower.

Change:

The proposed language is amended to include this change.

COMMENT:

One commenter suggested that the language in section 7.7 which states that the lender must require the escrow agent to disburse the loan proceeds no later than 10 days after receiving the proceeds from the lender be removed, as this places additional requirements on lenders that are not in the regulations.

Response:

The Committee does not agree. This change was a result of a HERA change and was incorporated into the manual as the result of policy proposal #872 in batch 131.

Change:

None.

djo/edited-as/kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: Bankruptcy Claims and Lenders Designated as Exceptional Performers

AFFECTED SECTIONS: 13.1.A Claim Filing Requirements
13.5 Claim Repurchase

POLICY INFORMATION: 914/Batch 136

EFFECTIVE DATE/TRIGGER EVENT: Bankruptcy notifications received by the lender or after July 1, 2007, unless implemented earlier by the guarantor.

BASIS:
34 CFR 682.402(f)(4); FP-04-04, Q1.17/A1.17 and Q1.22/A1.22; Private letter guidance issued by the Department on March 28, 2006.

CURRENT POLICY:
Current policy states that claims filed by lenders designated as exceptional performers are not subject to review for due diligence, conversion to repayment, or timely claim filing.

REVISED POLICY:
Revised policy adds a statement that bankruptcy claims filed by exceptional performers are subject to a review of the lender's compliance with standard bankruptcy policies and requirements. The lender's failure to comply with those requirements may result in the guarantor's return of the bankruptcy claim to the lender, or, if the claim has been purchased, the lender's repurchase of the loan(s).

REASON FOR CHANGE:
The Department issued private-letter clarification stating that regulations do not exempt exceptional performers from complying with court deadlines applicable to a loan on which the lender files a bankruptcy claim. While a claim filed by an exceptional performer due to the borrower's filing of a bankruptcy action cannot be rejected and a repurchase cannot be mandated due to the lender's failure to meet timely conversion to repayment, due diligence requirements, or claim filing requirements, the guarantor must return the claim or the lender must repurchase the loan(s) if the lender did not comply with court-established deadlines for filing bankruptcy documentation with the court.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise subsection 13.1.A of the October 2006 *Common Manual*, page 1, column 2, bullet 1, as follows:

The claim review statuses are defined as follows:

- The Exceptional Performer Status is defined in regulation and assigned by the Department. Lenders ~~achieving this status~~ designated as exceptional performers may file claims using documentation requirements outlined in subsection 13.1.D. Such claims are not subject to additional review for due diligence, conversion to repayment, or timely filing requirements—except as determined to be necessary by the guarantor or the Department as part of the general program oversight responsibility. Bankruptcy claims filed by a lender designated as an exceptional performer are subject to review for the lender's compliance with standard bankruptcy policies and requirements. The lender's failure to comply with those requirements may result in the guarantor's return of the bankruptcy claim to the lender, or, if the claim has been purchased, the lender's repurchase of the loan(s). (See subsection 13.8.A for more information regarding bankruptcy servicing requirements.)
[§682.415(ab)(7)(i)]

Revise section 13.5, page 12, column 1, paragraph 3, as follows:

Any lender, including a lender designated as an exceptional performer, is required to repurchase a loan that was paid as a bankruptcy claim if the bankruptcy is subsequently dismissed by the court or, as a result of the hearing, the loan is considered nondischargeable and the borrower is responsible for repayment of the loan.
[§682.402(f)(4)]

If the guarantor purchases a default claim and later receives documentation that the date of the bankruptcy petition preceded the date of the default (the 270th day of delinquency for most claims), the lender will be required to repurchase the loan unless the loan is determined by the court to be dischargeable in the bankruptcy action. The repurchase requirement does not apply in the case of a loan that is filed as a default claim and the date of default precedes the petition date.
[§682.402(j)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Bankruptcy Claims and Lenders Designated as Exceptional Performers

The *Common Manual* has been revised to state that bankruptcy claims filed by a lender designated as an exceptional performer are subject to review for the lender's compliance with standard bankruptcy policies and requirements. The lender's failure to comply with those requirements may result in the guarantor's return of the bankruptcy claim to the lender, or, if the claim has been purchased, the lender's repurchase of the loan(s).

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

All lenders must ensure that procedures are in place to file the proof of claim and other documents required by the court, if applicable, in a timely manner. Lenders designated as exceptional performers may need to amend procedures to accommodate mandatory repurchases when the guarantor determines, after a claim has been purchased, that the proof of claim or other court-required documents were not filed timely with the bankruptcy court.

Guarantor:

Guarantors may need to amend procedures and systems to ensure that all bankruptcy claims, including those filed by lenders designated as exceptional performers, are reviewed with respect to the timely filing of the proof of claim and other court-required documents with the bankruptcy court.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

Default Aversion and Claims Standardization Committee (DACs)

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 21, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, KHEAA, NCHELP, NSLP, NYHESC, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

One commenter noted that in some instances, the lender may not receive timely notification of the bankruptcy action, and even though the lender responds as quickly as is feasible, may miss court-established deadlines. The commenter noted that the lender should not be penalized for missing dates that were impossible to meet.

Response:

The Committee concurs. The intent of the proposal is to ensure that lenders and servicers with an exceptional performer designation are aware that guarantors will continue to review bankruptcy claims for timely performance of other servicing activities related to a bankruptcy action. The language has been simplified to state that an exceptional performer lender is held to the same policies and standards as other lenders.

Change:

Language as been added to qualify the policy based on lender's timely receipt of bankruptcy notification.

COMMENT:

One commenter noted that the proof of claim is not the only documentation that the lender may be required to file with the bankruptcy court, and that the lender's compliance with all court-established deadlines for any documentation is important to ensure that the loan remains collectible. The commenter asked that the implications statement be amended.

Response:

The Committee agrees.

Change:

The implications statement has been amended as requested.

COMMENT:

One commenter requested that the policy be revised to clarify whether the loan, after repurchase or claim return, remains insured.

Response:

A review of the information supplied by the Department with respect to this issue does not reveal any indication that the Department considers the lender's failure to respond to the bankruptcy notification as a cause for the loss of the loan's guarantee, in and of itself. If the loan remains collectible after the date the bankruptcy concludes and evidences no other exceptions that would result in a loss of the loan's guarantee, thus we find no reason to believe that insurance is lost. Since nothing in the current language implies a loss of the loan's guarantee, we find no need to amend the current text.

Change:

None.

COMMENT:

One commenter suggested that the text should be revised to state that the guarantor must, rather than may, require the return of the bankruptcy claim or the repurchase of the loan if the lender fails to meet the court-established deadline. The commenter noted that there does not seem to be any flexibility in the requirement

and that the policy should be clear in its requirements.

Response:

The *Common Manual* does not regulate what guarantors will do, but instead provides administrative policy for FFELP lenders and schools. As such, it is not appropriate for the Policy Committee to attempt to compel each guarantor to change procedures, processes, or systems edits for its claim process. This policy simply attempts to explain the potential consequences if the lender fails in its servicing requirements with respect to bankruptcy filings on loans within its portfolio.

Change:

None.

COMMENT:

Two commenters stated that they find no regulatory basis for the reject or mandatory repurchase of a claim based on the lender's failure to respond to court-established deadlines. These commenters believe the policy, based on private letter guidance, exceeds the program requirements and should be set aside. One of these commenters further objected to the development of policy based on private letter guidance, stating that private guidance from the Department to any program participant is binding solely to that participant and that the expansion of that guidance to common policy is a violation of the Department's intent in the drafting of the guidance.

Response:

The Committee appreciates the research these commenters dedicated to the development of their thoughtful response. It was not the intent of this policy to create new policy for all lenders but rather to align policy for lenders designated as exceptional performers with the policy applicable to lenders without that designation. The language has been simplified so that it states that the requirements for all lenders are in subsection 13.8.A and to refer all lenders to that subsection for more information.

Change:

None.

bg/edited-tmh

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: False Certification Claim Purchase Time Frame

AFFECTED SECTIONS: 13.3 Claim Purchase or Discharge Payment
13.8.D False Certification by the School

POLICY INFORMATION: 915/Batch 136

EFFECTIVE DATE/TRIGGER EVENT: Retroactive to the implementation of the *Common Manual*.

BASIS:
§682.402(e)(7)(ii).

CURRENT POLICY:

Current policy in section 13.3 is not stated in the same manner as a similar policy statement in subsection 13.8.D. Both attempt to communicate that the guarantor will pay the false certification claim within 30 days of the date on which the guarantor approves the loan discharge application.

REVISED POLICY:

Revised policy creates more language consistency between the two pieces of text and inserts in both subsections text to acknowledge the various ways in which a borrower may be determined eligible for false certification loan discharge.

REASON FOR CHANGE:

Commenters to the previous reorganization of the false certification subsection noted the discrepancies in the policy text and requested that they be amended to be more consistent.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 13.3 of the October 2006 *Common Manual*, page 7, column 1, paragraph 5, bullet 3, as follows:

**13.3
Claim Purchase or Discharge Payment**

The guarantor is required to purchase an approved claim or discharge request, or return the claim or discharge request to the lender within a specific number of days after receiving the claim or discharge request, as follows:

- 90 days for a default, total and permanent disability, or closed school claim.
- 45 days for a bankruptcy claim, a death claim, or a closed school unpaid refund discharge.
- 30 days from the ~~date the eligibility determination is made~~ 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 discharge claim. (A guarantor may take up to 90 days to determine the ~~loan's~~ borrower's eligibility for discharge.)

...

Revise subsection 13.8.D, page 32, column 1, paragraph 3, as follows:

Processing an Approved Discharge

If the guarantor determines that a loan is eligible for discharge based on the school signing a

loan application or promissory note without the borrower's authorization, or the school improperly determines the student's ability to benefit from the school's training, the guarantor will take the following actions within 30 days of approving the loan discharge or receiving notification from the Department that the borrower is eligible for the false certification loan discharge:

• . . .

PROPOSED LANGUAGE - COMMON BULLETIN:

False Certification Claim Purchase Time Frame

Common policy language for the false certification claim payment time frame has been revised in section 13.3 to be more consistent with the language in subsection 13.8.D. The guarantor has 30 days from the date the guarantor approves the loan discharge application to pay the false certification claim. Language in both subsections has been revised to acknowledge that the loan may be determined to be dischargeable under several circumstances, including the guarantor's approval of a borrower's loan discharge application, the guarantor's own discharge determination, and the guarantor's receipt of notification from the Department that the borrower is eligible for the loan discharge.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Servicer:

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:

September 22, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESC, KHEAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

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

COMMENT:

One commenter stated that, as written, the policy implies that there is only one method of determining that a loan is eligible for loan discharge, and that the single way is for the guarantor to receive from the borrower and process a loan discharge application. The commenter noted that it is as likely for a loan discharge to be approved upon the Department's review of a borrower appeal of the guarantor's initial denial or when the Department or the guarantor itself determines that the borrower is eligible for false certification loan discharge without the borrower having completed a discharge application. Another commenter suggested clarifying language that actually begins to address the first commenter's concerns.

Response:

The Committee appreciates the careful review of the policy and both commenters' suggestions. Further, it agrees that there are additional circumstances under which a borrower may be determined to be eligible for false certification loan discharge and that these circumstances should be acknowledged in common policy. The Committee also notes that the language in subsection 13.8.D also should be amended so that the intent of the policy is fulfilled by ensuring consistent language between the two subsections.

Change:

Language is added to both subsection 13.3 and 13.8.D to acknowledge that there are other valid circumstances in which the borrower may be determined eligible for discharge.

bg/edited-tmh

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: Stafford Loan Limits

AFFECTED SECTIONS: Figure 6-4 Stafford Annual Loan Limits

POLICY INFORMATION: 916/Batch 136

EFFECTIVE DATE/TRIGGER EVENT: Retroactive to the implementation of the *Common Manual*.

BASIS:

34 CFR 682.204(a)(1)(iii) and (d)(1)(iii); 2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, page 3-80.

CURRENT POLICY:

The current title of Figure 6-4 is "Stafford Annual Loan Limits"; however, the figure gives information on only *undergraduate* Stafford annual loan limits, the proration thereof, and the undergraduate aggregate loan limits. Also, Proportional Calculation #2, for prorating the time element in a program of study that is less than one academic year in length, is listed as "number of weeks in program" divided by "number of weeks in academic year."

REVISED POLICY:

Revised policy clarifies the content of Figure 6-4 by changing the title to "Stafford Undergraduate Annual and Aggregate Loan Limits." In addition, revised policy corrects the numerator of Proportional Calculation #2, the loan proration formula for prorating the time element in a program of study that is less than one academic year in length, to read "number of weeks *enrolled* in program."

REASON FOR CHANGE:

The title change is necessary to more accurately reflect the content of Figure 6-4. The change to Proportional Calculation #2 is necessary to avoid confusion in the event that a student's enrollment period is less than the full length of the program.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise chapter 6 of the October 2006 *Common Manual*, page 20, title of Figure 6-4 as follows:

Stafford Undergraduate Annual and Aggregate Loan Limits

Revise chapter 6, page 20, Figure 6-4, **Proportional Proration Calculation #2** as follows:

Multiply the lesser of the following ratios by \$2,625 for base annual Stafford loan limit and by \$4,000 for additional annual unsubsidized Stafford loan limit:

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled in program}}{\text{Number of weeks in academic year}}$$

PROPOSED LANGUAGE - COMMON BULLETIN:

Stafford Undergraduate Annual and Aggregate Loan Limits

The *Common Manual* has been revised to clarify the content of Figure 6-4 by changing the title to "Stafford Undergraduate Annual and Aggregate Loan Limits." In addition, the numerator in Proportional Proration Calculation #2 (for prorating loan eligibility in a program of study that is less than one academic year in length)

has been corrected to specify "number of weeks enrolled in program" divided by "number of weeks in academic year."

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:

November 7, 2002

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESC, KHEAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, UHEAA, 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:

Two commenters requested that the regulatory reference for the policy be corrected as follows: 34 CFR 682.204(a)(1)(iii) and (d)(1)(iii).

Response:

The Committee agrees.

Change:

The correction to the regulatory reference in the Basis has been made.

COMMENT:

The proposed language for the numerator of the time element in the formula for prorating loan eligibility in a program of study that is less than one academic year in length (Proportional Proration Calculation #2 in Figure 6-4) was, "Number of weeks enrolled." One commenter stated that, as written, a part-time student may qualify for a larger loan amount than a full-time student, as it would take the half-time student longer to complete the same program. This commenter recommended that the formula be modified as follows:

Multiply the lesser of the following ratios by \$2,625 for base annual Stafford loan limit and by \$4,000 for additional annual unsubsidized Stafford loan limit:

Number of semester, trimester, quarter, or clock hours enrolled
Number of semester, trimester, quarter, or clock hours in academic year

or, the lesser of

Number of weeks enrolled or number of weeks in the program
Number of weeks in academic year

A second commenter stated that the revision of the numerator to "Number of weeks enrolled" would result in the language mirroring what is currently contained in the FSA Handbook, not in the regulations. Therefore, the Basis should reference the FSA Handbook, rather than the regulation. The commenter noted that a technical correction to the regulations had been identified to change the regulatory language to "Number of weeks enrolled." The commenter questioned whether this wording should be updated prior to the technical correction being made.

A third commenter recommended that the numerator be modified to read, "Number of weeks enrolled in program."

Response:

The Committee acknowledges that a part-time student would require a longer period to complete the program than a full-time student; however, the Committee believes that the suggested modification would change the meaning of the formula from that provided in regulatory and Departmental guidance.

The current wording of the numerator in 34 CFR 682.204(a)(1)(iii), addressing base Stafford loan limits, is "Number of weeks enrolled". The current wording in 34 CFR 682.204(d)(1)(iii), addressing additional unsubsidized Stafford loan limits, is "Number of weeks in program." The wording in the 2006-2007 *Federal Student Aid Handbook* for this formula is "Weeks enrolled in program." The Committee believes that the most accurate and descriptive phraseology is "Number of weeks enrolled in program."

Change:

The numerator of Proportional Calculation #2 in Figure 6-4 has been modified to "Number of weeks enrolled in program." In addition, the 2006-07 *Federal Student Aid Handbook*, Volume 3, Chapter 4, page 3-80, has been added to the Basis.

kke/edited-chh

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: Deferment Eligibility

AFFECTED SECTIONS:

- 11.2 ACTION Program Deferment
- 11.3 Armed Forces Deferment
- 11.4 Economic Hardship Deferment
- 11.6 In-School Deferment and Summer Bridge
- 11.7 Internship/Residency Deferment
- 11.8 Military Deferment
- 11.9 National Oceanic and Atmospheric Administration Corps Deferment
- 11.10 Parental Leave Deferment
- 11.11 Peace Corps Deferment
- 11.12 Public Health Service Deferment
- 11.14 Tax-Exempt Organization Volunteer Deferment
- 11.15 Teacher Shortage Area or Targeted Teacher Deferment
- 11.18 Working Mother Deferment

POLICY INFORMATION: 917/Batch 136

EFFECTIVE DATE/TRIGGER EVENT: Retroactive to the implementation of the *Common Manual*.

BASIS:
§682.210(a)(1)(i).

CURRENT POLICY:
Current policy states that deferment is *intended to cover* a borrower who is experiencing conditions that qualify the borrower for the deferment.

REVISED POLICY:
Revised policy states that deferment is *available to* a borrower who is experiencing conditions that qualify the borrower for the deferment.

REASON FOR CHANGE:
This change is necessary to convey more clearly that an eligible borrower is entitled to deferment, per the request of a commenter on proposal #899 in Batch 133.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 11.2 of the October 2006 *Common Manual*, page 7, column 1, paragraph 1, as follows:

**11.2
ACTION Program Deferment**

An ACTION Program deferment is ~~intended to cover~~ available to a borrower who is engaged in full-time paid volunteer service with an organization participating in a program authorized under Title I of the Domestic Volunteer Service Act of 1973 (ACTION programs).
[§682.210(b)(2)(iii)]

Revise section 11.3, page 7, column 2, paragraph 2, as follows:

**11.3
Armed Forces Deferment**

An Armed Forces deferment is ~~intended to cover~~ available to a borrower who is serving on

active duty status in the U.S. Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard).

[§682.210(i)]

...

Revise section 11.4, page 8, column 2, paragraph 1, as follows:

**11.4
Economic Hardship Deferment**

An economic hardship deferment is ~~intended to cover~~ available to a borrower who earns less than minimum wage or exceeds a federally defined debt-to-income ratio.

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

**11.6
In-School Deferment and Summer Bridge**

An in-school deferment is ~~intended to cover~~ available to a borrower for both full-time and half-time study at an eligible school. A lender must grant an in-school deferment if it receives information that supports the borrower's eligibility for the deferment. The guarantor forwards this information to the lender in the following cases:

- ...

Revise section 11.7, page 13, column 2, paragraph 2, as follows:

**11.7
Internship/Residency Deferment**

An internship/residency deferment is ~~intended to cover~~ available to a borrower for either of the following:

- Service in an internship program that is required of the borrower to receive professional recognition in order to begin professional practice or service.
- Service in a medical internship or residency training program. . .

Revise section 11.8, page 14, column 2, paragraph 1, as follows:

**11.8
Military Deferment**

A military deferment is ~~intended to cover~~ available for a borrower's loan(s) that is first disbursed on or after July 1, 2001, while the borrower is serving on active duty during a war or other military operation, or a national emergency, or while the borrower is performing qualifying National Guard duty during a war or other military operation, or a national emergency.

[HEA 428(b)(1)(M); DCL GEN-06-02]

Revise section 11.9, page 15, column 2, paragraph 2, as follows:

**11.9
National Oceanic and Atmospheric Administration Corps Deferment**

A National Oceanic and Atmospheric Administration Corps deferment is ~~intended to cover~~ available to a borrower who is engaged in active duty service in the National Oceanic and Atmospheric Administration Corps (NOAA).

Revise section 11.10, page 16, column 1, paragraph 3, as follows:

**11.10
Parental Leave Deferment**

A parental leave deferment is ~~intended to cover~~ available to a borrower who is pregnant or caring for his or her newborn or newly adopted child.

Revise section 11.11, page 17, column 1, paragraph 1, as follows:

**11.11
Peace Corps Deferment**

A Peace Corps deferment is ~~intended to cover~~ available to a borrower who is engaged in volunteer service under the Peace Corps Act.

Revise section 11.12, page 17, column 2, paragraph 1, as follows:

**11.12
Public Health Service Deferment**

A public health service deferment is ~~intended to cover~~ available to a borrower who is serving as a full-time officer in the Commissioned Corps of Public Health of the United States Public Health Service (USPHS).

Revise section 11.14, page 19, column 1, paragraph 1, as follows:

**11.14
Tax-Exempt Organization Volunteer Deferment**

A tax-exempt organization volunteer deferment is ~~intended to cover~~ available to a borrower who is engaged in full-time paid volunteer service with a tax-exempt organization that the U.S. Department of Education has determined to be comparable to service as a Peace Corps or ACTION volunteer.

Revise section 11.15, page 19, column 2, paragraph 3, as follows:

**11.15
Teacher Shortage Area or Targeted Teacher Deferment**

A teacher shortage area deferment (also called a targeted teacher deferment) is ~~intended to cover full-time teaching~~ available to a borrower who is teaching full time in a public or nonprofit private elementary or secondary school in a teacher shortage area defined by the Department, as recommended by the chief state school officer of the state.

Revise section 11.18, page 23, column 1, paragraph 1, as follows:

**11.18
Working Mother Deferment**

A working mother deferment is ~~intended to cover mothers~~ available to a borrower who is the mother of a preschool-age children child when the mothers ~~are~~ is entering or reentering the work force. A preschool-age child is defined as one who is not yet enrolled in first grade or a higher grade in elementary school.

PROPOSED LANGUAGE - COMMON BULLETIN:

The *Common Manual* has been revised to state consistently that a deferment is *available to* a borrower who is experiencing conditions that qualify the borrower for the deferment, thereby emphasizing that deferment is an entitlement for an eligible borrower.

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:

July 12, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESC, KHEAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Several 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:

Four commenters noted in the Affected Sections portion of the proposal that the Public Health Service Deferment section was incorrectly denoted as section 11.13 instead of 11.12.

Response:

The Committee agrees and thanks the commenters for their thorough review of the proposal.

Change:

The Affected Sections portion of the proposal has been corrected to reflect that the Public Health Service Deferment section of the manual is 11.12.

COMMENT:

Four commenters noted an incorrect regulatory citation referenced in the proposed language in subsection 11.2. The citation should be §682.210(b)(2)(iii) instead of §682.210(b)(2)(iii).

Response:

The Committee agrees.

Change:

The typographical error noted above has been corrected in the proposed language text.

COMMENT:

One commenter suggested, in order to be consistent with similar language in the *Common Manual*, the following change to section 11.3:

“An Armed Forces deferment is available to a borrower who is servicing on active duty status in the U.S. Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard).”

Response:

The Committee agrees with the change.

Change:

The proposed language for section 11.3 has been revised to incorporate the suggested change.

COMMENT:

Two commenters noted that in section 11.9 and 11.18 that instead of naming the deferment in the first sentence, as is done with all the other deferment types, the paragraphs for these two deferments begin with “this deferment”. The commenters asked, for the sake of consistency, that these two sections be corrected.

Response:

The Committee agrees that the paragraphs should be consistent.

Change:

The paragraphs describing the National Oceanic and Atmospheric Administration Corps Deferment and the Working Mother Deferment have been revised to include the names of the deferments, as suggested.

jcs-djo/edited-as

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: December 21, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Dec 21

SUBJECT: Delinquency Period and the Default Definition

AFFECTED SECTIONS: appendix G

POLICY INFORMATION: 918/Batch 136

EFFECTIVE DATE/TRIGGER EVENT: Retroactive to the implementation of the *Common Manual*.

BASIS:

§682.200(b); Appendix D to 34 CFR Part 682, Introduction, C. *Due Diligence*.

CURRENT POLICY:

Current policy defines "default" in the glossary as the failure of a borrower (or endorser or comaker, if any) to make installment payments when due, provided that this failure persists for the most recent period of 270 consecutive days for a loan repayable in monthly installments.

REVISED POLICY:

Revised policy removes the reference to 270 "consecutive" days, and defines "default" in the glossary as the failure of a borrower (or endorser or comaker, if any) to make installment payments when due, provided that this failure persists for the most recent period of 270 days for a loan repayable in monthly installments.

REASON FOR CHANGE:

This change is necessary to align the manual's glossary definition of default with existing manual policy in section 13.6 and federal guidance. While the technical date of default changed from the 180th to the 270th day of delinquency as the result of the Higher Education Amendments of 1998, guidance specifically clarifying that the default period applies regardless of whether payments were missed consecutively precedes the implementation of the *Common Manual*.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise appendix G of the October 2006 *Common Manual*, page 5, column 2, paragraph 1, as follows:

Default: ~~The failure of a borrower (or endorser or comaker, if any) to make installment payments when due, or to meet other terms of the promissory note or other written agreement(s) with the lender under circumstances where the Department or guarantor of the loan reasonably concludes that the borrower no longer intends to honor the borrower's obligation to repay a loan,~~ provided that this failure persists for the most recent period of 270 consecutive days (for a loan repayable in monthly installments) or the most recent 330-day period (for a loan repayable in less frequent installments). A loan also may be considered in default if the borrower (or endorser or comaker, if any) fails to meet other terms of the promissory note or other written agreement(s) with the lender under circumstances where the Department or guarantor of the loan reasonably concludes that the borrower no longer intends to honor the borrower's obligation to repay the loan. See section 13.6.

PROPOSED LANGUAGE - COMMON BULLETIN:

Delinquency Period and the Definition of Default

Appendix G of the *Common Manual* has been revised to align the definition of default with current manual policy in section 13.6 and federal guidance in §682.200(b) and Appendix D to 34 CFR Part 682. The reference to 270 "consecutive" days has been removed, and the manual glossary now defines default as the failure of a borrower (or endorser or comaker, if any) to make installment payments when due, provided that this failure persists for a period of 270 days for a loan repayable in monthly installments.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Servicer:

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:

July 19, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

December 14, 2006

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESC, KHEAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, UHEAA, 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 suggested revising the definition of default in appendix G so that it clearly states there are two conditions that can result in default: failure of a borrower (or endorser or comaker, if any) to make installment payments when due, or a borrower's failure to meet other terms of the promissory note or other written agreement(s). The suggested revision is as follows:

Default: The failure of a borrower (or endorser or comaker, if any) to make installment payments when due, ~~or to meet other terms of the promissory note or other written agreement(s) with the lender under circumstances where the Department or guarantor of the loan reasonably concludes that the borrower no longer intends to honor the borrower's obligation to repay a loan,~~ provided that this failure persists for the most recent period of 270 consecutive days (for a loan repayable in monthly installments) or the most recent 330-day period (for a loan repayable in less frequent installments); or to meet other terms of the promissory note or other written agreement(s) with the lender under circumstances where the Department or guarantor of the loan reasonably concludes that the borrower no longer intends to honor the borrower's obligation to repay a loan. See section 13.6.

Response:

The Committee agrees and incorporates the commenters' suggestion with wordsmithing changes.

Change:

The definition of default is revised as follows:

Default: The failure of a borrower (or endorser or comaker, if any) to make installment payments when due, ~~or to meet other terms of the promissory note or other written agreement(s) with the lender under circumstances where the Department or guarantor of the loan reasonably concludes that the borrower no longer intends to honor the borrower's obligation to repay a loan,~~ provided that this failure persists for the most recent period of 270 ~~consecutive~~ days (for a loan repayable in monthly installments) or the most recent 330-day period (for a loan repayable in less frequent installments). A loan also may be considered in default if the borrower (or endorser or comaker, if any) fails to meet other terms of the promissory note or other written agreement(s) with the lender under circumstances where the Department or guarantor of the loan reasonably concludes that the borrower no longer intends to honor the borrower's obligation to repay the loan. See section 13.6.

sf/edited-bb