

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
939	Eligibility for a Consolidation Loan	<p><u>5.16.A Ineligibility Based on Borrower Error</u> <u>15.2 Borrower Eligibility and Underlying Loan Holder Requirements</u></p> <p>Revised policy states that a borrower may not consolidate a loan(s) for which he or she is wholly or partially ineligible but clarifies that the borrower is allowed to consolidate any eligible loans he or she may have.</p>	Federal	Consolidation loan applications received on or after December 1, 2006, unless implemented earlier by the lender on or after July 1, 2000.
940	Estimated Financial Assistance	<p><u>6.7 Determining the Amount of Estimated Financial Assistance</u> <u>figure 8-3 School Requirements Before Delivering a FFELP Loan</u> <u>appendix G</u></p> <p>Revised policy adds to the list of aid that is part of EFA and specifies other aid types that are excluded from the EFA. Revised policy also changes "resources" to "EFA" in figure 8-3, and clarifies the definition of "overaward" in the glossary.</p>	Federal	Loans certified by the school on or after September 8, 2006.
941	Disbursement for Students in Study-Abroad Programs or Foreign Schools	<p><u>7.7.E Disbursement for Students in Study-Abroad Programs or Foreign Schools</u> <u>9.2.B Reporting Student Enrollment Status Changes to the Lender or Guarantor</u></p> <p>This policy clarifies the enrollment verification activities that a guarantor or lender must perform before Stafford loan funds may be disbursed directly to a student attending a foreign school or a student attending a study-abroad program. In addition, revised policy incorporates requirements for a lender to notify a foreign school or, as applicable, the home school in the case of a study-abroad student, when funds are directly disbursed to the student, and requirements for</p>	Federal	<p><u>Retroactive to the implementation of the <i>Common Manual</i>:</u></p> <p>The lender must notify the foreign school upon disbursing loan funds directly to a student attending the foreign school.</p> <p><u>For loans first disbursed directly to the student on or after July 1, 2006:</u></p> <p>The guarantor must verify that the school is certified to participate in the Title IV programs prior to the lender's direct disbursement of loan funds to a student enrolled in a foreign school.</p> <p><u>For loans first disbursed directly to the student on or after September 8, 2006:</u></p> <p>Any required verification for a study-abroad or foreign school student:</p> <ul style="list-style-type: none"> <li>• Must be completed before <i>each</i></li> </ul>

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
		<p>the school to notify the lender if such a student is no longer eligible to receive the loan funds. Finally, revised policy specifies that PLUS loan funds may not be directly disbursed to a borrower or student under any circumstances.</p>		<p>disbursement.</p> <ul style="list-style-type: none"> <li>• May be made by telephone or e-mail.</li> <li>• For a new student, must confirm that the student has been admitted.</li> <li>• For a continuing student, must confirm that the student is still enrolled.</li> <li>• Must be documented by the lender or guarantor.</li> </ul> <p>The lender must notify the home institution upon disbursing loan funds directly to a study-abroad student. Upon receipt of the notification, the school must notify the lender if the student is no longer eligible for the disbursement.</p> <p>A PLUS loan for a student enrolled in a foreign school may be disbursed by EFT or master check to an account maintained by the school, or by a paper check made co-payable to the borrower and the school, and mailed directly to the school.</p> <p><u>For loans first disbursed directly to the student on or after December 1, 2006:</u></p> <p>Any required verification:</p> <ul style="list-style-type: none"> <li>• Must be made by telephone, e-mail, or facsimile..</li> <li>• Must confirm that the student is enrolled at least half time.</li> <li>• For a student enrolled in a study-abroad program, must be provided by the home institution.</li> <li>• For a student enrolled at a foreign school, must be provided by an official authorized by the foreign school to act on the school's behalf in administering the FFELP.</li> </ul> <p>A lender may make a direct disbursement to a student attending a foreign institution only upon the request of an official authorized by the foreign school to act on the school's behalf in administering the FFELP.</p>

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
942	Media for Providing Borrower and Student Notifications	<p><u>8.2 Required Notices</u></p> <p>Revised policy clarifies that a school may provide required notifications via electronic media, provided the borrower or student, as applicable, affirmatively and voluntarily consents to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information.</p>	Federal	Borrower disclosures and required notices sent in electronic format on or after May 2001.
943	Overaward of PLUS Loans	<p><u>8.6 Managing Overawards</u></p> <p>Revised policy states that an overaward occurs when a student receives additional financial assistance or the student's expected family contribution increases, resulting in a reduction of the student's eligibility for a previously certified Stafford or Grad PLUS loan.</p>	Federal	<p>For the removal of the foreign school exemption from the overaward provisions, effective September 8, 2006.</p> <p>For the inclusion of Grad PLUS loans in the overaward provisions, effective December 1, 2006.</p>
944	<p>Economic Hardship Deferment Criteria</p> <p><b><i>Deferred for further development</i></b></p>	<p><u>11.4.A Eligibility Criteria—Economic Hardship</u></p> <p>Revised policy states that a borrower who is receiving a service or benefit from a federal or state public assistance program is also eligible for an Economic Hardship deferment.</p>	Federal	Economic Hardship deferments granted by the lender on or after July 1, 2007, unless implemented earlier by the guarantor.
945	False Certification as a Result of the Crime of Identity Theft	<p><u>figure 11-2</u> <u>11.20.D False Certification Due to Identity Theft</u> <u>13.8.E False Certification Due to Identity Theft</u></p> <p>Revised policy defines the term "identity theft", provides loan discharge criteria, lender loan servicing requirements, and claim filing procedures when an individual requests false certification discharge due to the crime of identity theft.</p>	Federal	False certification as a result of identity theft loan discharge claims processed by the lender on or after September 8, 2006.

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
946	Consolidation Loans	<p><u>15.2 Borrower Eligibility and Underlying Loan Holder Requirements</u></p> <p>Revised policy allows a borrower to consolidate a single Federal Consolidation loan into a Direct Consolidation loan if the single Federal Consolidation loan is held by the guarantor as a result of a bankruptcy claim and the borrower is seeking an income-contingent repayment schedule.</p>	Federal	Direct Consolidation Loan applications submitted by borrowers on or after December 1, 2006.
947	Higher Education Hurricane Relief Act Waivers	<p><u>H.4 Statutory and Regulatory Waivers</u></p> <p>Revised policy includes in section H.4 of the <i>Common Manual</i> information on the waiver of the return of Title IV funds requirements for schools affected by Hurricanes Katrina or Rita.</p>	Federal	February 23, 2006.
948	Exit Counseling	<p><u>4.4.C Exit Counseling</u></p> <p>Revised policy states that exit counseling must include “the average anticipated monthly repayment amount based on the student’s indebtedness” or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.</p>	Correction	Exit counseling conducted by or on behalf of the school on or after July 1, 2000.
949	Repurchase Definition	<p><u>13.5 Claim Repurchase appendix G</u></p> <p>Revised policy relocates a comprehensive definition of repurchase to the glossary, and acknowledges that repurchase scenarios are not confined solely to defaulted loans.</p>	Correction	Claims repurchased on or after 18 months from the publication of the Common Account Maintenance claim submittal records (CAM chapter 11), unless implemented earlier by the guarantor.

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Eligibility for a Consolidation Loan

**AFFECTED SECTIONS:** 5.16.A Ineligibility Based on Borrower Error  
15.2 Borrower Eligibility and Underlying Loan Holder Requirements

**POLICY INFORMATION:** 939/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** Consolidation loan applications received on or after December 1, 2006, unless implemented earlier by the lender on or after July 1, 2000.

**BASIS:**

*Federal Register* dated August 9, 2006, page 45700; *Federal Register* dated November 1, 2006, pages 64383 and 64397.

**CURRENT POLICY:**

Current policy states that a borrower who has an ineligible loan(s) due solely to the borrower's error must repay the ineligible amount in full before he or she is able to obtain a Consolidation loan.

**REVISED POLICY:**

Revised policy states that a borrower may not consolidate a loan(s) for which he or she is wholly or partially ineligible but clarifies that the borrower is allowed to consolidate any eligible loan(s) he or she may have.

**REASON FOR CHANGE:**

This change aligns the *Common Manual* with federal regulations and preamble guidance.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise subsection 5.16.A, page 18, column 1, paragraph 4, as follows:

When a borrower is solely responsible for his or her ineligibility, the borrower is not eligible for interest benefits, an in-school or grace period, or deferment on these ineligible funds loan(s). Additionally, the borrower may not ~~obtain a Consolidation loan~~ consolidate or rehabilitate an ineligible loan funds, and may not have his or her Title IV eligibility reinstated by making satisfactory repayment arrangements on an ineligible amount. The borrower must fully repay the ineligible funds loan to regain Title IV eligibility. However, a borrower with an ineligible loan(s) may consolidate another eligible loan(s). [~~§682.201(d)(1)(i)(D); §682.201(d)(2)~~]

Revise section 15.2, page 3, column 2, paragraph 2, as follows:

The following additional criteria must be met in order for a borrower to receive a Federal Consolidation loan. By completing and signing the common Federal Consolidation Loan Application and Promissory Note, the borrower certifies that he or she meets those eligibility criteria that are specifically required by statute and regulations to be certified. Separate certifications are not necessary.

- ~~A borrower who has loan amounts that are ineligible due solely to the borrower's error must repay the ineligible amount in full prior to the consolidation of the borrower's loan's (see section 5.16):~~ A borrower may not consolidate a loan for which the borrower is wholly or partially ineligible due solely to the borrower's error (see subsection 5.16.A). However, a borrower with an ineligible loan may consolidate another eligible loan(s). [~~§682.412 §682.201(d)(2)~~]

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Eligibility for a Consolidation Loan**

The *Common Manual* has been revised to clarify that a borrower may not consolidate a loan(s) for which he or she is wholly or partially ineligible due solely to the borrower's error. However, a borrower with an ineligible loan may consolidate another eligible loan(s).

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower with an ineligible loan may consolidate another eligible loan(s).

*School:*

A school may advise a student with an ineligible loan that he or she may consolidate another eligible loan(s).

*Lender/Service:*

A lender/service may need to revise systems and procedures to permit a borrower with an outstanding ineligible loan to consolidate another eligible loan(s).

*Guarantor:*

A guarantor may need to modify program review procedures. A guarantor may also be required to amend systems or procedures to permit the consolidation of another eligible loan(s) for a borrower who has an outstanding ineligible loan. There may be related fiscal issues.

*U.S. Department of Education:*

None.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

January 16, 2007

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received from:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, 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 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 Department's Pam Moran, at the November 2006 Program Regulations Committee meeting, responded to a question regarding a borrower's eligibility for a Consolidation loan when

that borrower has an ineligible loan. Ms. Moran advised that the Department's policy changed, in 1998, from the borrower-level to the loan-level regarding a defaulted borrower's eligibility for a Consolidation loan. The Department then applied the same policy to ineligible borrowers. The change in the August 9, 2006, Integrated Final Regulations and the technical correction in the November 1, 2006 Final Regulations was to codify this existing policy and to bring FFELP regulations into alignment with FDLP regulations. The FDLP regulations have contained this loan-level eligibility in 34 CFR 685.211(e)(4) since at least 2000. Since the regulations implementing the 1998 Reauthorization were published on November 1, 1999, and were effective July 1, 2000, the commenter suggested the following effective date to protect those who may have known about this change in the Department's policy:

Consolidation loan applications received on or after July 1, 2000.

**Response:**

The Committee agrees.

**Change:**

The effective date/trigger event has been revised as follows:

Consolidation loan applications received on or after December 1, 2006, unless implemented earlier by the lender on or after July 1, 2000.

**COMMENT:**

Seven commenters suggested revisions to the proposed language, subsection 5.16.A, sentence 4. One of the commenters suggested changing all occurrences, in the paragraph with the subject sentence, of the word "loan(s)", to the word, "loans", because most borrowers are going to be consolidating more than one loan. Another commenter suggested a grammatical correction by revising the sentence as follows:

However, a borrower with ineligible loan funds may consolidate other eligible ~~loans(s)~~ loans.

A third commenter suggested changing the subject sentence to either:

However, a borrower that received an ineligible loan is not ineligible to consolidate his or her other eligible loan(s), solely because of an outstanding ineligible loan.

Or:

However, a borrower with an ineligible loan may consolidate other eligible loan(s).

Four commenters offered suggested text for revising the subject sentence to improve consistency and to clarify that, although only a portion of a loan may be ineligible, the entire loan is considered ineligible.

**Response:**

The Committee does not concur with the request to change the word "loan(s)" to the word "loans". Although most borrowers may consolidate more than one loan, there is no minimum number of loans that may be included in a FFELP Consolidation loan, unless the borrower is obtaining a subsequent Consolidation loan (see *Dear Colleague Letter* GEN-06-20).

The Committee does, however, concur with the suggestions to improve the consistency and clarity of the proposed text.

**Change:**

The 4<sup>th</sup> sentence has been revised as follows:

However, a borrower with an ineligible loan(s) ~~funds~~ may consolidate another eligible loan(s).

**COMMENT:**

Two commenters suggested including the regulatory cite 34 CFR 682.201(d)(2) after paragraph 4 in subsection 5.16.A.

**Response:**

The Committee agrees.

**Change:**

The suggested regulatory cite, 34 CFR 682.201(d)(2), has been added to the subject paragraph.

**COMMENT:**

One commenter suggested adding the following regulatory cites after paragraph 4 in subsection 5.16.A:

[§682.405(a)(1); §682.201(d)(1)(i)(D)]

**Response:**

The Committee concurs with the suggestion to add 34 CFR 682.201(d)(1)(i)(D) which addresses the eligibility of an individual to receive a Consolidation loan if the individual—on the loans being consolidated—is not in a default status resulting from a claim filed under 34 CFR 682.412.

However, the Committee does not concur that 34 CFR 682.405(a)(1)—which defines rehabilitation—is applicable.

**Change:**

The suggested regulatory cite, 34 CFR 682.201(d)(1)(1)(D), has been added to the subject paragraph.

**COMMENT:**

One commenter suggested a revision to section 15.2, page 3, column 2, paragraph 2 as follows:

...By completing and signing the ~~common~~ Federal Consolidation Loan Application and Promissory Note, the borrower certifies that he or she meets those eligibility criteria that are specifically required by statute and regulations to be certified. ~~Separate certifications are not necessary.~~

The commenter noted that “common” is no longer necessary since all certification requirements are described in the preceding sentence and that the final sentence is not necessary.

**Response:**

The commenter’s suggestion is outside the scope of this proposal but the Committee will consider the suggestion for future policy proposal development.

**Change:**

None.

ce/edited-tmh



# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Estimated Financial Assistance

**AFFECTED SECTIONS:** 6.7 Determining the Amount of Estimated Financial Assistance  
figure 8-3 School Requirements Before Delivering a FFELP Loan appendix G

**POLICY INFORMATION:** 940/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** Loans certified by the school on or after September 8, 2006.

**BASIS:**

Preamble to the *Federal Register* dated August 9, 2006, page 45673; §682.200(b).

**CURRENT POLICY:**

Current policy does not list all of the aid types that must be included in the estimated financial assistance (EFA), such as the types of veterans' educational benefits, non-need-based fellowships and assistantships, insurance programs for the student's education, or the new Academic Competitiveness Grant (ACG) or National Science & mathematics Access to Retain Talent (SMART) Grant. Regarding aid to be excluded from the EFA, current policy does not list non-need-based employment earnings or aid that is included in the calculation of the student's expected family contribution (EFC).

**REVISED POLICY:**

Revised policy amends the list of aid types that must be included in the EFA, adding the types of veterans' educational benefits, non-need-based fellowships and assistantships, insurance programs for the student's education, and ACG and SMART Grants that regulations define as part of the EFA. Revised policy specifies that non-need-based employment earnings and aid that is included in the calculation of the student's expected family contribution are excluded from the EFA, and specifies that the portion of non-federal non-need-based loans used to replace the EFC are excluded from the EFA.

In addition, revised policy provides regulatory citations for elements to be included in the EFA, changes a reference to "resources" to "EFA" in figure 8-3, and clarifies the definition of "overaward" in appendix G.

**REASON FOR CHANGE:**

This change is necessary to align the *Common Manual* with the regulatory definition of estimated financial assistance.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise section 6.7, page 14, column 1, paragraph 6, as follows:

A student's EFA includes all aid the student—or a parent on behalf of a dependent student—will receive for the loan period from federal, state, institutional, or other sources. Examples of aid that must be included in the EFA are scholarships, grants, financial need-based employment income, and loans—including, but not limited to:

- Veterans' educational benefits, including educational benefits paid under Chapters 30 (Montgomery GI Bill-Active Duty), 31 (Vocational Rehabilitation and Employment Program), 32 (Veterans' Educational Assistance Program), and 35 (Dependents' Educational Assistance Program) of Title 38 of the U.S. Code and educational benefits paid under Chapters 31 (National Call to Service), 1606 (Montgomery GI Bill-Selected Reserve) and 1607 (Reserve Educational Assistance Program) of Title 10 of the U.S. Code. When determining eligibility for a subsidized Stafford loan, benefits paid under Chapter 30 of Title 38 of the U.S. Code are excluded from the EFA, as noted later in the

section.

§682.200(b)(1)(i) and (ii)

- National service education awards or postservice benefits paid under Title 1 of the National and Community Service Act of 1990, (AmeriCorps). When determining eligibility for a subsidized Stafford loan, these benefits are excluded from the EFA, as noted later in the section.  
§682.200(b)(1)(i)
- Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under Chapter 2 of Title 10 and Chapter 2 of Title 37 of the U. S. Code.  
§682.200(b)(1)(iii)
- Benefits paid under P.L. 96-342, section 903, the Selected Reserve Educational Assistance Program, Restored Entitlement Program for Survivors, or Educational Assistance Pilot Program.  
§682.200(b)(1)(iv)
- Educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses.  
§682.200(b)(1)(v)
- Fellowships or assistantships, except non-need-based employment portions of such awards.  
§682.200(b)(1)(vi)
- Insurance programs for the student's education.  
§682.200(b)(1)(vii)
- The estimated amount of other federal student financial aid—including, but not limited to, Federal Pell Grant, Academic Competitiveness Grant, National SMART Grant, and campus-based aid. The gross amount (including fees) of any subsidized Stafford, unsubsidized Stafford, or PLUS loan is also included, except as noted below.  
[HEA 480(j); §682.200(b)(1)(viii)]

A student's EFA does not include:

- Amounts used to replace the expected family contribution (EFC), including unsubsidized Stafford loan amounts, PLUS loan amounts, or and non-federal non-need-based loans, including private, or state-sponsored, and institutional loan funds. However, if the sum of the loan amounts received that are being used to replace the student's EFC exceeds the EFC, the excess amount is treated as EFA.  
§682.200(b)(2)(i)
- For a *subsidized* Stafford loan, veterans' educational benefits paid under Chapter 30 of Title 38 of the U.S. Code (Montgomery GI Bill—Active Duty) and national service education awards or postservice benefits paid under Title I of the National and Community Service Act of 1990 (AmeriCorps).  
§682.200(b)(2)(iii)
- Qualified education benefits, including qualified tuition programs (e.g., 529 prepaid tuition plans and savings plans), prepaid tuition plans offered by a state, and Coverdell education savings accounts.  
[HEA 480(f)(3) and (4); DCL GEN-06-05; DCL GEN-06-10]
- Federal Perkins loans and Federal Work-Study (FWS) funds the school determines the student has declined for any reason.  
[HEA 480(j); §682.200(b)(2)(ii)]
- Any portion of EFA previously described that is included in the calculation of the student's

EFC.  
§682.200(b)(2)(iv)

- Non-need-based employment income.  
§682.200(b)(2)(v)
- Non-Title IV state assistance, if that state specifies that the funds must be used to pay a specific component of the student's COA. If the state assistance is excluded from the EFA, then the costs paid by those state funds must also be excluded from the student's COA.  
[HEA 480(j)(3); §682.200(b)(2)(vi)]; DCL GEN-06-05

Revise figure 8-3 as follows:

**School Requirements before Delivering a FFELP Loan**

**Figure 8-3**

<u>Requirements</u>	<u>Comments</u>
...	...
Confirm that no overaward exists.	The sum of an installment and the student's <del>other resources</del> <u>EFA</u> may not exceed the student's need.
...	...

Revise appendix G, page 14, column 1, as follows:

**Overaward:** Any amount of a student's total estimated financial assistance (excluding Pell Grants) that exceeds the student's financial need. See section 8.6.

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Estimated Financial Assistance**

The *Common Manual* has been revised to amend the list of aid types that must be included in the estimated financial assistance (EFA), adding types of veterans' educational benefits, non-need-based fellowships and assistantships, insurance programs for the student's education, and ACG and SMART Grants. Revised policy specifies that non-need-based employment earnings and aid that is included in the calculation of the student's expected family contribution (EFC) are excluded from the EFA, and specifies that the portion of non-federal non-need-based loans used to replace the EFC are excluded from the EFA.

In addition, revised policy provides regulatory citations for elements to be included in the EFA, changes a reference to "resources" to "EFA" in figure 8-3, and clarifies the definition of "overaward" in appendix G.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower may be required to provide additional information and documentation regarding educational aid to the school.

*School:*

A school must ensure that all educational aid received by the student is properly included in or excluded from the EFA.

*Lender/Service:*

None.

*Guarantor:*

A guarantor may need to update program review procedures.

U.S. Department of Education:

The Department may need to update program review procedures.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

November 16, 2006

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

**Comments Received from:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHelp, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

**COMMENT:**

Seven commenters requested adding regulatory language to bullet six of the examples of aid included in the EFA as follows:

Educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses.

**Response:**

The Committee agrees.

**Change:**

The text has been revised as requested.

**COMMENT:**

Several commenters requested adding statutory cites within some of the bullets for consistency.

**Response:**

The Committee agrees.

**Change:**

The statutory cites have been added as requested.

**COMMENT:**

One commenter requested revision of the first sentence in the proposed language to clarify that parental aid on behalf of an independent student is not considered EFA :

A student's EFA includes all aid the student or a parent on behalf of a dependent student . . .

**Response:**

The Committee agrees.

**Change:**

The sentence has been revised as requested.

**COMMENT:**

One commenter requested revision of the language in figure 8-3 and appendix G to distinguish between different types of overaward situations.

**Response:**

The Committee believes that the commenter's suggestion is broader than the scope of this proposal and will consider it separately.

**Change:**

None.

**COMMENT:**

Two commenters requested that the word "assistance" be replaced with "EFA" in bullet 5 of the examples of aid to be included in the EFA.

- Any portion of EFA assistance previously described that is included in the calculation of the student's EFC.

**Response:**

The Committee agrees.

**Change:**

The sentence has been revised as requested.

ojm/edited-bb

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Disbursement for Students in Study-Abroad Programs or Foreign Schools

**AFFECTED SECTIONS:** 7.7.E Disbursement for Students in Study-Abroad Programs or Foreign Schools  
9.2.B Reporting Student Enrollment Status Changes to the Lender or Guarantor

**POLICY INFORMATION:** 941/Batch 140

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

The lender must notify the foreign school upon disbursing loan funds directly to a student attending the foreign school.

For a loan first disbursed directly to the student on or after July 1, 2006:

The guarantor must verify that the school is certified to participate in the Title IV programs prior to the lender's direct disbursement of loan funds to a student enrolled in a foreign school.

For a loan first disbursed directly to the student on or after September 8, 2006:

Any required verification for a study-abroad or foreign school student:

- Must be completed before *each* disbursement.
- Must be made by telephone or e-mail.
- For a new student, must confirm that the student has been admitted.
- For a continuing student, must confirm that the student is still enrolled.
- Must be documented by the lender or guarantor.

The lender must notify the home institution upon disbursing loan funds directly to a study-abroad student. Upon receipt of the notification, the school must notify the lender if the student is no longer eligible for the disbursement.

A PLUS loan for a student enrolled in a foreign school may be disbursed by EFT or master check to an account maintained by the school, or by an individual check made co-payable to the borrower and the school, and mailed directly to the school.

For a loan first disbursed directly to the student on or after December 1, 2006:

Any required enrollment verification:

- Must be made by telephone, e-mail, or facsimile.
- Must confirm that the student is enrolled at least half time.
- For a student enrolled in a study-abroad program, must be provided by the home institution.
- For a student enrolled at a foreign school, must be provided by an official authorized by the foreign school to act on the school's behalf in administering the FFELP.

A lender may make a direct disbursement to a student attending a foreign school only upon the request of an official authorized by the foreign school to act on the school's behalf in administering the FFELP.

**BASIS:**

Interim Final Rules published in the *Federal Register*, dated August 9, 2006, pages 45678-45679, 45701 and 45709; Final Rules published in the *Federal Register*, dated November 1, 2006, pages 64384-64385 and 64398; §682.207(b); and §682.604(b).

**CURRENT POLICY:**

Current policy states that a lender may disburse Stafford loan funds directly to a student enrolled in a study-abroad program at the student's request, after the student's enrollment has been verified. A lender may disburse Stafford loan funds directly to a student enrolled in a foreign school at the school's request, after the school's Title IV eligibility and the student's enrollment have been verified.

Current policy also states that a PLUS loan for a student enrolled in an eligible foreign school must be disbursed by an individual check that is made copayable to the borrower and the school, and may be sent to either the borrower or the school.

**REVISED POLICY:**

Revised policy clarifies that, in order for Stafford loan funds to be disbursed directly to the student, the required verifications must be performed prior to *each* disbursement. Enrollment verification may be completed by telephone, e-mail, or facsimile. In the case of a study-abroad student, the enrollment verification must be obtained from the home institution. For a new student in a study-abroad program or foreign school, the lender or guarantor must verify that the student has been admitted to the program. For a continuing student, the lender or guarantor must verify that the student is enrolled at least half time. The lender or guarantor performing the verification must maintain documentation of the contact.

Revised policy further clarifies that the request that Stafford loan funds be disbursed directly to a student enrolled in a foreign school and the verification of enrollment must be made by an official authorized by the foreign school to act on behalf of the school in administering the FFELP.

In addition, revised policy incorporates the existing requirement that the lender notify the school at the time that loan funds are disbursed directly to the student enrolled in a foreign school, and includes the new requirement that the lender make a similar notification to the home institution, in the case of a student enrolled in a study-abroad program. In either case, the school, upon receipt of this notification, must immediately notify the lender if the student is no longer eligible to receive the loan funds.

Finally, revised policy removes language that required PLUS loan funds for a student enrolled in a foreign school to be disbursed by individual check and sent to either the borrower or the school, because all PLUS loans now have the same disbursement requirements, regardless of the type of school involved. The policy further specifies that PLUS loan funds may not be directly disbursed to a borrower or student under any circumstances.

**REASON FOR CHANGE:**

The *Common Manual* is being revised to incorporate clarifications published in the *Federal Register* on August 9, 2006, and on November 1, 2006.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise subsection 7.7.E, page 14, column 1, paragraph 4, as follows:

**7.7.E**

**Disbursement for Students in Study-Abroad Programs or Foreign Schools**

If a student is enrolled in a study-abroad program or a foreign school, special disbursement rules apply. Stafford loan funds may be disbursed directly to the student under some circumstances; however, under no circumstances may PLUS loan funds be disbursed directly to the borrower or dependent student. The lender must disburse PLUS loan funds for a student attending a study-abroad program or a foreign school in the same manner as it disburses PLUS loan funds for a student attending a domestic school (see section 7.7).

[§682.207(b)(1)(v)(B)]

### **Student Enrolled in a Study-Abroad Program**

A student enrolled in a study-abroad program that is approved for credit by the home institution at which the student is enrolled may request disbursement of a Stafford loan by ~~any~~ either of the following options alternatives to the normal disbursement process:

- Disbursement directly to the student. The lender may mail an ~~paper~~ individual check to the student or deposit the funds into the student's personal bank account. In either case, prior to ~~each disbursement disbursing the funds,~~ the lender or guarantor must verify the student's enrollment in the study-abroad program by contacting the home institution by telephone, e-mail, or facsimile. For a new student, the lender or guarantor must confirm the student's admission to the program. For a continuing student, the lender or guarantor must confirm that the student continues to be enrolled at least half time.  
[HEA 428(b)(1)(N)(ii); §682.207(b)(1)(v)(C)(1); §682.207(b)(2)(i)(B); DCL GEN-06-02]
- Disbursement to the student's home institution, if the borrower provides power of attorney to a person not affiliated with the school to endorse the check or complete an electronic funds transfer (EFT) authorization.  
[§668.165(b)(1); §682.207(b)(1)(v)(C)(2)]

The lender is required to comply with the student's request.

### **Student Enrolled in a Foreign School**

At the ~~school's~~ request of an official authorized by the foreign school to act on behalf of the school in administering the FFELP, the lender must disburse Stafford loan proceeds directly to a student enrolled at an eligible foreign school. The request from the authorized official may be a blanket request for all students, or a request for each individual student. Prior to each direct disbursement to the borrower by the lender, the guarantor must verify in the Department's Postsecondary Education Participant's System (PEPS) that the foreign school is certified to participate in the FFELP. In addition, either the lender or guarantor must contact an authorized official of the foreign school by telephone, e-mail, or facsimile and verify the student's enrollment that the student is enrolled at least half time at the school prior to the lender disbursing the funds. For a new student, the lender or guarantor must confirm the student's admission to the program. For a continuing student, the lender or guarantor must confirm that the student continues to be enrolled at least half time. Guarantors and lenders must coordinate their activities to ensure that these requirements are met prior to any direct disbursement of Stafford loan funds.  
[HEA 428(b)(1)(N); §682.207(b)(2)(i)(A); §682.207(b)(2)(iii)]

~~A PLUS loan for a student enrolled in an eligible foreign school must be disbursed by an individual check that is made copayable to the borrower and the school. The check must be sent directly to either the borrower or the school.~~  
{§682.207(b)(1)(v)(B)(3)}

### **Documentation of Enrollment Verification**

The lender or guarantor that is verifying enrollment for a student enrolled in a study-abroad program or a foreign school must maintain documentation of all of the following:

- The name and telephone number of the school representative contacted.
- The date of the contact.
- The enrollment period.
- Verification of at least half-time enrollment.



- Any other pertinent information received from the school.

[§682.207(b)(2)(ii)]

#### **Notification of Direct Disbursement**

At the time of the lender's direct disbursement to a student enrolled in a study-abroad program or a foreign school, the lender must notify the home institution, for a student enrolled in a study-abroad program, or the foreign school, for a student enrolled in a foreign school, of all of the following:

- The name and Social Security number of the student.
- The type of loan.
- The amount of the disbursement, including the amount of any fees assessed the borrower.
- The date of the disbursement.
- The name, address, telephone and facsimile number or e-mail address of the lender, servicer, or guarantor to which any inquiries should be addressed.

[§682.207(b)(2)(iv)]

Revise subsection 9.2.B, page 5, column 2, paragraph 1, by inserting the following new subheading and text prior to the subheading "Information Sharing with the Department, a Lender, or a Guarantor":

#### **Notification of a Student's Loss of Eligibility**

Upon notification by a lender that loan funds have been disbursed directly to a student enrolled in a study-abroad program or a foreign school, the school must immediately notify the lender if the student is no longer eligible to receive the disbursement.

[§682.604(b)(1)(ii)]

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

...

#### **PROPOSED LANGUAGE - COMMON BULLETIN:**

##### **Disbursement for Students in Study-Abroad Programs or Foreign Schools**

The *Common Manual* has been updated to include clarifications provided in the Interim Final Regulations published in the *Federal Register* August 9, 2006, and the Final Regulations published in the *Federal Register* November 1, 2006, regarding the direct disbursement of loan funds to a student enrolled in a study-abroad program or a foreign school.

Revised policy clarifies that the request that loan funds be disbursed directly to a student enrolled in a foreign school and the verification of enrollment must be made by an official authorized by the foreign school to act on behalf of the school in administering the FFELP, and that the guarantor must verify in the Department's Postsecondary Education Participant's System (PEPS) that the foreign school is certified to participate in the FFELP. Guarantors and lenders must coordinate their activities to ensure that these requirements are met prior to any direct disbursement of Stafford loan funds.

Revised policy further clarifies that, in order for loan funds to be disbursed directly to the student, the required verifications must be performed prior to *each* disbursement. Enrollment verification can be completed by telephone, e-mail, or facsimile. In the case of a study-abroad student, the enrollment verification must be obtained from the home institution. For a new student in a study-abroad program or foreign school, the lender or guarantor must verify that the student has been admitted to the program. For a continuing student, the lender or guarantor must verify that the student is enrolled on at least a half-time basis. The lender or guarantor performing the verification must maintain documentation of the verification.

In addition, revised policy incorporates the existing requirement that the lender notify the school at the time that loan funds are disbursed directly to the student enrolled in a foreign school, and includes the new requirement that the lender make a similar notification to the home institution, in the case of a student enrolled in a study-abroad program. In either case, the school, upon receipt of this notification, must immediately notify the lender if the student is no longer eligible to receive the loan funds.

Finally, revised policy removes language that required PLUS loan funds for a student enrolled in a foreign school to be disbursed by individual check and sent to either the borrower or the school, because all PLUS loans now have the same disbursement requirements, regardless of the type of school involved. The policy further specifies that PLUS loan funds may not be directly disbursed to a borrower or student under any circumstances.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower who receives a direct disbursement of Stafford loan funds for enrollment in a study-abroad program or a foreign school must maintain at least half-time enrollment for each loan disbursement. The borrower may experience delays in loan delivery due to the increased verification requirements.

*School:*

A school must update procedures to ensure that the lender or guarantor is notified of the borrower's enrollment status. A foreign school must ensure that only an official designated by the school as being authorized to act on behalf of the school in administering the FFELP makes the request for direct disbursement to the student, or provides enrollment verification to the lender or guarantor. The school must also update procedures to ensure that, upon receipt of a lender's notification that loan funds have been disbursed directly to the student, that they immediately notify the lender if the student is no longer eligible to receive the loan funds.

*Lender/Servicer:*

A lender must update policies and procedures to ensure that the required verifications are performed prior to each Stafford loan disbursement made directly to a student enrolled in a study-abroad program or foreign school; that documentation of that verification is maintained in the student's file; and that proper notifications are made to either the home institution or the foreign school.

*Guarantor:*

A guarantor must verify that the school is certified to participate in the Title IV programs prior to each direct disbursement of loan funds to a student enrolled in a foreign school and maintain documentation of that verification. The guarantor may perform the required enrollment verification on behalf of a lender prior to each direct disbursement of Stafford loan funds to a student enrolled in a study-abroad program or a foreign school. If the guarantor performs the enrollment verification, the guarantor must maintain documentation of that verification. The guarantor may be required to modify program review procedures.

*U.S. Department of Education:*

The Department may be required to modify program review procedures.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

November 15, 2006

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

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

**Comments Received From:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCCLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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**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:**

Two commenters requested that the word "may" in second bullet of the September 8, 2006, effective date/trigger event and the second bullet of the December 1, 2006, effective date/trigger event be replaced with "must." The commenters also requested that the second bullet of the December 1, 2006, effective date/trigger event include all of the methods of verification allowed as of that date.

**Response:**

The Committee agrees.

**Change:**

The effective date/trigger events have been modified as requested.

**COMMENT:**

One commenter noted that the pre-existing foreign school notification of direct disbursement requirement that is being added with the September 8, 2006, and December 1, 2006, requirements was not given an effective date.

**Response:**

The Committee agrees. The regulatory requirement, previously located in 34 CFR 682.207(b)(1)(v)(E), was previously amended in the *Federal Register* dated November 30, 1994, effective July 1, 1995.

**Change:**

An effective date/trigger event of "Retroactive to the implementation of the *Common Manual*" has been added for the pre-existing foreign school notification of direct disbursement requirement.

**COMMENT:**

Two commenters requested that the regulatory citation 34 CFR 682.207(b)(1)(v)(B) be inserted at the end of the introductory paragraph of subsection 7.7.E.

**Response:**

The Committee agrees.

**Change:**

The regulatory citation as been added as requested.

**COMMENT:**

One commenter requested that, based on guidance provided on page 45678 of the *Federal Register* dated August 9, 2006, the following be inserted as the second sentence under the subheading "Student Enrolled in a Foreign School":

The request from the authorized official may be a blanket request for all students, or a request for each individual student.

**Response:**

The Committee agrees.

**Change:**

The text has been added as requested.

**COMMENT:**

One commenter requested that the regulatory citation §682.207(b)(2)(iii) be added under the subheading "Student Enrolled in a Foreign School".

**Response:**

The Committee agrees.

**Change:**

The regulatory citation as been added as requested.

**COMMENT:**

Six commenters requested that the regulatory citation §682.207(b)(2)(ii) be added under the subheading "Documentation of Enrollment Verification".

**Response:**

The Committee agrees.

**Change:**

The regulatory citation as been added as requested.

**COMMENT:**

Four commenters requested that the phrase "or guarantor" be added at the end of the second sentence of the school implication statement, as enrollment verifications may be requested by either the lender or the guarantor.

**Response:**

The Committee agrees.

**Change:**

The second sentence of the school implication statement has been revised as follows:

A foreign school must ensure that only an official designated by the school as being authorized to act on behalf of the school in administering the FFELP makes the request for direct disbursement to the student, or provides enrollment verification to the lender or guarantor.

**COMMENT:**

One commenter requested that the second sentence in subsection 7.7.E under the subheading "Student Enrolled in a Foreign School" be revised for clarity, as follows:

Prior to each direct disbursement to the borrower by the lender, the guarantor must verify in the Department's Postsecondary Education Participant's System (PEPS) that the foreign school is certified to participate in the FFELP.

**Response:**

The Committee agrees.

**Change:**

The text has been revised as requested.

**COMMENT:**

One commenter requested that the description of the documentation required for an enrollment verification prior to direct disbursement of FFELP funds to the borrower be amended as follows:

The lender or guarantor that is verifying enrollment for a student enrolled in a study-abroad program or a foreign school must maintain documentation of all of the following:

- The name and telephone number, (in the case of a telephone verification) or the email address, (in the case of an email verification), of the school representative contacted.

**Response:**

While the Committee agrees that it seems more appropriate to document the e-mail address if the verification was completed by e-mail (or the fax number if the verification was completed by facsimile), the regulations specifically require that the telephone number be documented.

**Change:**

None.

**COMMENT:**

One commenter requested that the first sentence of the guarantor implication statement be modified as follows:

A guarantor must verify that the school is certified to participate in the Title IV programs prior to the direct disbursement of loan funds to a student enrolled in a foreign school and maintain documentation of that verification.

Two other commenters requested that the phrase ". . . prior to the direct disbursement . . ." be changed to ". . . prior to each direct disbursement . . ."

**Response:**

The Committee agrees.

**Change:**

Both suggestions have been incorporated in the guarantor implication statement.

ke/edited-chh

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Media for Providing Borrower and Student Notifications

**AFFECTED SECTIONS:** 8.2 Required Notices

**POLICY INFORMATION:** 942/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** Borrower disclosures and required notices sent in electronic format on or after May 2001.

**BASIS:**  
*Dear Colleague Letters* GEN-01-06 and GEN-05-16.

**CURRENT POLICY:**  
Current policy states that required borrower and, if applicable, student disclosures and notices may be made in a written or electronic format.

**REVISED POLICY:**  
Revised policy clarifies that a school may provide required notifications through electronic media. However, the borrower or student, as applicable, must affirmatively consent to the use of such an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The consent must be voluntary and based on accurate information about the transactions to be completed. These electronic processes must be made in accordance with the Electronic Signatures in Global and National Commerce Act (Public Law 106-229).

**REASON FOR CHANGE:**  
These changes are being incorporated to align the *Common Manual* with current community practices in the use of electronic media to provide required notices.

## PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 8.2, page 2, column 1, by inserting a new paragraph 2, as follows:

### 8.2 Required Notices

The school is required to provide certain notices to the student and/or parent borrower, ~~or in the case of a parent PLUS loan, to the borrower and the dependent student~~, regarding certain aspects of the loan process and characteristics of the loan themselves. The timing of these notices is generally prescribed in regulation to coincide with specific events related to loan delivery.

These required school notices may be made in hard copy or electronically. However, if the notices are made electronically, or if a school directs the student and/or parent borrower to a secure Web site that contains the required notices, the individual must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The consent must be voluntary and based on accurate information about the transactions to be completed. These electronic processes must be made in accordance with the Electronic Signatures in Global and National Commerce Act (Public Law 106-229).  
[DCLs GEN-01-06 and GEN-05-16]

## PROPOSED LANGUAGE - COMMON BULLETIN: Media for Providing Borrower and Student Notices

The *Common Manual* has been updated to state that a school may use electronic means to deliver notices that the school is required to provide to a student and/or parent borrower. Revised policy clarifies that before the

notices are made electronically to a borrower and/or student, the individual must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The borrower and/or student's consent must be voluntary and based on accurate information about the transactions to be completed. These electronic processes must be made in accordance with the Electronic Signatures in Global and National Commerce Act (Public Law 106-299).

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower must consent to the use of an electronic record as a means of receiving required notifications and disclosures and must affirm that he or she is able to access the electronic information.

*School:*

If the school wishes to provide required notices and disclosures electronically, the school must ensure that processes are in place to secure each borrower's or dependent student's consent to the use of that medium.

*Lender/Service:*

None.

*Guarantor:*

A guarantor may need to modify program review procedures.

*U.S. Department of Education:*

The Department may need to modify program review procedures.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

January 20, 2006

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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**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 requested revising the proposed policy language to clarify that the notifications are to be sent to the actual borrower.

**Response:**

The Committee agrees that most required notifications are sent to the borrower. However, there are exceptions, such as the award letter, where the notice is sent to the student of the type and estimated amount of aid he/she and, if applicable, a parent borrower are eligible to receive. The language has been revised to encompass all possibilities for required notifications sent by the school.

**Change:**

The proposed language has been revised as follows:

These required notifications may be made in hard copy or electronically. However, if the notifications are made electronically, or if a school directs the ~~borrower or student and/or parent borrower~~ to a secure Web site that contains the required notifications, the ~~borrower individual, or borrower and dependent student, in the case of a parent PLUS loan,~~ must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The consent must be voluntary and based on accurate information about the transactions to be completed.

**COMMENT:**

One commenter requested adding language to the bulletin to specify that these notifications are a requirement of the school and to also include the public law reference.

**Response:**

The Committee agrees and believes that the commenter's suggestion would also be beneficial in the proposed policy text.

**Change:**

The Common Bulletin and proposed language have been revised as follows:

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Media for Providing Borrower and Student Notices**

The *Common Manual* has been updated to state that a school may use electronic means to deliver notices that the school is required to provide to the student and/or parent borrower. Revised policy clarifies that before ~~a school conducts electronic~~ the notifications are made electronically to provide or make available information in writing to a borrower and/or student, the individual must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The borrower and/or student's consent must be voluntary and based on accurate information about the transactions to be completed. These electronic processes must be made in accordance with the Electronic Signatures in Global and National Commerce Act (Public Law 106-299).

**8.2  
Required Notices**

...

These required school notices may be made in hard copy or electronically. However, if the notices are made electronically, or if a school directs the student and/or parent borrower to a secure Web site that contains the required notices, the individual must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The consent must be voluntary and based on accurate information about the transactions to be completed. These electronic processes must be made in accordance with the Electronic Signatures in Global and National Commerce Act (Public Law 106-229).  
[DCLs GEN-01-06 and GEN-05-16]

om/edited-bb



# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Overaward of PLUS Loans

**AFFECTED SECTIONS:** 8.6 Managing Overawards

**POLICY INFORMATION:** 943/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** For the removal of the foreign school exemption from the overaward provisions, effective September 8, 2006. For the inclusion of Grad PLUS loans in the overaward provisions, effective December 1, 2006.

**BASIS:**

*Federal Register* dated August 9, 2006, page 45709; *Federal Register* dated November 1, 2006, pages 64391 and 64399; §682.604(h).

**CURRENT POLICY:**

Current policy states that overawards are applicable only to Stafford loans; they do not apply to PLUS loans or to loans made to students enrolled in eligible foreign schools.

**REVISED POLICY:**

Revised policy states that an overaward occurs when a student receives additional financial assistance or the student's expected family contribution increases, resulting in a reduction of the student's eligibility for a previously certified Stafford or Grad PLUS loan.

**REASON FOR CHANGE:**

This change aligns the manual's current language with the interim and final rules published in the *Federal Register* on August 9, 2006 and November 1, 2006.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise section 8.6, page 6, column 2, paragraph 3, as follows:

**8.6  
Managing Overawards**

~~Overawards are applicable only to Stafford loans; they do not apply to PLUS loans or to loans made to students enrolled in eligible foreign schools.~~  
{§682.604(h)}

An overaward occurs when a student receives additional financial assistance or the student's expected family contribution (EFC) increases, which results in a change in reduction of the student's borrower's eligibility for any previously certified Stafford or Grad PLUS loan. Up to \$300 of Federal Work-Study earnings are excluded from the determination of an overaward.  
{§682.604(h)}

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Overaward of PLUS Loans**

The *Common Manual* has been updated to remove the exemption of loans made to students enrolled in eligible foreign schools from the overaward provisions, and to include Grad PLUS loans in the overaward provisions.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower may experience an overaward of either a Stafford or Grad PLUS loan, even if enrolled in a foreign school.

*School:*

A school is required to consider both Stafford and Grad PLUS loans in its resolution of overawards. An eligible foreign school must now calculate and resolve overawards when the student experiences a reduction in eligibility for a previously certified Stafford or Grad PLUS loan.

*Lender/Service:*

None.

*Guarantor:*

A guarantor may need to revise program review procedures.

*U.S. Department of Education:*

The Department may need to revise program review procedures.

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**To be completed by the Policy Committee**

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**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

December 5, 2006

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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**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 requested that page 64399 of the *Federal Register* dated November 1, 2006 be added to the basis.

**Response:**

The Committee agrees.

**Change:**

Page 64399 of the *Federal Register* dated November 1, 2006 has been added to the basis.

**COMMENT:**

Three commenters requested that the term "Grad PLUS" be replaced with "PLUS" throughout the policy. One of these commenters stated that, although the preamble language to the *Federal Register* dated November 1, 2006 indicates that this provision is applicable to Grad PLUS, the actual regulatory change references PLUS in general.

Another commenter requested that the regulatory citation be stricken from the end of the new first paragraph of section 8.6. The commenter stated that, "Although a technical correction has been submitted to the Department to have overaward rules apply to PLUS Loans, as the correction has not yet been made, the reference to the regulations should be deleted for now. Once the technical correction is made to the regulations, the citation could be added to the *Common Manual*."

**Response:**

The Committee agrees that there is a discrepancy between the preamble language and the regulatory language. The technical correction that has been requested to 34 CFR 682.604 is as follows:

(h) *Treatment of excess loan proceeds.* Except as provided under paragraph (i) of this section if, before the delivery of any Stafford, SLS or student PLUS loan disbursement, the school learns that the borrower will receive or has received financial aid for the period of enrollment for which the loan was made that exceeds the amount of assistance for which the student is eligible, the school shall reduce or eliminate the overaward by either—

The reason for the correction request was as follows:

The preamble to the November 1, 2006 regulations stipulate that Grad PLUS loans should be included in the school's overaward calculations since those loans are made to students (see page 64391, column 2, first 'Discussion'). However, the language that was incorporated into §682.604(h) requires a school to include all PLUS loans, even parent PLUS loans in its overaward calculation. Based on the preamble language, we do not believe that this was the intent.

The word "PLUS" was inserted into the regulation in the *Federal Register* dated November 1, 2006. The technical correction requested was the insertion of the word "student," to prevent the seemingly unintended consequence of a requirement for schools to apply the overaward provisions to parent PLUS borrowers. The Committee believes that the intent was for this provision to apply only to Grad PLUS loans, rather than to all PLUS loans, and that the more conservative approach is to include the word "Grad" in the *Common Manual* text. Until a decision has been reached on the technical correction, the Committee believes that it is preferable that *fewer* individuals be subject to the stress of an overaward situation, rather than *more*. The Committee also agrees that it is prudent to remove temporarily the discrepant regulatory citation at the end of the paragraph.

**Change:**

The regulatory citation at the end of the proposed language has been deleted pending a decision on the technical correction to 34 CFR 682.604(h).

**COMMENT:**

One commenter requested the following modification to the proposed language in section 8.6:

An overaward occurs when a student's aid package exceeds the student's need. This often happens when a student receives additional financial assistance or the student's expected family contribution (EFC) increases, which results in a reduction of the student's eligibility for a previously certified Stafford or Grad PLUS loan. Up to \$300 of Federal Work-Study earnings are excluded from the determination of an overaward.

The commenter further requested some changes to the existing wording of the final paragraph, including the addition of the sentence, "There is a \$300 tolerance for all campus-based programs." The commenter pointed out that the *Federal Student Aid Handbook* states that the \$300 tolerance applies to all campus-based programs, rather than just the Federal Work-Study program.

**Response:**

The Committee agrees that the commenter's suggestions have merit, but believes this modification should be addressed in a separate proposal to allow for community comment.

**Change:**

None.

kke/edited-chh

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** False Certification as a Result of the Crime of Identity Theft

**AFFECTED SECTIONS:** figure 11-2  
11.20.D False Certification Due to Identity Theft  
13.8.E False Certification Due to Identity Theft

**POLICY INFORMATION:** 945/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** False certification as a result of identity theft loan discharge claims processed by the lender on or after September 8, 2006.

**BASIS:**

*Federal Register* dated August 9, 2006, pages 45676-45677 and 45707; *Federal Register* dated November 1, 2006, pages 64388-64389 and 64398.

**CURRENT POLICY:**

Current policy states that a borrower may obtain a false certification loan discharge on a loan(s) that was falsely certified due to a crime of identity theft and that, until the date that the Department's applicable discharge regulations are effective, if a lender receives reasonably persuasive evidence from a borrower showing that the borrower's loan(s) may have been falsely certified due to a crime of identity theft, the lender may grant an administrative forbearance on the borrower's loan(s) that is potentially eligible for discharge on this basis.

**REVISED POLICY:**

Revised policy states that an individual may have a student loan(s) discharged based on a court determination that the individual was a victim of the crime of identity theft. The policy states that the individual must provide a copy of the court verdict that confirms that the individual was a victim of a crime of identity theft, must confirm that he or she did not endorse a promissory note and that other means used to identify the individual were used without the individual's authorization, and that the individual did not knowingly have or obtain use of the loan funds. Revised policy provides for alternative provisions if the judicial determination of the crime does not expressly state that the student loan(s) in question was obtained as a result of the crime of identity theft. Also, the policy defines the term "identity theft," (as applicable to the Higher Education Act) and specifies claim-filing requirements.

Revised policy states that if the crime of identity theft was committed by the lender or an agent of the lender, or if at the time the loan was made, the lender or an agent of the lender was aware that the crime was being committed, the loan is not insured, and the lender must refund any interest benefits and special allowance previously paid for that loan and cease future billings.

In addition, revised policy modifies Figure 11-2, row 10, and footnote 6 to reflect regulations regarding the application of administrative forbearance for loans that are potentially eligible for false certification as a result of a crime of identity theft. Revised policy also modifies subsection 11.20.D to accommodate for the granting of administrative forbearance for this discharge type.

Further, revised policy adds information about loan servicing requirements, notifications, and claim filing policies (currently applicable to other false certification loan discharge types) modified as applicable to cases of false certification loan discharge that results from a crime of identity theft.

**REASON FOR CHANGE:**

These changes align the *Common Manual* with the Department's regulations for false certification loan discharge that results from a crime of identity theft.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Figure 11-2, page 27, Administrative forbearance, row 10, as follows:

False Certification— <del>Due to</del> Identity Theft <sup>6</sup>	<u>Date eligibility requirements sent to individual to date request and documentation returned, not to exceed 60 days; and from date guarantor receives documentation to date of determination the lender receives reasonably persuasive evidence from the individual showing that the individual's loan may have been falsely certified due to identity theft to date the Department's applicable discharge regulations are effective</u>
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Revise Figure 11-2, page 27, footnote 6, as follows:

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

Revise subsection 11.20.D, page 29, column 1, paragraph 1, as follows:

**11.20.D**  
**False Certification ~~Due to~~ as a Result of the Crime of Identity Theft**

~~If a lender receives reasonably persuasive evidence from a individual showing that the individual's loan(s) may have been falsely certified due to a crime of identity theft, the lender may grant an administrative forbearance on the individual's potentially eligible loan(s). The administrative forbearance may be granted until the date that the Department's applicable discharge regulations are effective.~~  
[HEA 437(c)(1); DCL GEN 06-02]

If a guarantor or the Department notifies a lender, or the lender receives reliable information from another source (such as a telephone call or letter from the individual named as the borrower) that an individual may be eligible for a false certification loan discharge as a result of the crime of identity theft, the lender must grant an administrative forbearance on any potentially eligible loan for a period not to exceed 60 days, beginning no earlier than the date that the loan discharge eligibility requirements are sent to the individual. If the individual fails to return the discharge documentation within the required time frame, the lender must end the administrative forbearance and the loan's delinquency resumes at the point at which collection activity was suspended.  
[§682.211(f)(7); §682.402(e)(12)]

In addition, the lender may grant an administrative forbearance for periods needed by the Department or the guarantor to determine the individual's eligibility for discharge because of false certification as a result of identity theft (see subsection 13.8.E for information regarding false certification loan discharge as a result of identity theft). If the discharge is denied, the lender must resume collection activity on the loan within 30 days of the lender's receipt of the denial notice from the guarantor. The lender may capitalize interest accrued during the forbearance period and the loan's delinquency resumes at the point at which collection activity was suspended.  
[§682.402(e)(7)(ii)]

The lender must clearly indicate in the servicing history that an administrative forbearance was granted due to the borrower's potential eligibility for loan discharge for false certification as a result of ~~false certification due to~~ the crime of identity theft.

Revise subsection 13.8.E, page 34, column 2, paragraph 1, as follows:

**13.8.E**  
**False Certification ~~Due to~~ as a Result of the Crime of Identity Theft**

An ~~borrower~~ individual may obtain a false certification loan discharge on a loan(s) disbursed on

or after January 1, 1986, if the individual's eligibility to receive the loan that was falsely certified due to as a result of a crime of identity theft. For the purposes of false certification loan discharge, the term "individual" includes all endorsers on a loan. However, until the date that the Department's applicable discharge regulations are effective, if a lender receives reasonably persuasive evidence from an individual showing that the individual's loan(s) may have been falsely certified due to a crime of identity theft, the lender may grant an administrative forbearance on the individual's potentially eligible loan(s). See subsection 11.20.D for information about applying an administrative forbearance in the case of false certification due to identity theft.

[HEA 437(c)(1); DCL GEN-06-02 §682.402(e)(1)(i)]

If the guarantor determines that an individual is eligible for a loan discharge, the discharge cancels the obligation of the individual to repay the applicable outstanding principal, accrued interest, collection costs, and late fees. It also qualifies the individual for reimbursement of any amounts paid voluntarily or through forced collection on the amount discharged. The lender and guarantor must ensure that the discharge is reported to credit bureaus such that any adverse credit history associated with the amount discharged is removed.

[§682.402(e)(2)]

An individual may initiate the discharge process based on false certification as a result of the crime of identity theft by requesting the discharge and providing the lender or guarantor with all of the required documentation.

If the lender receives preliminary notification that the loan was falsely certified, the lender must send information explaining the loan discharge eligibility requirements to the individual. If the guarantor receives the preliminary notification that the loan was falsely certified, the guarantor may send the information explaining the loan discharge eligibility requirements to the lender to forward to the individual. In other cases, the guarantor may send the information explaining the loan discharge eligibility requirements directly to a potentially eligible individual and notify the lender of the potential discharge. In such cases, the guarantor also may request that the individual return the required documentation to the guarantor for a determination of eligibility. The guarantor will notify the lender of the individual's eligibility for the loan discharge.

[§682.402(e)(12)]

### **Suspending Collection Activity**

If a guarantor notifies a lender, or the lender receives reliable information from another source (such as a telephone call or written correspondence from the individual) that an individual may be eligible for a false certification loan discharge, the lender must immediately suspend all collection activity and must grant an administrative forbearance on any affected loan.

[§682.402(e)(12)(i)]

The lender must grant an administrative forbearance on all loans that are potentially eligible for discharge. The forbearance may begin no earlier than the date that information explaining the loan discharge eligibility requirements is sent to the individual. The lender must resume collection activities if the individual fails to return a discharge request and the required documentation within 60 days after the date the information is sent to the individual. The lender must resume collection activities within 30 days from receiving notification that the loan is ineligible for false certification loan discharge. The lender may capitalize the interest accrued during the administrative forbearance period.

[§682.402(e)(12)(i)]

### **Notifying the Individual**

Within 30 days of the date the lender receives information that the individual may be eligible for a false certification loan discharge, the lender must send information to the individual regarding how to request the loan discharge. The lender must provide the following information to potentially eligible individuals:

- Eligibility requirements for false certification loan discharge as a result of the crime of

identity theft.

- Appropriate instructions for sending a signed request for loan discharge and all required documentation to the lender, including instructions that the documentation must be submitted to the lender within 60 days.
- An explanation of the administrative forbearance applied to each potentially eligible loan(s) and the effect of the capitalization of interest accrued during the forbearance period.

[§682.402(e)(12)(i)]

### **Eligibility Criteria**

An individual qualifies for loan discharge if the individual does all of the following:

- Certifies that he or she did not sign the promissory note, or that any other means of identification used to obtain the loan were used without the authorization of the individual.
- Certifies that he or she did not knowingly receive or benefit from the proceeds of the loan that had been made without the individual's authorization.
- Provides to the lender a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft.

[§682.402(e)(3)(v)]

If the judicial determination of the crime does not expressly state that the loan was obtained as a result of the crime, the individual must provide all of the following:

- Five different samples of his or her signature, two of which must be no more than one year before or one year after the date of the contested signature, or other means of identification of the individual, as applicable, corresponding to the means of identification used falsely to obtain the loan.
- A statement of facts that demonstrates that eligibility for the student loan in question was falsely certified.

[§682.402(e)(3)(v)]

For the purposes of this subsection, identity theft is considered to be the unauthorized use of the identifying information of another individual that is punishable under 18 U.S.C. 1028, 1029, or 1030, or substantially comparable state or local law. Identifying information includes, but is not limited to, any of the following elements:

- Demographic data such as name, SSN, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number.
- Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation.
- Unique electronic identification number, address, or routing code.
- Telecommunication identifying information or access device [as defined in 18 U.S.C. 1029(e)].

[§682.402(e)(14)(i)and (ii)]

### **Processing the Discharge**

If an individual returns to the lender a request for loan discharge and all of the required

documentation, the lender must file a claim with the guarantor. If an individual returns to the guarantor a loan discharge request and all of the required documentation, the guarantor will review the documentation and determine the individual's eligibility for false certification loan discharge. The guarantor will notify the lender that either the individual qualifies for the loan discharge and the lender must file a false certification loan discharge claim, or the individual does not qualify for loan discharge and the lender must resume applicable collection activity.  
[§682.402(e)(7)(i) and (ii); 682.402(e)(12)(iii)]

If an individual submits incomplete documentation, the lender or guarantor must send the individual an explanation of why the documentation is incomplete. If the individual's signature is missing, the lender or guarantor must return the request to the individual. The lender or guarantor must document the loan history accordingly. In either situation, the administrative forbearance period described previously in this subsection must not exceed a total of 60 days from the date on which the loan discharge information was originally sent to the individual.

If an individual fails to submit complete loan discharge documentation within 60 days of being notified of that option, the lender must resume collection activity of the affected loan(s). The lender is deemed to have exercised forbearance on the loan(s) beginning on the date on which the lender suspended collection activity. The lender may capitalize unpaid interest that accrues during the forbearance period.

[§682.402(e)(12)(ii)]

An individual's request for loan discharge cannot be denied solely due to the individual's failure to return the request and required documentation within 60 days. If the lender receives complete documentation from the individual at a later date, the lender must process the loan discharge request and if the individual appears to qualify for the loan discharge, file a claim with the guarantor.

[§682.402(e)(6)(v)]

### **Claim Filing Requirements**

A lender must file a false certification loan discharge claim within 60 days of receiving complete loan discharge documentation from the individual or, if the guarantor has obtained the discharge documentation directly from the individual, within 60 days from the date of the guarantor's notification to file a false certification loan discharge claim. Failure to meet this timely filing deadline may result in an interest penalty.

[§682.402(e)(12)(iii)]

A lender facilitates the timely and accurate processing of a false certification loan discharge claim by ensuring that complete loan discharge documentation from the individual is submitted with each claim.

The lender must forward to the guarantor within 30 days of receipt any payments it receives after the claim has been filed.

[§682.402(e)(12)(iii)]

### **Claim Filing Documentation**

The lender must submit all of the following documentation to the guarantor:

- The Claim Form, completed according to the instructions that accompany that form.
- The individual's signed request for loan discharge and all required documentation provided by the individual, unless the individual submitted this information directly to the guarantor.
- The loan application, if a separate loan application was provided to the lender, and the promissory note (or a true and exact copy of the promissory note), assigned to the guarantor. If the original or copy of the loan application or promissory note cannot be located, the guarantor and the lender must examine their records and any documentation



submitted by the individual to determine whether the individual qualifies for a discharge. If the MPN is signed by a third party with power of attorney (POA) for the individual, the lender must also submit a copy of the applicable POA document.

- The total amount of payments made by the individual or on behalf of the individual. This total should be provided on the Claim Form. If the total amount of payments made by or on behalf of the individual is not available, the lender must clearly explain why this information is not provided on the Claim Form.
- The total of any payments the lender is aware of having received from a third-party source. These amounts must be included in the total amount of principal repaid on the Claim Form and must not be included in the total amount of payments made by or on behalf of the individual.
- Supporting documentation not required for claim submission must be retained by the lender in accordance with federal record retention requirements. (See subsection 3.4.A for information on lender record retention requirements.)

[§682.402(e)(12)(iv)]

### **Processing an Approved Discharge**

If the guarantor determines that a loan is eligible for discharge due to false certification, the guarantor will take the following actions within 30 days of approving the discharge:

- Notify the individual that his or her liability with respect to the amount of the loan has been discharged.
- Instruct all credit reporting agencies to which the guarantor previously reported the status of the loan to delete all adverse credit history associated with the discharged loan.
- Refund to the individual all amounts paid by the individual to the lender or the guarantor with respect to the discharged loan(s), including any late fees or collection costs.
- Notify the lender that the individual's liability has been discharged.
- Pay the applicable amount to the lender.

[§682.402(e)(7)(ii)]

Upon receiving notification of the loan discharge from the guarantor as noted above, the lender must:

- Discontinue any collection efforts against the individual with respect to the discharged loan amount and any charges imposed or costs incurred by the lender related to the discharged loan amount.
- Within 30 days, instruct all credit reporting agencies to which the lender previously reported information on the loan to delete all adverse credit history associated with the discharged loan.

[§682.402(e)(7)(ii)(C)]

### **Denying the Discharge**

If the guarantor determines that a loan is not eligible for discharge due to false certification, the guarantor will ensure that the following actions are performed within 30 days of making the determination:

- Notify the lender that the individual does not qualify for the requested discharge.
- Advise the lender that the false certification loan discharge claim, if one was filed, will be either returned to the lender or paid as a default claim, as applicable, depending on the

individual's actions to reaffirm the debt, if necessary.

- Notify the individual that he or she does not qualify for discharge and explain the reasons for that determination.

[§682.402(e)(7)(iii)]

In its notification to the individual, the guarantor will advise the individual that he or she remains obligated to repay the loan and warn the individual of the consequences of default. In addition, the guarantor will explain that the individual will be considered to be in default on the loan—unless he or she fulfills either of the following requirements within 30 days:

- Submits a written statement to the guarantor in which the individual acknowledges the debt and, if payments are due, agrees to begin or resume making those payments to the lender. Within 30 days after receiving this statement, the guarantor will return the claim file to the lender and notify the lender to resume collection activity if payments are due.
- Requests that the Department review the guarantor's decision. Within 30 days after receiving this request, the guarantor will forward the claim file and all relevant documentation to the Department for review. Approval of the discharge by the Department will result in the discharge of the loan through claim payment or discharge by the guarantor. Denial will result in the return of the claim to the holder for continued servicing and collection activity.

[§682.402(e)(7)(iii)]

The guarantor will purchase a default claim from the lender within 30 days after a borrower fails to return either the statement acknowledging the debt or the request for review of the guarantor's decision by the Department.

[§682.402(e)(7)(vi)]

If the guarantor notifies the lender that the borrower does not qualify for a false certification loan discharge, the lender must resume applicable collection activity on the loan within 30 days of receiving the guarantor's notification. If a forbearance was applied to the loan pending the determination of the borrower's eligibility for false certification loan discharge, the lender may capitalize interest accrued during the forbearance period. The lender must also notify the borrower that the loan discharge was denied and the reason for that denial.

[§682.402(e)(7)(vi)]

### **Claim Payment**

If a loan was made as a result of the crime of identity theft that was committed by an employee or agent of the lender, or if at the time the loan was made, an employee or agent of the lender knew of the identity theft of the individual named as the borrower or endorser on the loan, the loan is not insured and the holder must refund to the Department any amounts received as interest benefits and special allowance payments with respect to the loan.

The guarantor will pay an eligible claim within 30 days of approving the loan discharge application if the lender files the claim based on false certification as a result of the crime of identity theft.

[§682.402(e)(1)(iii)]

### **PROPOSED LANGUAGE - COMMON BULLETIN:**

#### **False Certification as a Result of the Crime of Identity Theft**

The *Common Manual* has been updated with the Department's regulatory requirements regarding false certification loan discharge as a result of the crime of identity theft. An individual qualifies for loan discharge if the individual does all of the following:

- Certifies that he or she did not sign the promissory note, or that any other means of identification used to obtain the loan were used without the authorization of the individual.
- Certifies that he or she did not knowingly receive or benefit from the proceeds of the loan that had been

made without the individual's authorization.

- Provides to the lender a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft.

If the judicial determination of the crime does not expressly state that a FFELP loan(s) was obtained as a result of the crime, the individual must provide all of the following:

- Five different samples of his or her signature, two of which must be no more than one year before or one year after the date of the contested signature, or other means of identification of the individual, as applicable, corresponding to the means of identification used falsely to obtain the loan.
- A statement of facts that demonstrates that eligibility for the student loan in question was falsely certified.

Identity theft is considered the unauthorized use of the identifying information of another individual that is punishable under 18 U.S.C. 1028, 1029, or 1030, or substantially comparable state or local statute. Identifying information includes, but is not limited to:

- Name, SSN, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, and employer or taxpayer identification number;
- Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation;
- Unique electronic identification number, address, or routing code; or
- Telecommunication of identifying information or access device [as defined in 18 U.S.C. 1029(e)].

If a loan was made as a result of the crime of identity theft that was committed by an employee or agent of the lender, or if at the time the loan was made, an employee or agent of the lender knew of the identity theft of the individual named as the borrower or endorser on the loan, the Department does not pay reinsurance, and does not reimburse the holder, for any amount disbursed on the loan. Also, the holder must refund to the Department any amounts received as interest benefits and special allowance payments with respect to the loan and cease future billings.

Finally, revised policy adds information about loan servicing requirements, notifications, and claim filing procedures applicable to the loan for an individual who requests loan discharge due to false certification that results from a crime of identity theft.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

An individual may obtain a false certification loan discharge if a school certifies and a lender makes a loan as a result of the crime of identity theft against the individual. The individual must provide the required documentation to substantiate his or her request for discharge to the holder of his or her loan, including a judicial verdict.

*School:*

A school may be required to update counseling materials related to an individual's eligibility to receive a false certification loan discharge resulting from the crime of identity theft.

*Lender/Service:*

A lender may need to update its procedures for processing false certification loan discharge requests if a loan was falsely certified as a result of the crime of identity theft against an individual. Also, a lender may need to update its counseling materials related to an individual's eligibility to receive a false certification loan discharge

resulting from the crime of identity theft.

*Guarantor:*

A guarantor may need to update its procedures for processing false certification loan discharge claims if a loan was falsely certified as a result of the crime of identity theft against an individual. Also, a guarantor may need to update its counseling materials related to an individual's eligibility to receive a false certification loan discharge resulting from the crime of identity theft. Further, a guarantor may need to update its program review procedures, as applicable.

*U.S. Department of Education:*

The Department may need to update its procedures for processing false certification loan discharge reinsurance. Also, the Department may need to update its counseling materials related to an individual's eligibility to receive a false certification loan discharge resulting from the crime of identity theft. Further, the Department may need to update its program review procedures, as applicable.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

January 10, 2007

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received from:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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**Note:** Most commenters supported this policy as written. Other commenters recommended several word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language and were inserted without acknowledgment. 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 stated that the revised policy statement should say that separate reference to administrative forbearance for identity theft is being removed from the manual, as this is already covered by the administrative forbearance provision for false certification discharge in general. Three commenters recommended keeping information in Figure 11-2, row 10, regarding false certification as a result of identity theft and one of these commenters suggested modifications to the language to reflect regulations.

**Response:**

The Committee appreciates all of the commenters' suggestions. The Committee believes that since false certification as a result of identity theft is a separate subsection in chapter 13, row 10 of Figure 11-2 should be retained and modified to reflect the Department's applicable regulations. The Committee notes that it will be helpful to modify footnote 6 to better convey its applicability to identity theft false certification. The Committee agrees that the revised policy statement should be modified to explain these revisions.

**Change:**

The revised policy statement has been revised to include information about Figure 11-2. Also, row 10 and footnote 6 have been modified as follows:

“False Certification—~~Due to Identity Theft~~<sup>6</sup>

Date eligibility requirements sent to individual to date request and documentation returned, not to exceed 60 days; and from date guarantor receives documentation to date of determination the lender receives reasonably persuasive evidence from the individual showing that the individual's loan may have been falsely certified due to identity theft to date the Department's applicable discharge regulations are effective”

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

**COMMENT:**

As the Committee considered the comments to Figure 11-2, it reconsidered proposed deletion of all of the text in subsection 11.20.D regarding administrative forbearance for false certification as a result of identity theft. The Committee believes that information in this subsection should be modified to reflect regulations applicable to this type of false certification.

**Change:**

Subsection 11.20.D has been modified as follows:

**“11.20.D**

**False Certification Due to as a Result of the Crime of Identity Theft**

If a guarantor or the Department notifies a lender, or the lender receives reliable information from another source (such as a telephone call or letter from the individual named as the borrower) that an individual may be eligible for a false certification loan discharge as a result of the crime of identity theft, the lender must grant an administrative forbearance on any potentially eligible loan for a period not to exceed 60 days, beginning no earlier than the date that the loan discharge eligibility requirements is sent to the individual. If the individual fails to return the discharge application within the time frame required the lender must end the administrative forbearance and the loan's delinquency resumes at the point at which collection activity was suspended.

In addition, the lender may grant an administrative forbearance for periods needed by the Department or the guarantor to determine the individual's eligibility for discharge because of false certification as a result of identity theft (see subsection 13.8.E for information regarding false certification loan discharge as a result of identity theft). If the discharge is denied, the lender must resume collection activity on the loan within 30 days of the lender's receipt of the denial notice from the guarantor. The lender may capitalize interest accrued during the forbearance period and the loan's delinquency resumes at the point at which collection activity was suspended.

The lender must clearly indicate in the servicing history that an administrative forbearance was granted due to the borrower's potential eligibility for loan discharge for false certification as a result of ~~false certification due to~~ the crime of identity theft.”

**COMMENT:**

One commenter stated that under the subheading “Eligibility Criteria”, 1<sup>st</sup> bullet of the 2<sup>nd</sup> set of bullets of subsection 13.8.E, proposed language refers to “other means of identification of the individual, as applicable, corresponding to the means of identification falsely used to obtain the loan” and that it is unclear how obtaining signature samples from the victim would provide any illumination in the event of an electronic signature to the Promissory Note. In such a case, would the victim be expected to supply, or the guarantor be expected to obtain, other related financial aid documents that might contain the impostor's signature for comparison purposes?

**Response:**

The Committee is not aware of any Department guidance regarding the situation described. However, the Committee assures the commenter that if such guidance is published, it will expedite development of a policy proposal that addresses this situation.

**Change:**

None.

**COMMENT:**

One commenter noted that information under the subheading "Claim Filing Documentation" of subsection 13.8.E lists the required documentation as a signed request for loan discharge and all required documentation provided by the individual, unless the individual submitted this information directly to the guarantor. The commenter believes that since the required documentation is so precise, that the language should be revised to read as follows:

"The individual's signed request for loan discharge and either the required court verdict with the loan for which discharge is being sought listed as a loan resulting from the identity theft or the required court verdict and the documentation demonstrating the loan was falsely certified, unless the individual submitted this information directly to the guarantor."

**Response:**

The Committee understands the commenter's concern in wanting the specific required documentation to be listed; however, the Committee believes that in the case when the judicial determination of the crime does not expressly state that the loan was obtained as a result of the crime, the documentation demonstrating that the loan was falsely certified rather open-ended because this information will vary from case to case. Therefore, the Committee believes that general mention of "all required documentation" will suffice.

**Change:**

None.

**COMMENT:**

Two commenters suggested adding information under the subheading "Processing an Approved Discharge" to state that the guarantor must demand payment from the perpetrator of the identity theft and that the guarantor should use standard due diligence and is not required to take unusual or extraordinary steps to collect the debt. The commenters stated that this information is supported by the November 1, 2006, Final Rules.

**Response:**

The Committee agrees that the guarantor has responsibility for collecting the debt from the perpetrator, however, the *Common Manual* is a policy manual for schools, lenders, and servicers; therefore, guarantor policy is generally not included.

**Change:**

None.

**COMMENT:**

One commenter suggested revising information under the subheading "Denying the Individual's Discharge," second set of bullets of subsection 13.8.E, because as currently written, it appears that there are two conditions for prevention of default and the text provides only one condition. Another commenter noted that there are two conditions for prevention of default and suggests mirroring the related text currently in subsection 13.8.D in order to capture both conditions as well as other information that was inadvertently left out of the proposal. Another commenter suggested that the policy include language that states that the individual may request a review by the Secretary of the guarantor's denial of the discharge request.

**Response:**

The Committee agrees that as currently written, some of the information regarding denying the discharge was not included in the proposal.

**Change:**

The language under "Denying the Individual's Discharge" has been expanded to include additional information regarding denying the discharge.

**COMMENT:**

One commenter suggested adding a sentence to the end of the first paragraph under Claim Payment to state that if the loan is not insured because the loan was made as a result of the crime of identity theft that was committed by an employee or agent of the lender, or if at the time the loan was made, an employee or agent of

the lender knew of the identity theft of the individual named as the borrower or endorser on the loan, then the lender may not pursue the falsely certified obligation against the named borrower; however the lender may pursue the obligation against the employee or agent as permitted by the court verdict.

**Response:**

The Committee believes that the commenter's suggestion is outside of the scope of this proposal. Further, the Committee notes that information regarding a lender's collection of a loan that is not insured under the FFELP should not be included in the manual.

**Change:**

None.

**COMMENT:**

One commenter stated that subsection 13.8.E should contain a statement advising lenders that there are additional state and federal requirements (e.g., the FACT Act) that the lender must follow when a person notifies the lender that he or she is a victim of identity theft.

**Response:**

The Committee understands that there may be additional state and/or federal requirements besides those that are specifically mentioned in the Higher Education Act; however the manual only contains policy from the HEA and applicable FFELP regulations.

**Change:**

None.

**COMMENT:**

One commenter suggested adding regulatory citations to the subheadings: "Suspending Collection Activity," "Notifying the Individual," "Processing the Discharge," "Claim Filing Requirements," and "Claim Filing Documentation." The commenter stated that if the information found under these headings is not codified in regulations, that the information needs to be removed from the policy. The commenter also stated that information in subsection 13.8.E is sometimes slightly different than language in subsection 13.8.D. The commenter suggests that the Committee compare these two subsections side by side to make sure that any differences are intentional.

**Response:**

The Committee understands that the two subsections may not mirror each other exactly. The Committee agrees to review the two subsections to see if all differences are intentional and will draft a future proposal to address any additional information that needs to be included in subsection 13.8.D.

**Change:**

The Committee has revised the policy to add regulatory citations as recommended.

ma/edited-chh

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Consolidation Loans

**AFFECTED SECTIONS:** 15.2 Borrower Eligibility and Underlying Loan Holder Requirements

**POLICY INFORMATION:** 946/Batch 140

**Effective Date/Trigger Event:** Direct Consolidation Loan applications submitted by borrowers on or after December 1, 2006.

**BASIS:**

Preamble to the *Federal Register* dated November 1, 2006, pages 64383 and 64384; *Dear Colleague Letter* GEN-06-20/FP-6-16, Attachment A.

**CURRENT POLICY:**

Current policy does not allow a borrower to consolidate a single Federal Consolidation loan into a Direct Consolidation loan unless the borrower's consolidation loan holder has submitted the Federal Consolidation loan for default aversion assistance with the guarantor and the borrower is seeking an income-contingent repayment schedule.

**REVISED POLICY:**

Revised policy allows a borrower to consolidate a single Federal Consolidation loan into a Direct Consolidation loan if the single Federal Consolidation loan is held by the guarantor as a result of a bankruptcy claim and the borrower is seeking an income-contingent repayment schedule.

**REASON FOR CHANGE:**

A borrower who has filed an adversary complaint in a bankruptcy proceeding seeking to have the Federal Consolidation loan discharged has shown that he or she does not intend to repay the debt. In a bankruptcy situation, the holder of the Federal Consolidation loan is required to file a claim with the guarantor rather than seek default aversion assistance on the loan. Therefore, a single Federal Consolidation loan held by the guarantor as a result of a bankruptcy claim may be consolidated into a Direct Consolidation loan even if the loan holder did not request default aversion assistance.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise section 15.2, page 4, column 2, paragraph 2, as follows:

**Obtaining a Subsequent Consolidation Loan**

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

- The borrower has obtained a new eligible loan after the date the existing Consolidation loan was made.
- The borrower is consolidating an existing Consolidation loan with at least one other eligible loan, regardless of whether it was made before or after the date the existing Consolidation loans was made.  
[HEA 428C(a)(3) and (a)(4); §682.201(d)(2) and (3)]

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



- The borrower's consolidation loan holder has requested default aversion assistance from the guarantor, and the borrower is seeking an income-contingent repayment schedule.
- The borrower has filed an adversary complaint in a bankruptcy proceeding and is seeking an income-contingent repayment schedule.  
[HEA 428C(a)(3)(B)(1); DCL GEN-06-20/FP-06-16]

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Consolidation Loans**

The *Common Manual* has been updated with guidance issued by the Department related to a borrower's ability to consolidate a single Federal Consolidation loan into the Direct Consolidation Loan Program based on the borrower filing a adversary complaint in bankruptcy court and seeking to obtain an income-contingent repayment schedule.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A Federal Consolidation borrower will be allowed to consolidate his or her single Federal Consolidation loan into the Direct Consolidation Loan Program and obtain an income-contingent repayment schedule.

*School:*

None.

*Lender/Service:*

None.

*Guarantor:*

A guarantor may complete a Direct Loan LVC for a single Federal Consolidation loan if the borrower has filed an adversary complaint in a bankruptcy proceeding.

*U.S. Department of Education:*

The Department will consolidate a single Federal Consolidation loan into a Direct Consolidation loan for a borrower who has filed an adversary complaint in a bankruptcy proceeding.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

January 16, 2007

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received from:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

## **Responses to Comments**

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**Note:** Most commenters supported this policy as written. We appreciate the review of all commenters and their careful consideration of the policy.

### **COMMENT:**

Several commenters noted that the basis need to be expanded to include reference to page 64383 of the November 1, 2006, Final Rule.

### **Response:**

The Committee agrees.

### **Change:**

The basis has been revised to include reference to page 64383.

nm/edited-rl

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Higher Education Hurricane Relief Act Waivers

**AFFECTED SECTIONS:** H.4 Statutory and Regulatory Waivers

**POLICY INFORMATION:** 947/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** February 23, 2006.

**BASIS:**

Higher Education Hurricane Relief Act of 2005 (P.L. 109-148); Hurricane Rita - Electronic Announcement #9; and Hurricane Katrina - Electronic Announcement #12, posted on February 23, 2006.

**CURRENT POLICY:**

Current policy does not include information on the waiver of return of Title IV funds requirements for schools affected by Hurricane Katrina or Hurricane Rita.

**REVISED POLICY:**

Revised policy includes in section H.4 of the *Common Manual* information on the waiver of the return of Title IV funds requirements for schools affected by Hurricane Katrina or Hurricane Rita.

**REASON FOR CHANGE:**

This change is necessary to record, for historical purposes, the waiver of the return of Title IV funds requirements for schools that were impacted by Hurricane Katrina or Hurricane Rita.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise section H.4, page 92, column 1 by re-naming the section as follows:

**H.4**  
**History of Statutory and Regulatory Waivers**

Revise section H.4, page 92, column 1, subheading 1 by designating it as new subsection, as follows:

**H.4.A**  
**HEROES Act Waivers**

Revise section H.4, page 101, by adding a new subsection, as follows:

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

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

Based on this authority, on February 23, 2006, the Department published Electronic Announcement #9 and Electronic Announcement #12, stating that hurricane-impacted schools that were in possession of Title IV funds that were awarded to students enrolled for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita will, generally, not be required to return those funds for students who withdrew or who never began attendance. For the purposes of this relief, a hurricane-impacted school is a school with a main campus that ceased on-campus operations for more than thirty days as a result of Hurricane Katrina or

Hurricane Rita, as determined by the Department.

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Higher Education Hurricane Relief Act Waivers**

The *Common Manual* has been updated to include in section H.4 a record of the waiver of the return of Title IV funds requirements for schools affected by Hurricane Katrina or Hurricane Rita. Schools in possession of Title IV funds awarded to students enrolled for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita will, generally, not be required to return those funds for students who withdrew or who never began attendance.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower who withdrew or who never began attendance for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita at a hurricane-impacted school may be eligible for unpaid refund loan discharge of loans received for the disrupted enrollment period.

*School:*

A school in possession of Title IV funds awarded to students enrolled for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita will not be required to return those funds for students who withdrew or who never began attendance.

*Lender/Service:*

A lender should not expect a return of unearned funds for a borrower who withdrew or never attended an academic period that was disrupted by Hurricane Katrina or Hurricane Rita and may experience an increase in applications for unpaid refund loan discharge.

*Guarantor:*

A guarantor may experience an increase in unpaid refund loan discharge claims. A guarantor may need to modify program review procedures.

*U.S. Department of Education:*

The Department may need to modify program review procedures.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

March 2, 2006

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHelp, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, 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 requested that the references listed in the basis be inserted at the end of the second paragraph of subsection H.4.B.

**Response:**

*Common Manual* convention for the History appendix is to insert links to references within the text. Public Law 109-148 is listed in the first paragraph of subsection H.4.B, and will be linked in the electronic version of the *Common Manual*. The electronic announcements regarding Hurricanes Katrina and Rita will be linked in the second paragraph of subsection H.4.B.

**Change:**

The second paragraph of subsection H.4.B has been revised as follows:

Based on this authority, on February 23, 2006, the Department ~~announced~~ published Electronic Announcement #9 and Electronic Announcement #12, stating that hurricane-impacted schools that were in possession of Title IV funds that were awarded to students enrolled for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita will, generally, not be required to return those funds for students who withdrew or who never began attendance. For the purposes of this relief, a hurricane-impacted school is a school with a main campus that ceased on-campus operations for more than thirty days as a result of Hurricane Katrina or Hurricane Rita, as determined by the Department.

**COMMENT:**

One commenter questioned whether the waiver of the requirement for hurricane-impacted schools to return unearned Title IV funds would increase applications for unpaid refund loan discharge, and whether this should be included in the implications statements.

**Response:**

The Committee agrees that this is a possible implication for the affected borrowers, lenders, and guarantors.

**Change:**

The implication statements have been modified as follows:

*Borrower:*

A borrower who withdrew or who never began attendance for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita at a hurricane-impacted school ~~will not be required to return unearned funds for that period~~ may be eligible for unpaid refund loan discharge of loans received for the disrupted enrollment period.

*Lender/Service:*

A lender should not expect a return of unearned funds for a borrower who withdrew or never attended an academic period that was disrupted by Hurricane Katrina or Hurricane Rita and may experience an increase in applications for unpaid refund loan discharge.

*Guarantor:*

A guarantor may experience an increase in unpaid refund loan discharge claims. A guarantor may need to modify program review procedures.

kke/edited-chh

# COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: April 19, 2007

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

**SUBJECT:** Exit Counseling

**AFFECTED SECTIONS:** 4.4.C Exit Counseling

**POLICY INFORMATION:** 948/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** Exit counseling conducted by or on behalf of the school on or after July 1, 2000.

**BASIS:**  
§682.604(g)(2)(i).

## CURRENT POLICY:

Current policy states that exit counseling must include “sample monthly repayment amounts based on a range of levels of student indebtedness” or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.

## REVISED POLICY:

Revised policy states that exit counseling must include “the average anticipated monthly repayment amount based on the student’s indebtedness” or based on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.

## REASON FOR CHANGE:

This change is necessary to align the manual’s text with federal regulations. Current wording reflects the debt information the school must provide during entrance counseling, but the requirement for exit counseling is slightly different.

## PROPOSED LANGUAGE - COMMON MANUAL:

Revise subsection 4.4.C, page 21, column 2, paragraph 5, bullet 1, as follows:

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

- ~~Sample~~ The average anticipated monthly repayment amounts based on a range of levels of the student’s indebtedness or based on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.

## PROPOSED LANGUAGE - COMMON BULLETIN:

### Exit Counseling

The *Common Manual* has been revised to state that a school must ensure that the average anticipated monthly repayment amount based on the student’s indebtedness is provided to the borrower during exit counseling.

## GUARANTOR COMMENTS:

None.

## IMPLICATIONS:

*Borrower:*

None.

*School:*

None.

*Lender/Service:*  
None.

*Guarantor:*  
None.

*U.S. Department of Education:*  
None.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**  
CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**  
November 28, 2006

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**  
April 12, 2007

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

**Comments Received from:**  
AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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**Note:** Most commenters supported this policy as written. Other commenters recommended several word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language and were inserted without acknowledgment. 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 suggested adding wording in the reason for change statement to explain that the current wording reflects the debt information the school must provide during entrance counseling, but that the requirement for exit counseling is slightly different.

**Response:**

The Committee agrees.

**Change:**

The text has been revised as requested.

om/edited-bb

# COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: April 12, 2007

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

**SUBJECT:** Repurchase Definition

**AFFECTED SECTIONS:** 13.5 Claim Repurchase  
appendix G

**POLICY INFORMATION:** 949/Batch 140

**EFFECTIVE DATE/TRIGGER EVENT:** Claims repurchased on or after 18 months from the publication of the Common Account Maintenance claim submittal records (CAM chapter 11), unless implemented earlier by the guarantor.

**BASIS:**  
§682.402(j); CAM Initiative.

**CURRENT POLICY:**  
Current policy in the glossary defines “repurchase (of a claim)” as the lender’s purchase back from the guarantor of a defaulted loan for which the lender has already been reimbursed by the guarantor.

**REVISED POLICY:**  
Revised policy in the glossary defines “repurchase (of a claim)” as a lender’s purchase back from the guarantor of a loan on which a claim was filed and paid, if that purchase occurs more than 30 days after the lender receives the claim payment. Revised policy acknowledges that repurchase scenarios are not confined solely to defaulted loans, and removes a redundant repurchase definition from section 13.5.

**REASON FOR CHANGE:**  
This change is necessary to align the glossary’s repurchase definition with existing policy in section 13.5. In addition, because Common Claim Initiative policies have been adopted as the single claim policy standard in the manual, there is no longer a need to cross-reference a special repurchase definition for CCI purposes.

## PROPOSED LANGUAGE - COMMON MANUAL:

Revise section 13.5, page 13, column 2, paragraph 5, as follows:

### Repurchase of Defaulted Loans

Upon receiving a lender’s payment for the quoted repurchase amount, the guarantor will process the repurchase and provide the lender with appropriate file documentation and the original promissory note. Any payments received from the borrower that affect the repurchase quote will be applied as adjustments to the purchase amount or will be refunded to the lender.

*Note: The definition of repurchase (of a claim) is when a lender purchases from the guarantor a loan on which a claim was filed and paid if that purchase occurs more than 30 days after the lender receives the claim payment.*

Revise appendix G, page 16, column 2, paragraph 6, “Repurchase (of a Claim),” as follows:

**Repurchase (of a Claim):** ~~The A lender’s purchase back from the guarantor of a defaulted loan for which the lender has already been reimbursed by the guarantor on which a claim was filed and paid, if that purchase occurs more than 30 days after the lender receives the claim payment (see section 13.5). (Please refer to section 13.5 for the definition of repurchase (of a claim) for CCI purposes.)~~

## PROPOSED LANGUAGE - COMMON BULLETIN:



**Repurchase Definition**

The *Common Manual* has been revised to align the glossary definition of “repurchase (of a claim)” with existing policy in section 13.5, and to remove a redundant repurchase definition from section 13.5. In addition, because the Common Claim Initiative (CCI) has been adopted as the single claim policy standard in the manual, these revisions remove an outdated cross-reference to a special repurchase definition for CCI purposes.

The glossary revision defines repurchase as a lender’s purchase back from the guarantor of a loan on which a claim was filed and paid, if that purchase occurs more than 30 days after the lender receives the claim payment. If the claim amount is returned to the guarantor by the lender within 30 days of receipt, it is treated as a recall of the claim (see subsection 13.2.B).

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

None.

*School:*

None.

*Lender/Service:*

None.

*Guarantor:*

None.

*U.S. Department of Education:*

None.

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

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

December 7, 2005

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

April 12, 2007

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

**Comments Received from:**

AES/PHEAA, ASA, EAC, GSMR, Great Lakes, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OSFA, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

**Note:** All commenters supported this policy as written. We appreciate the review of all commenters and their careful consideration of the policy.

jcs-nm/edited-kk