

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1023	Documentation Required for Last Name Changes  <b>Deferred for Further Development</b>	<p><b><u>3.5.F Reporting Social Security Number, Date of Birth, and First Name Changes or Corrections</u></b></p> <p><b><u>9.1 Reporting Social Security Number, Date of Birth, and First Name Changes or Corrections</u></b></p> <p>Establishes an industry standard that states that the same documentation that is required for a change in the borrower's first name is acceptable for a change to a borrower's last name.</p>	Guarantor	Last name change requests received by the school or lender on or after July 1, 2008 unless implemented earlier by the guarantor.
1024	Spouses and Parents of September 11, 2001 Victims Loan Discharge	<p><b><u>Figure 2-1 The Life of a Stafford Loan</u></b></p> <p><b><u>Figure 2-2 The Life of a Parent PLUS Loan</u></b></p> <p><b><u>2.2.C Repayment</u></b></p> <p><b><u>2.3.C Common Forms</u></b></p> <p><b><u>3.5.C Credit Bureau Reporting</u></b></p> <p><b><u>10.10.A Permitted Capitalization</u></b></p> <p><b><u>Figure 11-2 Forbearance Eligibility Chart</u></b></p> <p><b><u>11.20.P Total and Permanent Disability</u></b></p> <p><b><u>12.4.E Endorser Due Diligence</u></b></p> <p><b><u>13.8.F Total and Permanent Disability</u></b></p> <p><b><u>Figure 13-4 Timely Filing Deadlines for Claims and Discharges</u></b></p> <p><b><u>14.2 Timely Claim Filing Violations</u></b></p> <p><b><u>14.3.B Non Default Claims</u></b></p> <p><b><u>14.4.B Refile Deadline</u></b></p> <p><b><u>15.2 Borrower Eligibility and Underlying Loan Holder Requirements</u></b></p> <p><b><u>15.5.F Delinquency, Claim Filing, Loan Forgiveness, and Discharge</u></b></p> <p><b><u>A.1.B When Federal Interest Benefits Will Be Paid</u></b></p> <p><b><u>Appendix G</u></b></p> <p>Incorporates into the Manual loan discharge provisions applicable to the spouses and parents of September 11, 2001 victims contained in the Third Higher Education Extension Act of 2006 (P. L. 109-292), and regulations published in the <i>Federal Registers</i> dated December 28, 2006, and</p>	Federal	Loan discharges granted to spouses and parents of September 11, 2001 victims on or after October 29, 2007.

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		September 28, 2007.		
1025	Federal Trade Commission Holder Rule Expanded	<p><b><u>3.4.D Borrower Defenses</u></b></p> <p>Provides that a borrower may assert certain claims and defenses against repayment of a loan received for attendance at any post-secondary school, if the loan was made by the school or a school-affiliated organization, or was made by a lender that was designated by the school, affiliated with the school, or provided improper inducements to obtain the loan business.</p>	Federal	July 1, 2008.
1026	Identity Theft — Early Implementation	<p><b><u>3.5.C Credit Bureau Reporting</u></b></p> <p><b><u>11.20.D False Certification as a Result of the Crime of Identity Theft</u></b></p> <p><b><u>13.8.E False Certification as a Result of the Crime of Identity Theft</u></b></p> <p><b><u>A.1.B When Federal Interest Benefits Will Be Paid</u></b></p> <p><b><u>A.2.B Termination of Special Allowance</u></b></p> <p>Provides for the suspension of credit bureau reporting and administrative forbearance for 120 days on any loan for which the lender receives a valid identity theft report or notification from a credit bureau of an allegation of identity theft. The lender must determine the legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the loan is nonetheless legally unenforceable against that individual, the lender must notify the credit bureau of the determination.</p>	Federal	<p>Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. <i>This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i></p>
1027	Identity Theft — July 1, 2008 Implementation	<p><b><u>3.5.C Credit Bureau Reporting</u></b></p> <p><b><u>12 Due Diligence in Collecting Loans</u></b></p> <p><b><u>13.8.E False Certification as a Result of the Crime of Identity Theft</u></b></p> <p><b><u>A.1.B When Federal Interest Benefits Will Be Paid</u></b></p> <p><b><u>A.2.B Termination of Special</u></b></p>	Federal	<p>Deletion of loans from credit bureau records, loans discharged on or after July 1, 2008. <i>This aligns with the suggested trigger event recommendation</i></p>

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		<p style="text-align: center;"><b><u>Allowance</u></b></p> <p>States that if a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative or inaccurate information regarding that loan from an individual's credit history.</p> <p>States that federal due diligence requirements in collecting any delinquent loan payments, as well as federal credit bureau reporting requirements, do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to an individual while a lender determines the legal enforceability of a loan when the lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft.</p> <p>States that for an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with 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 by a perpetrator named in the verdict or judgment.</p> <p>States that the Department also ends its obligation to pay federal interest benefits and special allowance to a lender on the date the lender determines a loan to be legally unenforceable based on the receipt of an identity theft report or notification from a credit bureau of an alleged identity theft.</p>		<p><i>document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i></p> <p>Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. <i>This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i></p> <p>False certification identity theft loan discharge claims processed by the lender on or after September 8, 2006.</p> <p>Interest benefits and special allowance billing discontinuance, loans deemed unenforceable on or after July 1, 2008. <i>This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance</i></p>

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				<i>with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i>
991	Servicing Parameters for a Consolidation Loan with Multiple Loan Records  <b>Deferred for Further Development</b>	<p><b><u>3.5.E Reporting Loan Assignments, Sales, and Transfers</u></b></p> <p><b><u>11.1.A General Deferment Eligibility Criteria</u></b></p> <p><b><u>11.19 Forbearance</u></b></p> <p><b><u>12.4 Due Diligence Requirements</u></b></p> <p><b><u>13.1.A Claim Filing Requirements</u></b></p> <p><b><u>15.2 Borrower Eligibility and Underlying Loan Holder Requirements</u></b></p> <p><b><u>15.4 Disbursement</u></b></p> <p><b><u>15.5.A Establishing the First Payment Due Date</u></b></p> <p><b><u>15.5.B Disclosing Repayment Terms</u></b></p> <p>Clarifies that although the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan may appear as separate loan records on the lender's system, the lender must ensure that the Consolidation loan is administered as a single Consolidation loan. Due diligence must be performed at a loan level, and should the Consolidation loan default, all portions of the loan must default on the same date and be filed in the same claim or at least simultaneously with the guarantor.</p>	Federal	Consolidation loan applications received by the lender on or after November 13, 1997.
1028	Entrance Counseling for Grad PLUS Borrower	<p><b><u>4.4 Providing Information to Students</u></b></p> <p><b><u>4.4.B Entrance Counseling</u></b></p> <p><b><u>4.4.C Exit Counseling</u></b></p> <p><b><u>Figure 8-3 School Requirements before Delivering a FFELP Loan</u></b></p> <p><b><u>Appendix G</u></b></p> <p>Incorporates entrance counseling requirements for graduate or professional student PLUS loan borrowers. In addition, redundant text has been removed and other language has been added to improve the clarity of the school counseling requirements.</p>	Federal	Entrance and exit counseling provided by the school on or after July 1, 2008, unless implemented earlier by the school on or after 11/1/07.

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		Also, Appendix G's definition of "Debt Management Counseling" is modified by removing reference to entrance counseling, and the definitions of "Entrance Counseling" and "Exit Counseling" have been expanded.		
1029	Required Notices and Authorizations	<p><b><u>4.4.B Entrance Counseling</u></b>  <b><u>4.5 Recordkeeping Requirements</u></b>  <b><u>7.2.A Lender Responsibilities Under a Master Promissory Note</u></b>  <b><u>8.2.A Initial Notice of Funds</u></b>  <b><u>8.2.B School Notice of Credit to Student Account</u></b>  <b><u>8.2.C Borrower Notice to Cancel Loan</u></b>  <b><u>8.2.D Notification and Confirmation Requirements for the Multi-Year Feature of the MPN</u></b>  <b><u>Figure 8-1</u></b>  <b><u>17.3.B The On-Site Review</u></b>  <b><u>Appendix G</u></b></p> <p>Outlines two standards for notifying the borrower of his or her right to cancel a loan at the time of disbursement, depending on whether the borrower provided affirmative confirmation of his or her desire to receive the loan. Also includes in the school record-keeping requirements the indefinite retention period for documentation of the confirmation process, which first appeared in the 04-05 FSA Handbook.</p>	Federal	<p>Loans disbursed on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.</p> <p>For the retention of documentation of the confirmation process, the publication date of the 04-05 FSA Handbook.</p>
1030	Scheduled and Borrower-Based Academic Year in Standard Term-Based Credit-Hour Programs	<p><b><u>6.1 Defining an Academic Year</u></b>  <b><u>6.3.C Standard Term-Based Programs Offered in Modules</u></b>  <b><u>Figure 6-2</u></b>  <b><u>Appendix G</u></b></p> <p>Clarifies that a school may use a SAY or BBAY to determine Stafford annual loan limit frequency and determine the parent or Grad PLUS loan period for a student who is enrolled in a standard term-based program that is offered in a traditional academic year calendar, including such a program that is comprised of modules. Revised policy also broadens the definition of a BBAY to acknowledge its use in all types of programs and provides new detail</p>	Federal	Publication date of the 05-06 FSA Handbook.

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		concerning the use of a BBAY in standard term-based programs that do, and do not, have a traditional academic year calendar.		
1031	Enrollment Status Definitions	<p><b>6.9 Defining Enrollment Status Appendix G</b></p> <p>For an undergraduate program, a school's definition of half-time enrollment must amount to at least half of the academic workload of the applicable minimum full-time enrollment definition for that program. More clearly states that a school must define full-time enrollment status for each of its undergraduate, graduate, or professional programs.</p> <p>Aligns Section 6.9 with glossary information about the enrollment status for a student enrolled solely in a correspondence program, and further expands that section to include regulatory updates that address enrollment status for a student who is enrolled in a non-correspondence program and combines correspondence with regular coursework.</p>	Federal	<p>Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. <i>This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i></p> <p>Retroactive to the implementation of the <i>Common Manual</i> for the following:</p> <ul style="list-style-type: none"> <li>• Determining enrollment status for a student enrolled solely in a correspondence program.</li> <li>• Defining full-time enrollment for each of a school's undergraduate, graduate, and professional programs.</li> </ul>
1032	Stafford	<b>7.4.A Current Stafford Interest</b>	Federal	Subsidized Stafford

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	Interest Rates	<p><b><u>Rates</u></b>  <b><u>7.4.C Previous Stafford Interest Rates</u></b>  <b><u>Figure 7-1</u></b></p> <p>States that the interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows:</p> <ul style="list-style-type: none"> <li>• On or after July 1, 2008, and before July 1, 2009, the fixed interest rate is 6%.</li> <li>• On or after July 1, 2009, and before July 1, 2010, the fixed interest rate is 5.6%.</li> <li>• On or after July 1, 2010, and before July 1, 2011, the fixed interest rate is 4.8%.</li> <li>• On or after July 1, 2011, and before July 1, 2012, the fixed interest rate is 3.4%.</li> </ul>		<p>loans at a fixed interest rate of 6% that are first disbursed to undergraduate borrowers on or after July 1, 2008, and before July 1, 2009.</p> <p>Subsidized Stafford loans at a fixed interest rate of 5.6% that are first disbursed to undergraduate borrowers on or after July 1, 2009, and before July 1, 2010.</p> <p>Subsidized Stafford loans at a fixed interest rate of 4.8% that are first disbursed to undergraduate borrowers on or after July 1, 2010, and before July 1, 2011.</p> <p>Subsidized Stafford loans at a fixed interest rate of 3.4% that are first disbursed to undergraduate borrowers on or after July 1, 2011, and before July 1, 2012.</p>
1033	Simplified Deferment Processing	<p><b><u>11.4 Economic Hardship Deferment</u></b>  <b><u>11.5 Graduate Fellowship Deferment</u></b>  <b><u>11.8 Military Deferment</u></b>  <b><u>11.13 Rehabilitation Training Program Deferment</u></b>  <b><u>11.17 Unemployment Deferment</u></b></p> <p>Allows a lender to grant certain types of deferments to a new borrower (i.e., first</p>	Federal	Deferment requests granted by the lender on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. <i>This aligns with the suggested trigger event recommendation</i>

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		<p>borrowed on or after July 1, 1993) based on a deferment granted by another FFELP loan holder or the Department. A lender may grant the deferment using the simplified process if the borrower requests it verbally or in writing and based on information from the other FFELP loan holder, the Department, or an authoritative electronic database maintained or authorized by the Department.</p>		<p><i>document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i></p>
996	Death Claim Documentation	<p><b><u>13.1.D Claim File Documentation</u></b>  <b><u>13.1.E Missing Claim File Documentation</u></b>  <b><u>13.8.C Death</u></b>  <b><u>Figure 13-3 Timely Filing Deadlines for Claims and Discharges</u></b></p> <p>Specifies that a lender must submit an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate when filing a death claim.</p>	Federal	<p>Death discharge requests filed by the lender based on determinations or re-determinations of eligible photocopies on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. <i>This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.</i></p>
997	<p>Servicing of a Consolidation Loan with Multiple Loan Records</p> <p><b>Deferred for Further Development</b></p>	<p><b><u>14.1.E Violations Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records</u></b>  <b><u>14.5.E Cures Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records</u></b></p> <p>Clarifies that although the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan may appear as separate loan records on the lender's system, the lender must ensure</p>	Federal	<p>Claims filed by the lender on or after July 1, 2008, unless implemented earlier by the guarantor.</p>



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		<p>that the Consolidation loan is administered as a single Consolidation loan. If the lender fails to perform due diligence activities on a single accurate payment amount and due date, the lender will incur due diligence violations and penalties sufficient to cause a loss of guarantee on the loan. Also clarifies what a lender may do to cure these violations.</p>		
1034	Special Allowance Rates and Formulas	<p><b><u>A.2.A Special Allowance and Excess Interest Rates</u></b>  <b><u>Figure A-1 Special Allowance Formulas</u></b>  <b><u>Figure A-2 Examples of Special Allowance Calculations</u></b>  <b><u>Figure A-3 Excess Interest Formulas</u></b>  <b><u>Figure A-4 Example of Excess Interest Calculations</u></b>  <b><u>Appendix G</u></b></p> <p>States that the special allowance factors used to calculate special allowance payments on loans first disbursed on or after October 1, 2007, are based on whether or not the lender is an eligible not-for-profit holder. As prescribed in the CCRAA, an eligible not-for-profit holder is entitled to a higher special allowance payment.</p>	Federal	Loans first disbursed on or after October 1, 2007.
1035	Undergraduate, Graduate, and Professional Students	<p><b><u>Appendix G</u></b></p> <p>Clarifies the definitions of “undergraduate student,” and “graduate or professional student,” and provides a new definition of a professional degree.</p>	Federal	Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.
1036	HEROES Waiver Extension	<p><b><u>H.4.A HEROES Act Waivers</u></b></p> <p>Extends current HEROES waivers through September 30, 2012.</p>	Federal	Affected individuals eligible for waivers of statutory and regulatory provisions on or after October 1, 2007.

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Spouses and Parents of September 11, 2001, Victims Loan Discharge

**AFFECTED SECTIONS:**

Figure 2-1	The Life of a Stafford Loan
Figure 2-2	The Life of a Parent PLUS Loan
2.2.C	Repayment
2.3.C	Common Forms
3.5.C	Credit Bureau Reporting
10.10.A	Permitted Capitalization
Figure 11-2	Forbearance Eligibility Chart
11.20.P	Total and Permanent Disability
12.4.E	Endorser Due Diligence
13.8.F	Total and Permanent Disability
Figure 13-4	Timely Filing Deadlines for Claims and Discharges
14.2	Timely Claim Filing Violations
14.3.B	Non Default Claims
14.4.B	Refile Deadline
15.2	Borrower Eligibility and Underlying Loan Holder Requirements
15.5.F	Delinquency, Claim Filing, Loan Forgiveness, and Discharge
A.1.B	When Federal Interest Benefits Will Be Paid
Appendix G	

**POLICY INFORMATION:** 1024/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Loan discharges granted to spouses and parents of September 11, 2001, victims on or after October 29, 2007.

**BASIS:**  
Third Higher Education Extension Act of 2006, (P. L. 109-292); *Federal Registers* dated December 28, 2006, and September 28, 2007.

**CURRENT POLICY:**  
Current policy does not reflect loan discharge provisions for the spouses and parents of September 11, 2001, victims.

**REVISED POLICY:**  
Revised policy reflects loan discharge provisions for the spouses and parents of September 11, 2001, victims.

**REASON FOR CHANGE:**  
This change is necessary to incorporate into the Manual loan discharge provisions applicable to the spouses and parents of September 11, 2001, victims contained in the Third Higher Education Extension Act of 2006, (P. L. 109-292), and regulations published in the *Federal Registers* dated December 28, 2006, and September 28, 2007.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Figure 2-1, page 3, phase 3, second to the last row of boxes, by adding a new text box, as follows:

Borrower applies or is determined eligible for spouses and parents of September 11, 2001.

victims discharge

Revise Figure 2-2, page 4, phase 3, second to the last row of boxes, by adding a new text box, as follows:

Borrower applies or is determined eligible for spouses and parents of September 11, 2001, victims discharge

Revise Subsection 2.2.C, page 10, column 2, paragraph 1, by adding a new 4<sup>th</sup> bullet, as follows:

- The borrower qualifies for spouses and parents of September 11, 2001, victims discharge.

Revise Subsection 2.3.C, page 14, column 2, paragraph 1, by adding a new 5<sup>th</sup> bullet, as follows:

- Loan Discharge Application: Spouses and Parents of September 11, 2001, Victims

Revise Subsection 3.5.C, page 12, column 2, paragraph 1, bullet 5, as follows:

- The date the loan is discharged due to the borrower's death, disability, ~~or~~ bankruptcy, or discharged under the spouses and parents of September 11, 2001, victims provisions (to be reported within 90 days of the date the loan is discharged).

Revise Subsection 10.10.A, page 18, column 2, bullet 2, as follows:

- When collection activities on a loan were suspended pending (a) the outcome of a bankruptcy action, closed school, false certification, ~~or~~ unpaid refund, or spouses and parents of September 11, 2001, victims discharge determination or (b) receipt of documentation of a death, disability, closed school, false certification, ~~or~~ unpaid refund, or spouses and parents of September 11, 2001, victims claim or discharge request.

Revise Figure 11-2, page 28, by adding a new row 5 under "Administrative," as follows:

<u>Spouses and Parents of September 11, 2001, Victims<sup>6</sup></u>	<u>60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination</u>
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Revise Subsection 11.20.P, page 32 by inserting the following text and moving existing text to subsequent subsections as applicable:

**11.20.P**  
**Spouses and Parents of September 11, 2001, Victims**

If a lender receives information from a borrower or a borrower's representative that the borrower claims to qualify for discharge under the spouses and parents of September 11, 2001, victims (September 11, 2001) discharge provisions, the lender must grant a forbearance for the borrower, or any endorser as applicable, on the borrower's eligible loan(s). The lender must advise the borrower, or the borrower's representative, to submit a Loan Discharge Application: Spouses and Parents of September 11, 2001, Victims form and all required documentation.  
[§682.407(c)(2)]

If the lender determines that the borrower does not qualify for a discharge, or the lender does not receive the required documentation within 60 days of the notification that the borrower claims to qualify for the discharge, the lender must resume collection. The lender is considered to have exercised forbearance from the date of the borrower's notification. The lender may capitalize any interest accrued and not paid during the forbearance period.  
[§682.407(c)(3)]

If the lender receives the required documentation and determines that the borrower qualifies for a discharge, the lender must file a discharge claim with the guarantor and the lender must continue the forbearance until the date that the guarantor makes the discharge determination.  
[§682.407(c)(7)]

Revise Subsection 12.4.E, page 15, column 1, paragraph 1, by adding a new bullet 4, as follows:

**Note: This subsection was previously revised by Policy 983, Batch 144.**

#### **Releasing the Endorser**

A lender may release an endorser from his or her repayment obligation on a loan in any of the following cases. If the loan is only partially discharged, the endorser remains obligated for the undischarged portion of the loan.

- The borrower receives a spouses and parents of September 11, 2001, victims discharge.

Revise Subsection 13.8.F, page 40, column 1, paragraph 1, by inserting the following text and moving existing text to subsequent subsections as applicable:

#### **13.8.F**

##### **Spouses and Parents of September 11, 2001, Victims**

The Third Higher Education Extension Act (THEEA) of 2006, provides for loan discharge for spouses and parents of eligible public servants and certain other eligible victims of the September 11, 2001, terrorist attacks. The discharge is available to the spouses and parents of eligible public servants and eligible victims who died or became permanently and totally disabled due to physical injuries suffered in the attacks. The discharge is authorized for FFELP loan amounts which were owed on September 11, 2001, and Consolidation loans incurred to pay off loan amounts that were owed on September 11, 2001. The statute does not authorize a refund of payments made by a borrower prior to the date the loan is discharged.  
[§682.407(b)]

To qualify for the discharge, the borrower or the borrower's representative must submit a Loan Discharge Application: Spouses and Parents of September 11, 2001, Victims form and all required documentation to the lender.  
[§682.407(c)(2) and (4)(ii)]

##### **Eligibility Requirements**

A borrower's obligation to make further payments on their own loans is discharged if the borrower was, at the time of the terrorist attacks on September 11, 2001, and currently is, the spouse of an eligible public servant, unless the eligible public servant has died. If the eligible public servant has died, the borrower must have been the spouse of the eligible public servant at the time of the terrorist attacks and until the date the eligible public servant died.  
[§682.407(b)(1)]

A borrower's obligation to make further payments towards the portion of a joint Consolidation loan attributable to the eligible victim is discharged if the borrower was, at the time of the terrorist attacks, and currently is, the spouse of an eligible victim, unless the eligible victim has died. If the eligible victim has died, the borrower must have been the spouse of the eligible victim at the time of the terrorist attacks and until the date the eligible victim died.  
[§682.407(b)(2)]

The obligation of a parent borrower and any endorser to make any further payments on a PLUS loan incurred on behalf of an eligible public servant or eligible victim is discharged. The

obligation of the parent borrower to make any further payments towards the portion of a Consolidation loan that repaid a FFELP or FDLP PLUS loan incurred on behalf of an eligible public servant or eligible victim is also discharged. In the case of an obligation of a parent incurred on behalf of an eligible public servant, the procedures and documentation requirements are the same as those for the parent of an eligible victim.  
[§682.407(b)(3)(i) and (ii); §682.407(b)(4)]

### **Applicable Definitions**

Solely in the context of the September 11, 2001, loan discharge, the following definitions apply:

*Eligible public servant* means an individual who served as a police officer, firefighter, other rescue or safety personnel, or as a member of the Armed Forces, and died or became permanently and totally disabled due to physical injuries suffered in the terrorist attacks on September 11, 2001.

[§682.407(a)(1)]

*Eligible victim* means an individual who died or became permanently and totally disabled due to physical injuries suffered in the terrorist attacks on September 11, 2001.

[§682.407(a)(2)]

*Eligible parent* means a borrower who owes a FFELP PLUS loan incurred on behalf of an eligible public servant or eligible victim or if the parent owes a FFELP Consolidation loan that was used - in whole or in part - to repay a FFELP or FDLP PLUS loan incurred on behalf of an eligible public servant or eligible victim.

[§682.407(a)(3)]

*Died due to injuries suffered in the terrorist attacks on September 11, 2001,* means the individual was present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001, and the individual died as a direct result of these crashes.

[§682.407(a)(4)]

*Became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001,* means the individual was present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001, and the individual became permanently and totally disabled as a direct result of these crashes.

[§682.407(a)(5)]

An individual is considered permanently and totally disabled for this discharge if each of the following criteria is met:

- The disability is the result of a physical injury to the individual that was treated by a medical professional within 72 hours of the injury having been sustained or within 72 hours of the individual's rescue.
- The physical injury that caused the disability is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.
- The individual is unable to work and earn money due to the disability and the disability is expected to continue indefinitely or result in death.

If the physical injuries suffered due to the terrorist-related aircraft crashes did not make the individual permanently and totally disabled at the time of or in the immediate aftermath of the

attacks, the individual may be considered to be permanently and totally disabled if the individual's medical condition has deteriorated to the extent that the individual is permanently and totally disabled.  
[§682.407(a)(5)]

Immediate aftermath for an eligible victim means the period of time from the aircraft crashes until 12 hours after the crashes. Immediate aftermath for an eligible public servant means the period of time from the aircraft crashes until 96 hours after the crashes.  
[§682.407(a)(6)]

Present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site means physically present at the time of the terrorist-related aircraft crashes or in the immediate aftermath at any one of the following sites:

- In the buildings or portions of the buildings that were destroyed as a result of the terrorist-related aircraft crashes.
- In any area contiguous to the crash site that was sufficiently close that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses. Generally, this includes the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons.
- On board American Airlines flights 11 or 77 or United Airlines flights 93 or 175 on September 11, 2001.  
[§682.407(a)(7)]

#### **Discharge Documentation**

A borrower or the borrower's representative must provide the lender with certain documentation in order for the lender to process the loan discharge.

#### **Documentation for death of an eligible public servant**

Documentation that an eligible public servant died due to physical injuries suffered in the terrorist attacks on September 11, 2001, must include a certification from an authorized official that the individual was a member of the Armed Forces or employed as a police officer, firefighter, or other safety or rescue personnel, and was present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.

In addition, the borrower must provide either of the following:

- Evidence that the individual is included on an official list of the individuals who died in the terrorist attacks.
- If the individual is not included on an official list of the individuals who died in the terrorist attacks, the borrower must provide all of the following documentation:
  - An original or certified copy, or an accurate and complete photocopy, of the original or certified copy of the individual's death certificate. If the individual owed a FFELP, FDLP, or Perkins loan at the time of the terrorist attacks, documentation that the individual's loans were discharged by the lender, the Secretary, or the institution due to death may be substituted for the death certificate.
  - A certification from a physician or a medical examiner that the individual died due

to injuries suffered in the terrorist attacks.  
[§682.407(d)(1)-(3)]

If the borrower is the spouse or parent of an eligible public servant and has been granted a discharge on another FFELP loan, a FDLP loan, or a Perkins loan because the eligible public servant died due to injuries suffered in the terrorist attacks, documentation of the discharge may be used as an alternative to the documentation required in the preceding paragraph.  
[§682.407(d)(6)]

Under exceptional circumstances and on a case-by-case basis, the determination that an eligible public servant died due to injuries suffered in the terrorist attacks may be based on other reliable documentation approved by the chief executive officer of the guarantor.  
[§682.407(d)(8)]

*Documentation for death of an eligible victim*

Documentation that an eligible victim died due to injuries suffered in the terrorist attacks on September 11, 2001, must include the victim being named on an official list of the individuals who died in the terrorist attacks.

If the eligible victim is not included on an official list of the individuals who died in the terrorist attacks, the borrower must provide all of the following documentation:

- An original or certified copy, or an accurate and complete photocopy, of the original or certified copy of the individual's death certificate. If the individual owed a FFELP, FDLP, or Perkins loan at the time of the terrorist attacks, documentation that the individual's loans were discharged by the lender, the Secretary, or the institution due to death may be substituted for the death certificate.
- A certification from a physician or a medical examiner that the individual died due to injuries suffered in the terrorist attacks.
- A certification signed by the borrower that the eligible victim was present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.

[§682.407(d)(4)-(5)]

Under exceptional circumstances and on a case-by-case basis, the determination that an eligible victim died due to injuries suffered in the terrorist attacks may be based on other reliable documentation approved by the chief executive officer of the guarantor.  
[§682.407(d)(8)]

*Documentation for a permanently and totally disabled eligible public servant*

Documentation that an eligible public servant became permanently and totally disabled due to physical injuries suffered in the terrorist attacks on September 11, 2001, must include all of the following:

- A certification from an authorized official that the individual was a member of the Armed Forces or employed as a police officer, firefighter, or other safety or rescue personnel, and was present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.
- Copies of contemporaneous medical records created by or at the direction of a medical professional who provided medical care to the individual within 72 hours of the injury

having been sustained or within 24 hours of the individual's rescue.  
[§682.407(a)(5)]

- A certification by a physician that the individual became permanently and totally disabled due to physical injuries suffered in the terrorist attacks. The physician must be a doctor of medicine or osteopathy and legally authorized to practice in a state.  
[§682.407(e)(1)]

If the borrower is the spouse or parent of an eligible public servant and has been granted a discharge on another FFELP loan, a FDLP loan, or a Perkins loan because the eligible public servant became permanently and totally disabled due to physical injuries suffered in the terrorist attacks, documentation of the discharge may be used as an alternative to the documentation required in the preceding paragraph.  
[§682.407(e)(3)]

*Documentation for a permanently and totally disabled eligible victim*

Documentation that an eligible victim became permanently and totally disabled due to physical injuries suffered in the terrorist attacks must include all of the following:

- A certification signed by the borrower that the eligible victim was present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.
- Copies of contemporaneous medical records created by or at the direction of a medical professional who provided medical care to the individual within 72 hours of the injury having been sustained or within 24 hours of the individual's rescue.  
[§682.407(a)(5)]
- A certification by a physician that the individual became permanently and totally disabled due to physical injuries suffered in the terrorist attacks. The physician must be a doctor of medicine or osteopathy and legally authorized to practice in a state.  
[§682.407(e)(1)]

If the borrower is the spouse or parent of an eligible victim and has been granted a discharge on another FFELP loan, or a FDLP loan because the eligible victim became totally and permanently disabled due to physical injuries suffered in the terrorist attacks, documentation of the discharge may be used as an alternative to the documentation required in the preceding paragraph.  
[§682.407(e)(4)]

*Additional documentation*

A lender or guarantor may require the borrower to submit additional information that it deems necessary to determine the borrower's eligibility for a discharge.  
[§682.407(f)(1)]

To establish that the eligible public servant or eligible victim was present at the World Trade Center in New York City, New York; at the Pentagon in Virginia; or at the Shanksville, Pennsylvania site such additional information may include but is not limited to any one of the following:

- Records of employment.
- Contemporaneous records of a federal, state, city, or local government agency.



- An affidavit or declaration of the eligible victim's or eligible public servant's employer.
- A sworn statement (or an unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the eligible public servant or eligible victim at the site.  
[§682.407(f)(2)]

To establish that the disability of the eligible public servant or eligible victim is due to physical injuries suffered in the terrorist attacks, such additional information may include but is not limited to any one of the following:

- Contemporaneous medical records of hospitals, clinics, physicians, or other licensed medical personnel.
- Registries maintained by federal, state, or local governments.
- Records of all continuing medical treatment.  
[§682.407(f)(3)]

To establish the borrower's relationship to the eligible public servant or eligible victim, such additional information may include but is not limited to any one of the following:

- Copies of relevant legal records including court orders, letters of testamentary or similar documentation.
- Copies of wills, trusts, or other testamentary documents.
- Copies of approved joint Consolidation loan applications or approved FFELP or FDLP PLUS loan applications.  
[§682.407(f)(4)]

### **Discharge Limitations**

Each of the following loans that had an outstanding balance owed on September 11, 2001, are eligible for discharge:

- Federal SLS.
- Federal Stafford.
- Federal PLUS.
- Federal Consolidation.

Federal Consolidation loans incurred to repay FFELP, FDLP, and Perkins loan amounts that were owed on September 11, 2001, are also eligible for discharge.  
[§682.407(g)(1)]

Eligibility for a discharge under the provisions applicable to the September 11, 2001, loan discharge *does not* qualify a borrower for a refund of any payments made on the borrower's loan prior to the date the loan was discharged.  
[§682.407(g)(2)(i)]

A borrower may apply for a partial discharge of a joint Consolidation loan due to death or total and permanent disability as described in Subsections 13.8.C. If a borrower is granted a partial discharge under those provisions, the borrower may qualify for refund of payments made after the date the borrower died or was certified as totally and permanently disabled by a qualified physician.

[§682.407(g)(2)(ii)]

A borrower may apply for a discharge of a PLUS loan due to the death of the student for whom the borrower received the PLUS loan under the provisions described in Subsections 13.8.C and 13.8.G, respectively. If the borrower is granted a discharge under these provisions, the borrower may qualify for a refund of payments in accordance with those provisions.

[§682.407(g)(2)(iii)]

A determination by a lender or a guarantor that an eligible public servant or eligible victim became permanently and totally disabled due to physical injuries suffered in the terrorist attacks for purposes of this discharge does not qualify the eligible public servant or the eligible victim for a discharge based on total and permanent disability as described under Subsection 13.8.G.

[§682.407(g)(3)]

The spouse of an eligible public servant or eligible victim may not receive a September 11, 2001, loan discharge if the eligible public servant or eligible victim has been identified as a participant or conspirator in the terrorist-related aircraft crashes that occurred on September 11, 2001. Further, an eligible parent may not receive a discharge on a FFELP PLUS loan or a Consolidation loan that was used to repay a FFELP or FDLP PLUS loan incurred on behalf of an individual who has been identified as a participant or conspirator in the related aircraft crashes on September 11, 2001.

[§682.407(g)(4)]

### **Suspending Collections**

When a lender receives information from a borrower or the borrower's representative that the borrower claims to qualify for a discharge, the lender must suspend collection activity on the borrower's eligible loan(s). The lender must advise the borrower, or the borrower's representative, to submit a Loan Discharge Application: Spouses and Parents of September 11, 2001, Victims form and all required documentation.

[§682.407(c)(2)]

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

[§682.407(c)(3)]

### **Processing an Approved Discharge**

If a lender determines that the borrower qualifies for a discharge, the lender must file a discharge claim within 60 days of the date that the lender determines that the borrower qualifies for a discharge.

[§682.407(c)(5)]

For a September 11, 2001, discharge claim, any failure by the lender to satisfy due diligence requirements prior to the filing of the claim that would have resulted in the loss of reinsurance on the loan in the event of default are waived, provided the loan was held by an eligible loan holder at all times.

[§682.407(c)(12)]

### **Claim File Documentation**

The lender must provide the guarantor with all of the following claim documentation:

- The application, if a separate loan application was provided to the lender.
- The completed loan discharge form and all accompanying documentation supporting the discharge request that formed the basis for the determination that the borrower qualifies for a discharge.  
[§682.407(c)(4)]

The guarantor will review a discharge claim promptly. If the guarantor determines that the borrower does not qualify for a discharge, the guarantor must return the claim to the lender with an explanation of the basis for the guarantor's denial of the claim. Upon receipt of the returned claim, the lender must notify the borrower that the application for the discharge has been denied, provide the basis for the denial, and inform the borrower that the lender will resume collection on the loan. The lender is considered to have exercised forbearance until the next payment due date. The lender may capitalize any interest accrued and not paid during the forbearance period.

[§682.407(c)(7)]

If the guarantor determines that the borrower qualifies for a discharge, the guarantor will pay the claim no later than 90 days after the claim was received by the guarantor.

[§682.407(c)(8)]

### **Denying the Discharge**

If the lender determines that the borrower does not qualify for a discharge, or the lender does not receive the completed discharge request form from the borrower within 60 days of the borrower or borrower's representative notifying the lender that the borrower claims to qualify for a discharge, the lender shall resume collection and shall be deemed to have exercised forbearance of payment of both principal and interest from the date the lender was notified.

The lender must notify the borrower that the discharge has been denied, provide the basis for the denial, and inform the borrower that the lender will resume collection on the loan. The lender may capitalize any interest accrued and not paid during this period.

[§682.407(c)(3)]

### **Claim Payment**

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

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

[§682.407(c)(9)]

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

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

payment or to return the claim to the lender for additional documentation, not to exceed 90 days.  
[§682.407(c)(10)]

**Notifying the Borrower and Any Endorser**

After being notified that the guarantor has paid a discharge claim, the lender must notify the borrower that the loan has been discharged, or partially discharged in the case of a Consolidation loan. Except in the case of a partially discharged Consolidation loan, the lender must return to the sender any payments received by the lender after the date the guarantor paid the discharge claim and notify the borrower and any endorser that there is no further obligation to repay the loan(s).  
[§682.407(c)(11)]

Revise Figure 13-4, page 47, by adding a new Section 6, as follows:

**Spouses and Parents of September 11, 2001, Victims** (Subsection 13.8.F)

Within 60 days of the lender's determination that the borrower qualifies for discharge.

**Total and Permanent Disability Discharge** (Subsection 13.8.F G)

...

**Unpaid Refund Discharge** (Subsection 13.8.G H)

...

Revise Section 14.2, page 2, column 2, by adding a new bullet 3, as follows:

- Spouses and parents of September 11, 2001, victims discharge claim within 60 days of determining the borrower qualifies for the discharge.

Revise Subsection 14.3.B, page 6, column 1, by adding a new paragraph 3, as follows:

**Spouses and Parents of September 11, 2001, Victims Claims**

For a spouses and parents of September 11, 2001, victims claim, any failure by the lender to satisfy due diligence requirements prior to the filing of the claim that would have resulted in the loss of reinsurance on the loan in the event of default are waived, provided the loan was held by an eligible loan holder at all times.

Revise Subsection 14.4.B, page 8, column 1, paragraph 3, as follows:

**Closed School, Death, False Certification, Ineligible Borrower, Spouses and Parents of September 11, 2001, Victims, and Total and Permanent Disability Claims**

Failure to refile a closed school, death, false certification, ineligible borrower, spouses and parents of September 11, 2001, victims, or total and permanent disability claim by the 30<sup>th</sup> day after the lender's receipt of the original return will result in the loss of eligibility for interest, interest benefits, and special allowance payments beyond such 30<sup>th</sup> day. . . .

Revise Section 15.2, page 4, column 1, paragraph 1, as follows:

For purposes of this policy, an active loan is any loan that has not been paid in full, canceled, discharged (e.g., due to death, spouses and parents of September 11, 2001, victims, disability, closed school, or false certification), or subrogated by the Department. . . .

Revise Subsection 15.5.F, page 12, column 1, paragraph 1, by adding a new bullet 4, as follows:

For Consolidation loan discharge provisions due to spouses and parents of September 11, 2001, victims discharge, see Subsection 13.8.F.

Revise A.1.B, page 4, column 1, paragraph 1, bullet 3, as follows:

The date the lender receives a notice of the guarantor's determination that the loan is eligible for discharge under closed school, false certification, spouses and parents of September 11, 2001, victims or unpaid refund provisions. If only a portion of the loan is discharged, the remaining portion of the loan remains eligible for interest benefits.

Revise Appendix G, page 6, column 1, paragraph 8, as follows:

**Discharge:** The release of a borrower or any comaker from all or a portion of his or her loan obligation, as applicable, due to bankruptcy, school closure, death, spouses and parents of September 11, 2001, victims, total and permanent disability, an unpaid refund by the school, or the school's false certification of a FFELP loan. See Section 13.8.

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Discharge Provisions For Spouses and Parents of September 11, 2001, Victims**

The *Common Manual* has been updated to include eligibility requirements, definitions applicable to the discharge, documentation requirements, discharge limitations, claim procedures and notification requirements for spouses and parents of September 11, 2001, victims discharge.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower may be eligible for loan discharge under the September 11, 2001, discharge provisions.

*School:*

None.

*Lender/Service:*

A lender may need to update procedures to accommodate processing the September 11, 2001, loan discharge claims.

*Guarantor:*

A guarantor may need to update procedures to accommodate processing September 11, 2001, discharge and claim filing provisions. A guarantor may also need to update its program review procedures.

*U.S. Department of Education:*

The Department may need to update its 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:**

October 23, 2006

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NCHelp, NELA, Nelnet, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

**COMMENT:**

Several commenters noted that the policy should be revised to capture language from the preamble of the final regulations published September 28, 2007, on pages 55050-55051 which states that a borrower can only qualify for discharge if the injury suffered was a physical injury.

**Response:**

The Committee agrees.

**Change:**

The proposal has been revised to clarify that injuries suffered in the terrorist attacks must be physical injuries for the purposes of this loan discharge.

**COMMENT:**

Several commenters suggested deleting references to death of a victim from the discharge documentation information for a disabled victim.

**Response:**

The Committee agrees.

**Change:**

References to a victim's death have been removed from information regarding documentation for a disabled victim.

**COMMENT:**

Two commenters suggested revising language under the Discharge Limitation subheading to clarify that the borrower may qualify for refund of payments made *after* the date the borrower died.

**Response:**

The Committee agrees.

**Change:**

The discharge limitation language has been revised with the commenters' suggestion.

**COMMENT:**

Several commenters stated that promissory notes are not required as part of the claim filing documentation for this discharge type. This information was clarified by the Department in the preamble language of the final regulations published on September 28, 2007, page 55052.

**Response:**

The Committee agrees that the Department clarified that a promissory note is not needed as documentation for this loan discharge type.

**Change:**

The policy has been revised by deleting reference to the promissory note in the requirements for claim filing documentation.

**COMMENT:**

One commenter suggested adding a sentence and regulatory citation to eligibility requirements for a parent borrower's loan discharge criteria as follows:

“The obligation of a parent borrower and any endorser to make any further payments on a PLUS loan incurred on behalf of an eligible public servant or eligible victim is discharged. The obligation of the parent borrower to make any further payments towards the portion of a Consolidation loan that repaid a FFELP or FDLP PLUS loan incurred on behalf of an eligible public servant or eligible victim is also discharged. In the case of an obligation of a parent incurred on behalf of an eligible public servant, the procedures and documentation requirements are the same as those for the parent of an eligible victim.  
[§682.407(b)(3)(i) and (ii); §682.407(b)(4)”

**Response:**

The Committee agrees.

**Change:**

The additional sentence and regulatory citation have been incorporated as suggested by the commenter.

**COMMENT:**

One commenter suggested revising the time frames noted in the information regarding documentation for both a permanently and totally disabled eligible public servant and an eligible victim. The commenter suggested changing “24 hours” to “72 hours.” The commenter stated that one area of the regulations states that the time frame is 72 hours and a conforming change was missed in another part of the regulations. The commenter further stated that a technical correction suggestion will be sent to the Department requesting this conforming change.

**Response:**

The Committee appreciates the commenter's information regarding the conflicting regulations between §682.407(a)(5), and §682.407(e)(1)(ii) and (2)(i). The Committee agrees that the conflicting guidance in regulations should not be carried over in this proposal.

**Change:**

The time frame references have been changed from 24 hours to 72 hours and the regulatory citation of §682.407(a)(5) has been inserted for clarification.

**COMMENT:**

Several commenters noted that language in documentation requirements for permanent and total disability of eligible victims referencing members of the Armed Forces, or victims employed as police officers, firefighters, or other safety or rescue personnel should be deleted because this information is not applicable to this paragraph.

**Response:**

The Committee agrees.

**Change:**

The information has been deleted as requested by the commenters.

**COMMENT:**

One commenter suggested revising paragraph 2 under the Discharge Limitations subheading, as follows:

“Federal Consolidation loans incurred to repay FFELP, FDLP, and Perkins loan amounts that were owed on September 11, 2001, are also eligible for discharge.”

The commenter's suggestion is to clarify that portions of a Consolidation loan that repaid other federal loan types such as HEAL, NSL, LDS, etc, are not eligible for discharge.

**Response:**

The Committee agrees. The Committee also noticed that this language was originally placed incorrectly as a 5<sup>th</sup> bullet in the previous paragraph.

**Change:**

The policy has been revised as suggested by the commenter and has been moved from the bulleted list to become a separate paragraph.

**COMMENT:**

One commenter noted that the information for documentation requirements for death of an eligible victim, as currently written, incorrectly states the borrower certification is required in all situations when in fact it is only required if the individual is not included in an official death list. The commenter suggested that the regulatory citation be corrected and the information be revised to more accurately mirror the requirements in §682.407(d)(4)-(5).

**Response:**

The Committee agrees.

**Change:**

The information for documentation requirements for death of an eligible victim has been revised as suggested by the commenter and the regulatory citation associated with the information has been corrected.

ma/edited-chh



# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Federal Trade Commission Holder Rule Expanded

**AFFECTED SECTIONS:** 3.4.D Borrower Defenses

**POLICY INFORMATION:** 1025/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** July 1, 2008.

**BASIS:**  
§682.209(k).

**CURRENT POLICY:**

Current policy provides that a borrower may assert certain claims and defenses against repayment of a loan only if the loan was made at a for-profit postsecondary school.

**REVISED POLICY:**

Revised policy provides that a borrower may assert certain claims and defenses against repayment of a loan received for attendance at any postsecondary school, if the loan was made by the school or a school-affiliated organization, or was made by a lender that was designated by the school, affiliated with the school, or provided improper inducements to obtain the loan business.

**REASON FOR CHANGE:**

This change is necessary to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, p. 62001.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Subsection 3.4.D, page 10, column 1, paragraph 1, as follows:

**3.4.D  
Borrower Defenses**

In some cases, a loan held by a lender may be subject to borrower claims and defenses that the borrower might otherwise assert against the school (such as poor quality of education). This may result in the borrower being released from his or her obligation to repay the loan, if the loan meets ~~either~~ any of the following criteria:

- The loan was made by ~~a for-profit postsecondary~~ the school or a school-affiliated organization.
- The loan was made by a lender that provided improper inducements to the school or to another party in the making of the loan. (See Subsection 3.4.C for more information regarding improper lender activities.)
- The loan was made for attendance at a school that referred the borrower to the lender.
- The loan was made for attendance at a school that was affiliated by common control, contract, or other business with the originating lender.

- ~~• The proceeds of the loan were used to pay tuition and other charges at a for-profit postsecondary school that refers loan applicants to the lender or that is affiliated with the lender by common control, contract or business arrangement.~~

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Federal Trade Commission Holder Rule Expanded**

The *Common Manual* has been updated to include new provisions regarding borrower defenses based on relationships between the school and the lender. Previously, the borrower could assert certain defenses against repayment of the loan solely in the situation where he or she attended a for-profit postsecondary school.

New regulations expand the range of borrower defenses against repayment of the loan to loans made for attendance at all postsecondary schools if any of the following circumstances apply:

- The loan was made by the school or a school-affiliated organization.
- The loan was made by a lender that provided improper inducements to the school or to another party in the making of the loan.
- The loan was made for attendance at a school that referred the borrower to the lender.
- The loan was made for attendance at a school that was affiliated by common control, contract, or other business arrangement with the originating lender.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower will have expanded recourse in the repayment of his or her loans if certain activities occurred between the school the borrower attended and the lender who made a loan for attendance at that school, even if the borrower was not attending a for-profit school.

*School:*

None.

*Lender/Service:*

A lender may see increased legal action from borrowers based on the expansion of the available defenses to borrowers attending all postsecondary schools.

*Guarantor:*

A guarantor may see additional legal action in its post-claim collection portfolios as borrowers assert defenses against the repayment of their loans at any postsecondary school.

*U.S. Department of Education:*

The Department may receive additional legal filings regarding loans assigned to them as borrowers assert defenses against the repayment of their loans at any postsecondary school.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

October 12, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**COMMENTS RECEIVED FROM:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NCHHELP, NELA, Nelnet, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, VSAC.

**Responses to Comments**

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

**COMMENT:**

Four commenters noted that the language of the first bullet in the Common Bulletin language did not mirror the new *Common Manual* language.

**Response:**

The Committee agrees.

**Change:**

The first bullet in the Common Bulletin language has been amended, as follows:

- The loan was made by ~~a for-profit postsecondary~~ the school or a school-affiliated organization.

**COMMENT:**

One commenter requested that the parenthetical phrase “such as poor quality of education” be deleted from the policy language, because the MPN states that a borrower must repay a FFELP loan despite his or her dissatisfaction with the services provided by the school.

**Response:**

The Committee agrees with the commenter that poor quality of education is not *normally* a defense to repaying a FFELP obligation to the lender. Normally, since the educational contract with the school is separate from the loan contract with the lender, an alleged failure on the part of the school would have no bearing on the legal enforceability of the FFELP loan.

However, under the FTC holder rule, if the school and the lender are affiliated or have a relationship as described in Subsection 3.4.D, a failure on the part of the school may render the FFELP loan unenforceable.

**Change:**

None.

**COMMENT:**

One commenter requested clarification of the third bullet of the proposed language for Subsection 3.4.D, stating that the word “referred” could be interpreted to mean referrals based on a school’s preferred lender list. The commenter notes that the preamble to the November 1, 2007 final regulations, page 61987, stated that a school that chooses not to provide prospective borrowers with a list of recommended or suggested lenders could nonetheless provide information about lenders who had in the past made loans for students enrolled in the school. The commenter believes this action would not invoke the FTC holder rule.

**Response:**

The term “refers” is used in the regulatory text (34 CFR 682.209(k)(3)) which expands the FTC holder rules in the FFELP, and is not defined in regulation. The common policy text tracks closely with that regulatory provision, also not defining the intent or scope of the referral that may lead to some borrower defense. The Committee believes that in the absence of explicit federal definition, the issue becomes a point of law to be decided in a judicial setting should a borrower assert a defense against a FFELP loan when the school provided only minimal information regarding a lender referral.

**Change:**

None.

**COMMENT:**

One commenter requested the following revision to the fourth bullet of the proposed language for Subsection 3.4.D:

The loan was made for attendance at a school that was affiliated by common control, contract, or other business arrangement with the originating lender ~~that made the loan by common control, contract, or other business arrangement.~~

**Response:**

The Committee agrees.

**Change:**

The fourth bullet of Subsection 3.4.D has been revised as requested.

bg dt/edited - bb

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Identity Theft — Early Implementation

**AFFECTED SECTIONS:**

- 3.5.C Credit Bureau Reporting
- 11.20.D False Certification as a Result of the Crime of Identity Theft
- 13.8.E False Certification as a Result of the Crime of Identity Theft
- A.1.B When Federal Interest Benefits Will Be Paid
- A.2.B Termination of Special Allowance

**POLICY INFORMATION:** 1026/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.*

**BASIS:**

Preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pages 61962 and 61984-61986; §682.208(b)(3); §682.211(f)(6).

**CURRENT POLICY:**

Current policy states that a lender must report certain information on each loan it makes or holds to at least one national credit bureau.

Current policy states that a lender must grant an administrative forbearance for a period not to exceed 60 days on any loan potentially eligible for a false certification discharge as a result of the crime of identity theft.

Current policy states that the Department's obligation to pay federal interest benefits and special allowance on a loan ends on the date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report.

**REVISED POLICY:**

Revised policy states that if a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, a lender shall suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines the legal enforceability of the loan. Revised policy also states that if a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the loan is nonetheless legally unenforceable against that individual, the lender must notify the credit bureau of the determination.

Revised policy states that if a lender receives a valid identity theft report or notification from a credit bureau that a borrower's loan may have been the result of the crime of identity theft, the lender may grant an administrative forbearance for a period not to exceed 120 days while the lender determines legal enforceability of the loan.

Revised policy states that if, within 3 years of the date the lender determines a loan to be legally unenforceable, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan.

**REASON FOR CHANGE:**

The *Common Manual* is being updated to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72., No. 211.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Subsection 3.5.C, page 13, column 1, paragraph 4, as follows:

**Note: This Subsection is also updated by Proposal 1027, Batch 149.**

A guarantor will report each loan it purchases as a default claim to all national credit bureaus.  
[§682.410(b)(5)]

If a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, the lender must suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines the legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the lender still determines the loan to be legally unenforceable, the lender must notify the credit bureau of the determination. See Section 13.8.E for more information on loan discharge as a result of the crime of identity theft.  
[§682.208(b)(3)]

Revise Subsection 11.20.D, page 30, column 1, paragraph 1, as follows:

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

...

If a lender receives a valid identity theft report (as defined in Section 603(g)(4) of the Fair Credit Reporting Act) or notification from a credit bureau that a borrower's loan may have been the result of the crime of identity theft, the lender may grant an administrative forbearance for a period not to exceed 120 days while the lender determines the legal enforceability of the loan.  
[§682.211(f)(6)]

Revise Subsection 13.8.E, page 36, column 2, paragraph 2, as follows:

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)]

If a lender receives a valid identity theft report (as defined in Section 603(g)(4) of the Fair Credit Reporting Act) or notification from a credit bureau that a borrower's loan may have been the result of the crime of identity theft, the lender may grant an administrative forbearance for a period not to exceed 120 days while the lender determines the legal enforceability of the loan.  
[§682.211(f)(6)]

Revise Subsection A.1.B, page 4, column 1, paragraph 1, bullet 9, as follows:

**Note: This Subsection is also updated by Proposal 1027, Batch 149.**

The Department's obligation to pay federal interest benefits ends on the earliest of the following

dates, as applicable:

- ...
- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report. If, within 3 years of this date, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan. See Section 13.8.E for more information on loan discharge as a result of the crime of identity theft.  
[§682.208(b)(4); §682.300.(b)(2)(ix)]

Revise Subsection A.2.B, page 11, column 1, paragraph 1, bullet 11, as follows:

**Note: This Subsection is also updated by Proposal 1027, Batch 149.**

- ...
- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report. If, within 3 years of this date, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan. See Section 13.8.E for more information on loan discharge as a result of the crime of identity theft.  
[§682.208(b)(4); §682.302(d)(1)(viii)]

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Identity Theft — Early Implementation**

The *Common Manual* has been revised to comply with the regulatory changes published in the *Federal Register* dated November 1, 2007, that relate to situations in which an individual has been the victim of, or alleged victim of, the crime of identity theft.

If a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, a lender must suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines legal enforceability of the loan. A lender may also grant an administrative forbearance for a period not to exceed 120 days on any loan that is potentially eligible for a false certification discharge as a result of the crime of identity theft while the lender determines legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the lender still determines the loan to be legally unenforceable, the lender must notify the credit bureau of the determination.

If, within 3 years of the date the lender determines a loan to be legally unenforceable, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower who has been the victim, or alleged victim, of the crime of identity theft will receive relief from credit bureau reporting on a related loan for up to 120 days while a lender determines legal enforceability of the loan. A borrower may also be granted a period of administrative forbearance while the lender determines legal enforceability of the loan.

*School:*

None.

*Lender:*

A lender will need to update its credit bureau reporting and administrative forbearance policies as it relates to loan discharge as a result of the crime of identity theft.

*Guarantor:*

A guarantor may be required to adjust program review procedures.

*U.S. Department of Education:*

The Department may need to adjust 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 1, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NELA, Nelnet, NCHelp, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

**COMMENT:**

Three commenters disagreed with the proposed change made to Subsections 11.20.D and 13.8.E that replaced the previous 60-day administrative forbearance period with a 120-day forbearance period. The commenters stated that these are actually two separate periods of administrative forbearance that a lender is able to grant a borrower in cases of identity theft. The 60-day administrative forbearance is used in cases where reliable information is received by the lender that a borrower may be eligible for an identity theft discharge and the borrower simply needs time to get the discharge form completed and documentation submitted. This forbearance must be granted by the lender. The 120-day administrative forbearance period is used to cease due diligence on a loan if a lender receives a valid identity theft report that initiates the lender's investigation of the enforceability of the borrower's loan. The lender may, but is not required to, grant this forbearance. The commenters suggested addressing the new 120-day option as a separate paragraph in Subsections 11.20.D and 13.8.E.

**Response:**

The Committee agrees.

**Change:**



The proposed language in Subsection 11.20.D has been revised, as follows:

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

...

If a lender receives a valid identity theft report (as defined in Section 603(g)(4) of the Fair Credit Reporting Act) or notification from a credit bureau that a borrower's loan may have been the result of the crime of identity theft, the lender may grant an administrative forbearance for a period not to exceed 120 days while the lender determines the legal enforceability of the loan.  
[§682.211(f)(6)]

The proposed language in Subsection 13.8.E, page 36, column 2, paragraph 2, has been revised, as follows:

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)]

If a lender receives a valid identity theft report (as defined in Section 603(g)(4) of the Fair Credit Reporting Act) or notification from a credit bureau that a borrower's loan may have been the result of the crime of identity theft, the lender may grant an administrative forbearance for a period not to exceed 120 days while the lender determines the legal enforceability of the loan.  
[§682.211(f)(6)]

**COMMENT:**

One commenter suggested including a reference to the *Common Manual* at the end of the proposed language for Subsection A.1.B, as follows:

[§682.208(b)(4); §682.300.(b)(2)(ix)]; and also see Section 13.8.E of the *Common Manual*]

**Response:**

The Committee agrees that a reference to Section 13.8.E would be helpful, however, it is *Common Manual* convention to include references to other areas of the Manual within the text, while references to federal guidance (regulatory, DCL, etc.) are included after the text.

**Change:**

The proposed language for Subsection A.1.B has been revised, as follows:

The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report. If, within 3 years of this date, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan. See Section 13.8.E for more information on loan discharge as a result of the crime of identity theft.  
[§682.208(b)(4); §682.300.(b)(2)(ix)]

This change has also been made to the proposed language in Subsection A.2.B.

sf/edited-bb

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Identity Theft — July 1, 2008 Implementation

**AFFECTED SECTIONS:**

- 3.5.C Credit Bureau Reporting
- 12 Due Diligence in Collecting Loans
- 13.8.E False Certification as a Result of the Crime of Identity Theft
- A.1.B When Federal Interest Benefits Will Be Paid
- A.2.B Termination of Special Allowance

**POLICY INFORMATION:** 1027/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Deletion of loans from credit bureau records, loans discharged on or after July 1, 2008. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.*

Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.*

False certification identity theft loan discharge claims processed by the lender on or after September 8, 2006.

Interest benefits and special allowance billing discontinuance, loans deemed unenforceable on or after July 1, 2008. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.*

**BASIS:**

Preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pages 61984-61986; §682.300(b)(2)(ix); §682.302(d)(1)(viii); §682.402(e)(2); §682.411(o).

**CURRENT POLICY:**

Current policy states that if a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative information regarding that loan from an individual's credit history.

Current policy states that a lender must adhere to federal due diligence requirements in collecting any delinquent loan payments. Current policy also states that federal due diligence requirements preempt any state law—including state statutes, regulations, or rules—that would conflict with or hinder a lender's satisfaction of the requirements or frustrate the purpose of these requirements.

Current policy states that for an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with 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.

Current policy outlines the instances in which the Department ends its obligation to pay federal interest benefits and special allowance to a lender.

**REVISED POLICY:**

Revised policy states that if a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative or inaccurate information regarding that loan from an individual's credit history.

Revised policy states that federal due diligence requirements in collecting any delinquent loan payments, as well as federal credit bureau reporting requirements, do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to an individual while a lender determines the legal enforceability of a loan when the lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft.

Revised policy states that for an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with 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 by a perpetrator named in the verdict or judgment.

Revised policy states that the Department also ends its obligation to pay federal interest benefits and special allowance to a lender on the date the lender determines a loan to be legally unenforceable based on the receipt of an identity theft report or notification from a credit bureau of an alleged identity theft.

**REASON FOR CHANGE:**

The *Common Manual* is being updated to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72., No. 211.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Subsection 3.5.C, page 12, column 2, paragraph 1, bullet 6, as follows:

The date the loan is discharged due to a closed school or false certification (to be reported within 30 days of the date the lender is notified that the loan is discharged). The lender also must request that the credit bureau remove any negative or inaccurate information regarding a loan discharged due to a closed school or false certification. For more information on closed school and false certification claims, see Subsections 13.8.B, ~~and~~ 13.8.D, and 13.8.E.  
[§682.402(d)(7)(iv) and (e)(2)(iv)]

Revise Subsection 3.5.C, page 13, column 1, paragraph 4, as follows:

**Note: This Subsection is also updated by Proposal 1026, Batch 149.**

...

If a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, the lender shall suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines the legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft (see Subsection 13.8.E), but the lender still determines the loan to be legally unenforceable, the lender must notify the credit bureau of the determination. FFELP credit bureau reporting requirements do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to a borrower while a lender determines the legal enforceability of a loan after receiving a valid identity theft report or notification from a credit bureau of an alleged identity theft.  
[§682.208(b)(3); 682.411(o)(2)]

Revise Chapter 12, page 1, column 1, paragraph 3, as follows:

The lender must adhere to the federal requirements to ensure prompt collection of any delinquent loan payments and to preserve the guarantee on the loan. These requirements preempt any state law—including state statutes, regulations, or rules—that would conflict with or hinder a lender’s satisfaction of the requirements or frustrate the purposes of these requirements. However, these requirements do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to a borrower while a lender determines the legal enforceability of a loan after receiving a valid identity theft report or notification from a credit bureau of an alleged identity theft.  
[§682.411(o)]

Revise Subsection 13.8.E, page 36, column 1, paragraph 2, as follows:

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 or inaccurate credit history associated with the amount discharged is removed.  
[§682.402(e)(2)]

Revise Subsection 13.8.E, page 37, column 1, bullet 2, as follows:

- ...
- 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 by a perpetrator named in the verdict or judgment.  
[§682.402(e)(3)(v)]

Revise Subsection A.1.B, page 4, column 1, paragraph 1, bullet 9, as follows:

**Note: This Subsection is also updated by Proposal 1026, Batch 149.**

The Department's obligation to pay federal interest benefits ends on the earliest of the following dates, as applicable:

- ...
- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report.  
[§682.300(b)(2)(ix)]

Revise Subsection A.2.B, page 11, column 1, paragraph 1, bullet 11, as follows:

**Note: This Subsection is also updated by Proposal 1026, Batch 149.**

- ...
- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report.  
[§682.302(d)(1)(viii)]

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Identity Theft — July 1, 2008 Implementation**

The *Common Manual* has been revised to comply with the regulatory changes published in the *Federal Register* dated November 1, 2007, that relate to situations in which an individual has been the victim, or alleged victim, of the crime of identity theft.

If a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative or inaccurate information regarding that loan from an individual's credit history.

Federal due diligence requirements in collecting any delinquent loan payments, as well as federal credit bureau reporting requirements, do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to an individual while a lender determines the legal enforceability of a loan when the lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft.

For an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with 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 by a perpetrator named in the verdict or judgment.

The Department ends its obligation to pay federal interest benefits and special allowance to a lender on the date a lender determines a loan to be legally unenforceable based on the receipt of an identity theft report or notification from a credit bureau of an alleged identity theft.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

None.

*School:*

None.

*Lender:*

A lender will be able to better comply with the requirements of the Fair Credit Reporting Act (FCRA). A lender will need to adjust system calculations for the payment of federal interest benefits and special allowance.

*Guarantor:*

A guarantor may be required to adjust program review procedures.

*U.S. Department of Education:*

The Department may need to adjust 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 1, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

CM Guarantor Designees

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NELA, Nelnet, NCHelp, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

**COMMENT:**

One commenter suggested changing the second Effective Date/Trigger Event to read “Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007.” The commenter stated that due diligence activities would not be performed during this period because the lender must place the account on an administrative forbearance to determine enforceability of the loan. The forbearance is triggered by the receipt of the report and, therefore, the lender must cease due diligence activities.

**Response:**

The Committee agrees.

**Change:**

The Effective Date/Trigger Event has been changed to read, as follows:

~~Due diligence activities performed on or after July 1, 2008.~~ Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.

**COMMENT:**

One commenter suggested changing the phrase “Federal credit bureau reporting requirements” to “FFELP credit bureau reporting requirements.” The commenter stated that they believe the intent of the proposed policy change is to clarify that credit bureau reporting requirements under FFELP regulations do not preempt the credit bureau requirements under the Fair Credit Reporting Act (FCRA) and its supporting regulations. The commenter feels that changing “Federal” to “FFELP” makes this clarification.

**Response:**

The Committee agrees.

**Change:**

The proposed policy for Subsection 3.5.C has been changed to read, as follows:

If a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, the lender shall suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines the legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft (see Subsection 13.8.E), but the lender still determines the loan to be legally unenforceable, the lender must notify the credit bureau of the determination. ~~Federal~~ FFELP credit bureau reporting requirements do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to a borrower while a lender determines the legal enforceability of a loan after receiving a valid identity theft report or notification from a credit bureau of an alleged identity theft.

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Entrance Counseling for Graduate or Professional Student PLUS Borrower

**AFFECTED SECTIONS:** 4.4 Providing Information to Students  
4.4.B Entrance Counseling  
4.4.C Exit Counseling  
Figure 8-3 School Requirements before Delivering a FFELP Loan  
Appendix G

**POLICY INFORMATION:** 1028/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Entrance and exit counseling provided by the school on or after July 1, 2008, unless implemented by the school on or after November 1, 2007.

**BASIS:** §682.603(d); §682.604(f) and (g).

**CURRENT POLICY:** Current information in Subsections 4.4.B and 4.4.C does not reflect that entrance counseling must also be provided to each graduate or professional student PLUS loan borrower.

**REVISED POLICY:** Revised policy in Subsections 4.4.B and 4.4.C incorporates entrance counseling requirements for graduate or professional student PLUS loan borrowers. In addition, redundant text regarding debt management counseling has been removed from Section 4.4, as it is covered in Subsection 4.4.C Exit Counseling. Language has been added to Subsection 4.4.C. to align the exit counseling "recommended additional information" with information found in Subsection 4.4.B. Also, Appendix G's definition of "Debt Management Counseling" is modified by removing reference to entrance counseling, and the definitions of "Entrance Counseling" and "Exit Counseling" have been expanded.

**REASON FOR CHANGE:** This change is being made based on regulatory changes in the *Federal Register* of November 1, 2007, Volume 72, pp. 61971 and 62008.

## PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 4.4, page 18, column 1, paragraphs 2 and 3, as follows:

### 4.4 Providing Information to Students

Federal regulations outline specific information requirements for student counseling that the school must provide to prospective students and their parents, to enrolled students, and in some cases, to school employees and prospective employees. Generally, this information is provided by a school's financial aid office. This information includes general consumer information such as graduation and transfer-out rates, campus crime statistics, and entrance and exit counseling for student borrowers.

~~A school must provide debt management counseling to each of its Stafford loan borrowers individually or in groups before the student's completion of study or at the time the student~~

~~leaves the school. If the student withdraws without the school's knowledge, the school must attempt to provide information to the student in writing by sending it to the student's last known address.~~

~~[\$682.604(g)(1)]~~

~~The following information must be included in debt counseling:~~

- ~~• Average anticipated monthly payment amounts.~~

~~[\$682.604(g)(2)(ii)]~~

- ~~• A summary of available repayment option, including strategies for debt management.~~

~~[\$682.604(h)]~~

~~For more information on the responsibilities of a financial aid office with respect to providing this information, the school may refer to 34 CFR §682.604 and 34 CFR §668.42, as well as the 2006-2007-08-09 Federal Student Aid FSA Handbook, Volume 2, Chapter 6, pp. 2-98 78 to 2-106 84.~~

Revise Subsection 4.4.B, page 21, column 1, paragraph 3, as follows:

**Note: This Subsection is also updated by Proposal 1029, Batch 149.**

### **Entrance Counseling**

A school must ensure that entrance counseling is conducted with each student borrower who is obtaining his or her first Stafford loan for attendance at that school - unless the student previously received a Stafford, ~~SLS~~, or Federal Direct Stafford loan for attendance at another school. A school also must ensure that entrance counseling is conducted with each graduate or professional student borrower who is obtaining his or her first graduate or professional student PLUS loan, unless he or she has previously received a Federal PLUS loan, or a Direct PLUS loan. Entrance counseling must be provided before the first disbursement of a loan is released, and may be conducted by any of the following methods:

- In-person presentation.
- Audiovisual presentation.
- Interactive electronic means.

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

~~[\$682.604(f)(1) and (2)]~~

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

~~[\$682.604(f)(3)]~~

A school must ensure that the information on the following subjects is provided to ~~the~~ a first-time Stafford student borrower or a first-time graduate or professional student PLUS borrower who has not received a prior Stafford or Federal Direct Stafford loan during entrance counseling:



- The use of the ~~Federal Stafford Loan~~ Master Promissory Note (Stafford-MPN). This may include the multi-year feature and borrower loan control points (e.g., Notification or Confirmation, cancellation or reduction of the loan amount, and revocation of the MPN). See Subsection 2.2.A for more information on using an MPN. [§682.604(f)(2)(i) and §682.604(f)(2)(iii)]
- The seriousness and importance of the repayment obligation that the student is assuming. [§682.604(f)(2)(ii) and §682.604(f)(2)(iii)]
- The likely consequences of default, including adverse credit reports, federal offset, and litigation. [§682.604(f)(2)(iii) and §682.604(f)(2)(iii)]
- The obligation to repay the full amount of the loan, even if the student borrower does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student purchased from the school (the school or the school designee must provide this information to all of the school's student borrowers except those who receive a loan made or originated by the school). ~~The student borrower must be provided with sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.~~ [§682.604(f)(2)(iv) and §682.604(f)(2)(iii) and §682.604(f)(2)(i)]
- The student borrower must be provided with sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of Stafford loan borrowers or, depending on the type of loan the borrower has obtained, graduate or professional student PLUS loan borrowers, at the same school or in the same program of study at the same school. [§682.604(f)(1)(v)]

For a graduate or professional student PLUS borrower who has received a prior Stafford or Federal Direct Stafford loan, a school must ensure that the following information is provided:

- Sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of borrowers with Stafford and graduate or professional student PLUS loans at the same school or in the same program of study at the same school.
  - A notice that includes all of the following information:
    - = The maximum interest rate for a Stafford loan and the maximum interest rate for a graduate or professional student PLUS loan.
    - = Information regarding the periods when interest accrues on a Stafford loan and periods when interest accrues on a graduate or professional student PLUS loan.
    - = The point at which a Stafford loan enters repayment and the point at which a graduate or professional student PLUS loan enters repayment.
- [§682.603(d)(1)(i)-(iii) and §682.604(f)(2)(I) and (ii)]

A school may provide the information required in this notice in its financial aid award letter or by another means. However, a school must provide the notice to a graduate or professional student PLUS borrower who has not requested his/her maximum Stafford eligibility before the school certifies a graduate or professional student PLUS loan for the borrower. See Subsection 6.15.C for more information.

A school may provide comprehensive entrance counseling materials that meet the minimum

entrance counseling requirements for graduate or professional student PLUS borrowers with prior Stafford loans and graduate or professional student PLUS loan borrowers without prior Stafford loans.  
 [08-09 FSA Handbook, Volume 2, Chapter 6, pp. 2-80 - 81 and 2-84]

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

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

- The average anticipated monthly repayment amount based on the students indebtedness or based on the average indebtedness of Stafford or Stafford and graduate or professional student PLUS loans, depending on the types of loans the student borrower has obtained, at the same school or in the same program of study at the same school.  
 [\$682.604(g)(2)(i)]

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

- The availability of Title IV loan information in the National Student Loan Data System (NSLDS).

To improve a student's understanding of his or her loan repayment obligation, the Department recommends that the school provide the following additional information as part of exit counseling provided to a borrower:

- The current name and address of the borrower's lender(s).
- An explanation of how to complete deferment forms and prepare correspondence to the lender.
- A strong recommendation to the borrower to keep copies of all correspondence from and to the lender about his or her loans.
- A reminder to the borrower that he/she must make payments on loans even if the borrower does not receive a payment booklet or a billing notice.
- An overview of the advantages and disadvantages of loan consolidation.  
 [08-09 FSA Handbook, Volume 2, Chapter 6, pp. 2-82 - 84]

Revise Figure 8-3, page 21, row 6, Comments, as follows:

Requirements	Comments
...	...

Perform entrance counseling, if required.	Entrance counseling is required <del>only</del> for first-time Stafford borrowers <u>and for first-time graduate or professional student PLUS loan borrowers.</u> •...
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Revise Appendix G, page 5, column 2, paragraph 1, as follows:

Debt Management Counseling: Counseling provided to a student about debt and accumulated indebtedness. ~~Counseling is required both before the student received the first disbursement of the student's first loan – often referred to as entrance counseling, and when the student is scheduled to complete an academic program – commonly referred to as exit counseling.~~ See Subsections 4.4.B and 4.4.C.

Revise Appendix G, page 7, column 2, paragraph 2, as follows:

Entrance Counseling (or Entrance Interview): ~~See Debt Management counseling.~~ Required counseling that must be provided to a first-time Stafford borrower or a first-time graduate or professional student PLUS borrower. The school must conduct counseling in person, by audiovisual presentation, or by interactive electronic means. See Subsection 4.4.B.

Revise Appendix G, page 7, column 2, paragraph 7, as follows:

Exit Counseling (or Exit Interview): ~~See Debt Management counseling.~~ Required counseling that must be provided to Stafford loan borrowers shortly before graduating or ceasing at least half-time enrollment. The school must conduct counseling in person, by audiovisual presentation, or by interactive electronic means. See Subsection 4.4.C.

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Entrance Counseling for Grad PLUS Borrower**

The *Common Manual* has been revised to amend entrance counseling requirements to include provisions applicable to Grad PLUS loans and to provide entrance counseling to all new graduate or professional student PLUS borrowers. In addition, language has been included to reflect that the average anticipated monthly repayment amounts provided to borrowers in their counseling materials must include Grad PLUS loans as well as Stafford loans, depending on the types of loans the student borrower has obtained. Appendix G's definition of Debt Management Counseling is modified by removing reference to entrance counseling, providing a more precise definition of entrance counseling, providing a more precise definition of exit counseling, and expanding the exit counseling definition.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

The borrower will receive more complete information regarding any Grad PLUS loans obtained.

*School:*

The school may need to update loan counseling procedures and materials.

*Lender/Service:*

None.

*Guarantor:*

The 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:**

October 2, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NELA, Nelnet, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

**COMMENT:**

Two commenters recommended replacement of the word "performed" to "provided" within the Effective Date/Trigger event. They felt this more accurately reflected situations where a school may use audiovisual presentations or interactive electronic means for counseling. They also recommended deletion of the last sentence as the trigger event for counseling was not submitted to the U.S. Department of Education.

**Response:**

The Committee agrees.

**Change:**

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

"Entrance and exit counseling ~~performed~~ provided by the school on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. ~~This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department published guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.~~

**COMMENT:**

Two commenters recommended word smithing changes to the proposed language in Subsection 4.4. They felt the paragraph should be reworded to more precisely reference student counseling, as the FSA Handbook reference given is specific for the counseling.

**Response:**

The Committee disagrees. The language in Subsection 4.4 is intended to be introductory and provide an overview of the material within this subsection. Subsection 4.4 includes Consumer Information, Entrance, and Exit Counseling. The FSA Handbook reference provides an additional resource on Entrance and Exit Counseling.

**Change:**

None.

**COMMENT:**

Several commenters noted that the 08-09 FSA Handbook Chapter number was incorrect in the citations.

**Response:**

The Committee agrees and thanks the commenters for their careful review.

**Change:**

The 08-09 FSA Handbook, Volume 2, Chapter 2, references have been corrected to Chapter 6.

**COMMENT:**

One commenter suggested that the Policy Committee defer using the new FSA Handbook convention until all the changes could be made at one time throughout the manual. The commenter felt that incorporating the convention within newly developed policy creates inconsistency within the Manual.

**Response:**

The Committee decided in summer 2007 to make this and several other formatting changes to Manual text, and to implement those changes effective for policy proposals that would update the October 2007 Manual. The remaining changes will be accomplished as technical edits in the upcoming weeks to meet the production deadline for the July 2008 Manual update.

**Change:**

None.

**COMMENT:**

One commenter noted that the citations under Subsection 4.4.B, page 21, column 1, paragraph 3, bullets 1-5 are incorrect.

**Response:**

The Committee agrees.

**Change:**

The citations have been corrected to reflect §682.604(f)(~~2~~1)(i).

**COMMENT:**

Several commenters requested additional regulatory cites be included under the sub-bullets of the proposed language regarding the required information for a graduate or professional PLUS borrower who has received a prior Stafford or Direct Stafford loan for completeness of information.

**Response:**

The Committee agrees.

**Change:**

The additional regulatory cites were added as recommended.

**COMMENT:**

One commenter requested that the 08-09 FSA Handbook reference in the last paragraph of Subsection 4.4.B be removed. They observed that this was language found in the Preamble discussion of the November 1, 2007, *Federal Register*, page 61971 and is not reflected the 08-09 FSA Handbook.

**Response:**

The Committee agrees.

**Change:**

The 08-09 FSA Handbook reference has been removed.

**COMMENT:**

One commenter suggested that text references remain consistent when referring to the Graduate or Professional Student PLUS loan, as we used several variations within the text.

**Response:**

The Committee agrees.

**Change:**

All references now refer to the Graduate or Professional student PLUS loan.

**COMMENT:**

One commenter suggested that the references to "Subsection" within the policy be in lower case.

**Response:**

The Committee decided in summer 2007 to make this and several other formatting changes to Manual text, and to implement those changes effective for policy proposals that would update the October 2007 Manual. The remaining changes will be accomplished as technical edits in the upcoming weeks to meet the production deadline for the July 2008 Manual update.

**Change:**

None.

om/edited-bb

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Required Notices and Authorizations

**AFFECTED SECTIONS:**

- 4.4.B Entrance Counseling
- 4.5 Recordkeeping Requirements
- 7.2.A Lender Responsibilities Under a Master Promissory Note
- 8.2.A Initial Notice of Funds
- 8.2.B School Notice of Credit to Student Account
- 8.2.C Borrower Notice to Cancel Loan
- 8.2.D Notification and Confirmation Requirements for the Multi-Year Feature of the MPN

Figure 8-1  
17.3.B The On-Site Review  
Appendix G

**POLICY INFORMATION:** 1029/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Loans disbursed on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

For the retention of documentation of the confirmation process, the publication date of the 04-05 FSA Handbook.

**BASIS:**  
§668.165(a); 08-09 FSA Handbook, Volume 2, Chapter 9, p. 2-106.

**CURRENT POLICY:**

Current policy requires a school and a lender to develop and document a confirmation process for loans made under the multi-year feature of an MPN. The borrower may provide either an active or passive confirmation of his or her desire to receive a loan prior to the disbursement of any loan funds. In addition, the school must send a notice to the borrower within 30 days before or 30 days after it credits Title IV loan funds to the student's account, and allow the borrower 14 days to inform the school if he or she wishes to cancel all or a portion of the loan disbursement.

**REVISED POLICY:**

Revised policy gives the school two standards for notifying the borrower of his or her right to cancel a loan at the time of disbursement:

- If the borrower provides affirmative confirmation of his or her desire to receive a loan, the school may continue to comply with the current loan disbursement notification provisions (the disbursement notice must be sent to the borrower within 30 days before or 30 days after it credits Title IV loan funds to the student's account). If the borrower wishes to cancel all or a portion of the loan disbursement, he or she must notify the school by the later of the first day of the payment period for which the funds are intended or 14 days after the date the school sent the notification that loan funds had been credited to the student's account at the school.
- If the borrower does not provide affirmative confirmation of his or her desire to receive a loan, the school must notify the borrower no earlier than 30 days before, but no later than seven days after crediting the student's account with Title IV loan funds. The school must allow the borrower 30 days to cancel all or a portion of the loan disbursement.

In addition, revised policy includes in the school record-keeping requirements the indefinite retention period for documentation of the confirmation process, which first appeared in the 04-05 FSA Handbook.

**REASON FOR CHANGE:**

This change is necessary to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62020 and 62029.

**PROPOSED LANGUAGE - COMMON MANUAL:**

**NOTE: This Subsection was also updated by Proposal 1028, Batch 149.**

Revise Subsection 4.4.B, page 21, column 2, paragraph 2, as follows:

A school must ensure that information on the following subjects is provided to the student borrower during entrance counseling:

- The use of the Federal Stafford Loan Master Promissory Note (Stafford MPN). This may include the multi-year feature and borrower loan control points (e.g., ~~Notification~~ affirmative or passive confirmation, cancellation or reduction of the loan amount, and revocation of the MPN). See ~~s~~Subsection 2.2.A for more information on using an MPN. [§682.604(f)(2)(i)]
- ...

Revise Section 4.5, page 24, column 1, paragraph 3, as follows:

**Loan-Related Records**

The records that a school must maintain include, but are not limited to:

- A record of any ~~Stafford loan~~ passive or affirmative confirmation or Notification processes the school used in support of the Federal Stafford Loan Master Promissory Note (Stafford MPN). The documentation may be kept in paper or electronic format. Because this may affect the enforceability of loans, the documentation must be retained indefinitely. [§682.610(b)(6); 08-09 FSA Handbook, Volume 2, Chapter 9, p. 2-106]
- ...

Revise Subsection 7.2.A, page 2, column 2, paragraph 6, as follows:

The lender has the following responsibilities when making loans under a Master Promissory Note (MPN):

- ...
- ...
- ...
- ...
- Ensuring that either an affirmative or passive confirmation or ~~Notification~~ process is in place for Stafford or Grad PLUS loans made using the multi-year feature of the MPN. See ~~s~~Subsection 8.2.BD for confirmation and ~~Notification~~ requirements.
- Ensuring that a process is in place to obtain the parent borrower's requested loan amount before each Parent PLUS loan is disbursed under a Federal PLUS Loan Application and



Master Promissory Note (PLUS MPN).

- ...

Revise Subsection 8.2.A, page 2, column 1, paragraph 3, as follows:

**8.2.A**  
**Initial Notice of Funds**

Prior to delivering any Title IV funds to the student or parent borrower, the school is required to ~~send~~ provide a notice to the student providing information about the amount of funds that the student or his or her parent can expect to receive under each Title IV program. Regulations require this notice (i.e., award letter) to be ~~sent~~ provided only to the student. The notice must include:

- The amount of proceeds the student or his or her parent can expect to receive for each loan type. For ~~Stafford~~ loans made using a Master Promissory Note (MPN), the school's award letter may include proposed loan amounts and loan types. It may also include instructions to the borrower either to accept the ~~aid~~ loan(s) offered by responding to the school in writing or electronically, or to take action only if requesting a cancellation or reduction of the loan amount offered (see ~~Subsection 8.2.DB~~ Subsection 8.2.DB for ~~Notification and C~~ Confirmation requirements).
- When the proceeds will be delivered and by what method.

Revise Section 8.2, page 2, column 2, paragraph 1, by inserting a new Subsection 8.2.B and renumbering the current Subsections B and C, as follows:

**8.2.B**  
**Confirmation Requirements for the Multi-Year Feature of the MPN**

The school must ensure and document that a process is in place for confirming that the borrower accepts the loan amounts offered under the multi-year feature of the MPN. The confirmation process may be part of, or may supplement existing required notices and disclosures described in this section and may be either passive or affirmative.

Passive confirmation is a process by which the school, lender, or guarantor (on behalf of the school or lender) notifies the borrower of the proposed loan types and amounts. The borrower is required to take action only to reject or adjust the type or amount of the loan. The school does not deliver loan funds until the time given to the borrower to respond has elapsed.

Affirmative confirmation is a process by which the school, lender, or guarantor (on behalf of the school or lender) advises the borrower of the proposed loan types and amounts. The borrower must provide written or electronic confirmation of the types and amounts of Title IV loans wanted for an award year before the school delivers those loan funds.

[\$668.165(a); §682.401(d)(4)(vi); 07-08 FSA Handbook, Chapter 1, pp. 4-9 to 4-10]

**8.2.BC**  
**School Notice of Credit to Student Account**

Except in the case of a post-withdrawal disbursement made as a result of the return of Title IV funds calculation, (see ~~Subsection 9.5.A~~ Subsection 9.5.A), the school must notify the student or parent borrower if the school credits Stafford, Grad PLUS or Parent PLUS loan proceeds to ~~outstanding school charges~~ the student's school account. If the school obtained affirmative confirmation of the borrower's acceptance of the loan amount offered (see Subsection 8.2.B), the ~~This~~ notice must be issued no earlier than 30 days before and no later than 30 days after the school credits the student's account. If the school did not obtain affirmative confirmation of the borrower's acceptance of the loan amount offered, the notice must be issued no earlier than 30 days before

and no later than seven days after the school credits the student's account. The notice may be written or electronically transmitted and must include:

[§668.165(a)(2) and (3)]

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

### **8.2.GD**

#### **Borrower Notice to Cancel Loan**

A student or parent borrower must inform the school if he or she wishes to cancel all or a portion of a loan or loan disbursement. The school must return the loan proceeds, cancel all or a portion of the loan or loan disbursement as applicable, or do both if the school receives a cancellation request in either of the following time frames:

[§668.165(a)(4)]

- If the school obtained affirmative confirmation of the borrower's acceptance of the loan amount offered (see Subsection 8.2.B), by the later of the first day of the payment period for which the funds are intended or ~~Within~~ 14 days after the date the school sends the notification advising the student or parent borrower the school has credited the student's account at the school.

[§668.165(a)(4)(ii)(A)]

- If the school did not obtain affirmative confirmation of the borrower's acceptance of the loan amount offered, within 30 days after the date the school sends the notification advising the student or parent borrower the school has credited the student's account at the school. ~~By the first day of the payment period, if the school sends the notification more than 14 days prior to the first day of the payment period.~~

[§668.165(a)(4)(ii)(B)]

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

#### **Late Requests**

...

#### **Funds Delivered prior to Request**

...

#### **School Notice of Outcome**

...

### **8.2.D**

#### **Notification and Confirmation Requirements for the Multi-Year Feature of the MPN**

The school and lender, or guarantor on behalf of the school and lender, must ensure and document that a process is in place for providing either Confirmation or Notification for subsequent loans made using the multi-year feature of the Federal Stafford Loan Master Promissory Note (Stafford MPN). A Notification or Confirmation process informs the student of the proposed loan types and amounts being awarded for the loan period and should increase the borrower's understanding of his or her loan obligations.

The Notification or Confirmation process may be part of or may supplement the existing required notices and disclosures described in this subsection. Although the initial disclosure constitutes a notification, it must be supplemented by another Notification or Confirmation process by the parties described below.

*Notification* is a process by which the school, lender, or guarantor (on behalf of the school or lender) notifies the borrower of the proposed loan types and amounts. The borrower is required to take action only to reject or adjust the type or amount of the loan.

*Confirmation* is a process by which the school, lender, or guarantor (on behalf of the school or lender) advises the borrower of the proposed loan types and amounts. The borrower must take action to confirm the loan type or request a specific loan amount. A school, lender, or guarantor (on behalf of the school or lender) may establish Confirmation for the entire loan or may request that the borrower confirm each disbursement of the loan. [DCL GEN-98-25; Attachment C; DCL GEN-99-9]

Revise Subsection 17.3.B, page 4, column 2, bullet 27, as follows:

- ~~Federal Stafford Loan Master Promissory Note (Stafford MPN) Notification or Confirmation~~ Procedures for confirming a student borrower's desire to receive a loan under the multi-year feature of the MPN.

Revise Subsection 17.3.B, page 5, column 1, bullet 19, as follows:

- ~~Federal Stafford Loan Master Promissory Note (Stafford MPN) Notification or Confirmation~~ Procedures for confirming a student borrower's desire to receive a loan under the multi-year feature of the MPN.

Revise Appendix G, page 4, column 2, paragraph 4, as follows:

**Confirmation (as it relates to the Stafford MPN):** A process by which the school; ~~or~~ lender, ~~prior to disbursing a loan, or guarantor (on behalf of the school or lender)~~ advises the borrower of the proposed loan types and amounts. The borrower may accept the loan(s) passively (by taking no action) or affirmatively (by notifying the school in writing or electronically of his or her acceptance of the loan(s) or any changes he or she wishes to make to the loan types or amounts). ~~must take action to confirm the loan type or request a specific loan amount. A school, lender, or guarantor (on behalf of the school or lender) may establish confirmation for the entire loan or may request that the borrower confirm each disbursement of the loan.~~

Revise Figure 8-1, page 5, footnote 3, as follows:

- 3 If the school credits the student's account at the school, the school is also required to notify the student or parent borrower of the credit ~~no earlier than 30 days before and no later than 30 days after~~ within a specific timeframe after the date the school credits the student's account with loan proceeds (see Subsection 8.2.C). The notification must advise the student or parent borrower that he or she may cancel all or a portion of the loan or loan disbursement.

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

##### **Required Notices and Authorizations**

The *Common Manual* has been updated to reflect the disbursement notification requirements published in the November 1, 2007 final regulations. If the borrower provided affirmative confirmation of his or her acceptance of the loan amount offered, the school may continue to follow the current disbursement notification requirements at or near the time of the delivery of loan funds. The notice must be sent within 30 days before or 30 days after it credits loan funds to the student's school account. If the borrower wishes to cancel all or a portion of the loan

disbursement, he or she must notify the school by the later of the first day of the payment period for which the funds are intended or 14 days after the date the school sent the notification that loan funds had been credited to the student's account at the school.

If the borrower does not provide affirmative confirmation of his or her acceptance of the loan amount offered, the school must send the disbursement notification to the borrower within 30 days before, but no later than 7 days after the school credits loan funds to the student's school account. The school must allow the borrower 30 days to request a cancellation or a change in the loan amount.

In addition, revised policy includes in the school record-keeping requirements the indefinite retention period for documentation of the confirmation process, which first appeared in the 04-05 FSA Handbook.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower who does not provide affirmative confirmation of acceptance of a loan under the multi-year feature of the MPN will have additional time (30 days, rather than 14) in which to request cancellation after loan funds are credited to his or her school account.

*School:*

A school must allow a student additional time to cancel all or a portion of a loan disbursement, if the student did not provide affirmative confirmation of his or her desire to receive a loan under the multi-year feature of the MPN. The school will have a shorter timeframe in which to notify the borrower of the credit of loan funds to the student's school account under these circumstances.

*Lender/Service:*

None.

*Guarantor:*

A guarantor may be required to revise school program review procedures.

*U.S. Department of Education:*

The Department may be required to revise school 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:**

October 2, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**COMMENTS RECEIVED FROM:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NCHELP, NELA, Nelnet, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds,

VSAC.

### **Responses to Comments**

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

#### **COMMENT:**

One commenter observed that the note, "This Subsection was updated by Proposal \_\_\_\_\_, Batch 149.", preceding the proposed policy language for Subsection 4.4.B, was incomplete. A second commenter requested that the sentence be stricken.

In addition, three commenters requested that the reference to the Stafford MPN in the first bullet of Subsection 4.4.B be modified to reflect the fact that entrance interviews are now required for Grad PLUS loans, as well.

#### **Response:**

The Committee agrees that the note preceding the proposed policy language was incomplete. This note should have referred to Proposal 1028, of this same batch, in which the first bullet of Subsection 4.4.B is modified to reflect entrance counseling for Grad PLUS borrowers.

#### **Change:**

The note has been amended as follows:

***NOTE: This Subsection was also updated by Proposal 1028, Batch 149.***

#### **COMMENT:**

Two commenters requested that the citation in the first bullet of Subsection 4.4.B be updated. Two other commenters requested that the citation in Subsection 8.2.C be changed to §682.165(a)(2) and (3).

#### **Response:**

The Committee agrees with the commenters that these citations have changed as a result of the final rules published November 1, 2007. However, the relevant updates to the citations in Subsection 4.4.B are being made in Proposal 1028 of this batch, so the updates will not be duplicated here.

#### **Change:**

The citation for Subsection 8.2.C has been updated to §682.165(a)(2) and (3).

#### **COMMENT:**

One commenter requested that the verbiage in Section 4.5 be amended for consistency, as follows:

A record of any ~~loan~~ passive or affirmative confirmation or ~~notification~~ processes the school used in support of the Master Promissory Note (MPN).

#### **Response:**

The Committee agrees.

#### **Change:**

The requested change has been made to Section 4.5.

#### **COMMENT:**

One commenter requested that wording be inserted in Subsections 8.2.A and 8.2.B, as well as the glossary definition of "confirmation", to acknowledge that affirmative confirmation may be obtained electronically.

#### **Response:**

The Committee agrees.

**Change:**

The words “electronic” and “electronically” have been inserted as requested by the commenter.

**COMMENT:**

One commenter requested that the word “send” be changed to “provide” in the first paragraph of Subsection 8.2.A. The commenter stated that the wording in §668.165(a)(3) had been changed by the final rules published November 1, 2007, and that the word “provide” is more descriptive, given the various methods of notification available.

**Response:**

The Committee agrees.

**Change:**

The words “send” and “sent” have been changed to “provide” and “provided” in the first paragraph of Subsection 8.2.A.

**COMMENT:**

One commenter requested that all references to the Federal Student Aid Handbook be spelled out, in accordance with *Common Manual* convention.

**Response:**

This past year, the Committee agreed to modify the convention for citing the Federal Student Aid Handbook to shorten and simplify the citations. The Committee is in the process of updating all such citations to the following format: “07-08 FSA Handbook”.

**Change:**

None.

ke dt/edited - bb

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** **Scheduled and Borrower-Based Academic Year in Standard Term-Based Credit-Hour Programs**

**AFFECTED SECTIONS:** **6.1 Defining an Academic Year**  
**6.3.C Standard Term-Based Programs Offered in Modules**  
**Figure 6-2**  
**Appendix G**

**POLICY INFORMATION:** **1030/Batch 149**

**EFFECTIVE DATE/TRIGGER EVENT:** Publication date of the 05-06 FSA Handbook.

**BASIS:**

05-06 FSA Handbook, Volume 3, Chapter 4, pp. 3-66 to 3-71 and p. 3-74.

**CURRENT POLICY:**

Current policy does not acknowledge that a scheduled academic year (SAY) in a standard term-based program corresponds to a traditional academic year calendar. Current policy does not clarify that a school may use either a SAY or a borrower-based academic year (BBAY) for a student who is enrolled in a standard term-based, modular program that is offered in a traditional academic year calendar. Current policy states that a BBAY tracks a student's progress until the required number of weeks and credit or clock hours are completed. Current policy provides no information about a BBAY in a standard term-based program that is not offered in a SAY.

**REVISED POLICY:**

Revised policy clarifies that a school may use a SAY or BBAY to determine Stafford annual loan limit frequency and determine the parent or Grad PLUS loan period for a student who is enrolled in a standard term-based program that is offered in a traditional academic year calendar, including such a program that is comprised of modules. Revised policy also broadens the definition of a BBAY to acknowledge its use in all types of programs and provides new detail concerning the use of a BBAY in standard term-based programs that do, and do not, have a traditional academic year calendar.

**REASON FOR CHANGE:**

This change is necessary to update the Manual's text with current Department guidance.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Section 6.1, page 1, column 2, paragraph 3, as follows:

**Academic Year Categories**

Typically, there are two categories of academic year that determine the frequency of Stafford annual loan limits:

- A scheduled academic year (SAY) that corresponds to a traditional academic year calendar (e.g., fall and spring semesters; or fall, winter, and spring quarters). A SAY is a "fixed" academic period as published in a school's printed materials that generally begins and ends at about the same time each calendar year according to an established schedule that is published in a school's catalog or other materials.
- A borrower-based academic year (BBAY) that does not have a fixed beginning or

ending date. A BBAY is an academic year that begins with a student's start date when a student, or a group of students, begins attendance and tracks the student's (or group's) attendance and progress in a program of study until the required number of weeks and credit or clock hours have been completed.

Although there is no annual loan limit for a parent or Grad PLUS loan, a school must certify a parent or Grad PLUS loan for the same SAY or BBAY loan period that is used for the student's Stafford loan.

[07-08 FSA Handbook, Volume 3, Chapter 5, p. 3-78]

Both the SAY and BBAY must meet the minimum statutory requirements of an academic year as defined by the Department. One exception to this rule is that a BBAY that is used as an alternative to a SAY in a standard term-based, credit-hour program and that includes a summer term may include fewer than 30 weeks of instructional time or fewer credit hours than the minimum number required for a SAY. For clock-hour programs and nonstandard term-based and non-term-based credit-hour programs, a school must use a BBAY. For standard term-based credit-hour programs that are offered in a traditional academic year calendar, a school may use either a SAY or a BBAY. For a standard term-based program that is not offered in a traditional academic year calendar, a school must use a BBAY.

There are significant differences between a BBAY for a standard term-based credit-hour program, and a BBAY for a clock-hour, a non-term-based credit-hour, or a nonstandard term-based credit-hour program. See the discussion that follows for additional information.

#### **Standard Term-Based, Credit-Hour Programs Offered in a Traditional Academic Year Calendar: Using a SAY**

A school with a standard term-based credit-hour programs using a SAY that corresponds to a traditional academic year calendar must designate the summer term as either a “header” “header” (precedes the academic year) or a “trailer” (follows the academic year). (See the discussion in this section under the subheading *Academic Year Categories* for additional information.) The school has the following options:

- The school may consistently designate the summer term as either a header header or a trailer with no exceptions.
- The school may consistently designate the summer term as either a header header or a trailer with some exceptions that are determined by the school on a case-by-case basis.
- The school may make all decisions regarding the use of the summer term as a header header or a trailer on a case-by-case basis.

#### **Standard Term-Based, Credit-Hour Programs Offered in a Traditional Academic Year Calendar: Using a BBAY**

If a BBAY is used, the school must include the same number of terms in the BBAY as it includes in its SAY, excluding a summer term designated as a “header” or “trailer” to the SAY. (See the discussion in this section under the subheading *Academic Year Categories* for additional information.) . . .

...

#### **Standard Term-Based, Credit-Hour Programs Not Offered in a Traditional Academic Year Calendar**

If a school has a program that is not offered in a traditional academic year calendar (i.e., one that corresponds to a SAY), the school must use a BBAY. (See the discussion in this section



under the subheading *Academic Year Categories* for additional information.) If the program uses semesters or trimesters, a BBAY consists of at least two consecutive terms. If the program uses quarters, a BBAY consists of at least three consecutive terms. Mini-sessions (summer or otherwise) must be combined and treated as a single standard term. A BBAY may include a term(s) that a student does not attend if the student could have enrolled at least half time during that term(s), but the BBAY must begin with a term in which the student is actually enrolled. The BBAY for programs that are not offered in a traditional academic calendar must always include enough terms to meet the minimum Title IV academic year requirements for weeks of instructional time.  
[2007-08 FSA Handbook, Volume 3, Chapter 5, p. 3-81]

**Clock-Hour Programs and Nonstandard-Term-Based and Non-Term-Based Credit-Hour Programs**

...

Revise Subsection 6.3.C, page 6, column 1, by inserting the following after paragraph 1, bullet 5, as follows:

**6.3.C  
Standard Term-Based Programs Offered in Modules**

For an eligible program that combines a series of modules into a semester, trimester, or quarter and measures progress in credit hours, the payment period includes all of the modules the student was scheduled to attend in the semester, trimester, or quarter beginning with the module that included the student's first day of attendance. The following criteria apply to programs offered in modules:

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

A school may use a scheduled academic year (SAY) or a borrower-based academic year (BBAY) for a standard term-based program comprised of modules that is offered in a traditional academic year calendar. See Section 6.1 for more information about the use of a SAY and a BBAY in a standard term-based, credit-hour program that is offered in a traditional academic year calendar.

Revise Figure 6-2, Chapter 6, page 4, as follows:

See the separate attachment.

Revise Appendix G, page 3, column 1, paragraph 4, as follows:

**Borrower-Based Academic Year: (BBAY)** An academic year that is individualized per borrower and generally “floats” with the borrower’s attendance and progress of a student, or a group of students, in a program of study for the purpose of determining Stafford annual loan limit frequency. For borrowers enrolled in clock hour and non term based credit hour programs of study, the academic year is always a BBAY. A student’s BBAY must begin with a term the student actually attends. The BBAY must meet the statutory requirements of an academic year as defined by the Department. There are significant differences between a BBAY for a standard term-based credit-hour program, and a BBAY for a clock-hour, non-term-based credit-hour, or a nonstandard term-based credit-hour program. For additional information, see

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Scheduled and Borrower-Based Academic Year in Standard Term-Based Credit-Hour Programs**

The *Common Manual* has been updated to clarify the two categories of academic year that determine the frequency of Stafford annual loan limits in a standard term-based, credit-hour program: Scheduled Academic Year (SAY) and Borrower-Based Academic Year (BBAY).

A scheduled academic year (SAY) corresponds to a traditional academic year calendar (e.g., fall and spring semesters; or fall, winter, and spring quarters). A SAY is a "fixed" academic period that generally begins and ends at about the same time each calendar year according to an established schedule that is published in a school's catalog or other materials.

A borrower-based academic year (BBAY) does not have a fixed beginning or ending date. A BBAY begins when a student, or a group of students, begins attendance and tracks the student's (or group's) attendance and progress in a program of study.

For standard term-based credit-hour programs that are offered in a traditional academic year calendar, a school may use either a SAY or a BBAY. A school may use a SAY or a BBAY for a standard term-based program comprised of modules that is offered in a traditional academic year calendar. Both the SAY and BBAY must meet the minimum statutory requirements of an academic year. One exception to this rule is that a BBAY that is used as an alternative to a SAY and that includes a summer term may include fewer than 30 weeks of instructional time, or fewer credit hours than the minimum number required for a SAY.

If a school has a standard term-based program that is not offered in a traditional academic year calendar (i.e., one that corresponds to a SAY), the school *must* use a BBAY. If the program uses semesters or trimesters, a BBAY consists of any two consecutive terms. If the program uses quarters, a BBAY consists of any three consecutive terms. Mini-sessions (summer or otherwise) must be combined and treated as a single standard term. A BBAY may include a term(s) that a student does not attend if the student could have enrolled at least half time during that term(s), but the BBAY must begin with a term in which the student is actually enrolled. The BBAY for programs that are not offered in a traditional academic calendar must always include enough terms to meet the minimum Title IV academic year requirements for weeks of instructional time.

Although there is no annual loan limit for a parent or Grad PLUS loan, a school must certify a parent or Grad PLUS loan for the same SAY or BBAY loan period that the school uses for the student's Stafford loan.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A student who attends a standard term-based credit-hour program offered in a traditional academic year calendar, including a program comprised of modules, may benefit from the fact that the school has the option of using a SAY or BBAY to determine the frequency with which he or she receives Stafford and PLUS loan funds.

*School:*

A school that offers a standard term-based credit-hour program in a traditional academic year calendar, including a program comprised of modules, may choose whether to use a SAY or a BBAY for determining the frequency of Stafford annual loan limits and parent or Grad PLUS loan periods. A school that offers a standard term-based credit-hour program that does not use a traditional academic year calendar may need to review its procedures for determining the frequency of Stafford annual loan limits, and loan periods for Stafford, and parent and Grad PLUS loans to ensure that it uses a BBAY in all cases.

*Lender/Servicer:*

None.

*Guarantor:*

A guarantor may be required to modify its program review procedures.

*U.S. Department of Education:*

The Department may be required to modify its 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:**

July 6, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NELA, Nelnet, NCHelp, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds and VSAC.

**Responses to Comments**

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

**COMMENT:**

One commenter requested a change in the first sentence in the new first bullet in Section 6.1 page 1, column 2, paragraph 3, as follows:

A scheduled academic year (SAY) that corresponds to a traditional academic year calendar (e.g., fall and spring semesters; or fall, winter, and spring quarters/trimesters).

**Response:**

As originally written, the general description of a SAY that corresponds to a traditional academic year calendar in semester- and quarter-term programs is taken directly from the FSA Handbook, Volume 3, Chapter 5, p. 3-78. The Committee does not agree that it is accurate to describe a traditional academic year calendar in a trimester-term program in the same way as for a quarter-term program, i.e., "fall, winter, and spring." A traditional trimester-term program includes three terms in the calendar year – fall, spring (or winter), and summer, but only the fall and spring (or winter) trimesters are part of the traditional academic year calendar.

**Change:**

None.

**COMMENT:**

One commenter noted that the use of the phrase "start date" in the proposed policy text below seems vague.

A borrower-based academic year (BBAY) that does not have a fixed beginning or ending date. A BBAY begins with the *start date* for a student, or a group of students, and tracks the student's (or group's) attendance and progress in a program of study.

This commenter indicated that the BBAY begins when the student (or a group of students) is actually attending.

**Response:**

The Committee agrees that the commenter's observation provides clarity.

**Change:**

The proposed policy text has been modified as follows:

A borrower-based academic year (BBAY) that does not have a fixed beginning or ending date. A BBAY begins ~~with the start date for~~ when a student, or a group of students, begins attendance and tracks the student's (or group's) attendance and progress in a program of study.

**COMMENT:**

One commenter recommended a revision for clarity and to eliminate awkward language in the Borrower-Based Academic Year glossary definition, as follows:

**Borrower-Based Academic Year: (BBAY)** ~~For the purpose of determining the frequency of Stafford annual loan limits, an academic year that is individualized per borrower and generally "floats" with the borrower's attendance and progress of a student, or a group of students, in a program of study.~~ An academic year that is individualized per borrower and generally "floats" with the borrower's attendance and progress of a student, or group of students, in a program of study for the purpose of determining the frequency of Stafford annual loan limits.

**Response:**

The Committee agrees.

**Change:**

The Borrower-Based Academic Year glossary definition has been revised per the commenter's suggestion, with a non-substantive wordsmithing change.

**COMMENT:**

One commenter recommended that reference to the FSA Handbook in the Borrower-Based Academic Year glossary definition be modified to reflect the Manual's former convention, i.e., "~~07-08 FSA 2007-2008 Federal Student Aid Handbook.~~" The commenter acknowledged the Committee's plan to change Manual text to the new format (i.e., "07-08 FSA Handbook") but noted that using the new format for current changes results in inconsistency throughout the Manual. The commenter recommended that all of these formatting changes be made at one time.

**Response:**

The Committee decided in summer 2007 to make this and several other formatting changes to Manual text, and to implement those changes effective for policy proposals that would update the October 2007 Manual. The remaining changes will be accomplished as technical edits in the upcoming weeks to meet the production deadline for the July 2008 Manual update.

**Change:**

None.

**COMMENT:**

Several commenters requested that Figure 6-2 be corrected to refer consistently to a summer "header" instead of a summer "leader."

**Response:**

The Committee intended to make that change throughout the text affected by this policy proposal and thanks the commenters who noted this oversight.

**Change:**

All references in the proposed policy text to summer "leader" have been changed to summer "header." The Committee will ensure that any other references to a summer "leader" throughout the Manual's text are also

changed through technical edits.

**COMMENT:**

One commenter noted that Section 6.1 should be updated with November 1, 2007, final rule changes that created two types of nonstandard term programs – those with terms that are substantially equal and at least nine weeks in length, and those that are not. The commenter noted that, generally, the former are to be treated like standard terms for loan frequency purposes and the latter are to be treated like non-terms.

**Response:**

The commenter is correct in observing that additional changes are required to Section 6.1 to incorporate final rule changes for nonstandard term programs. This policy proposal is specific to annual loan limit frequency in standard term-based programs. Final rule changes relative to annual loan limit frequency in nonstandard term-based programs were addressed separately, in policy proposal 1042 distributed in Batch 150 on February 29, 2008.

**Change:**

None.

jcs/edited-kk

**Scheduled Academic Year**

**Borrower-Based Academic Year (BBAY)**

**Standard Term-Based Credit-Hour Programs (including such programs offered in modules)**

Consists of a traditional academic year calendar that begins and ends at approximately the same time each calendar year and includes at least two semesters or trimesters, or at least three quarters

School must use a SAY that meets the minimum statutory requirements of an academic year

All loans borrowed during a SAY (including summer header/trailer) must not exceed the annual loan limit for student's grade level

Loan period may not always include all terms in SAY

Borrower always regains eligibility at beginning of for new annual loan limit after SAY calendar period elapses

After original loan, additional loans during the same SAY are permissible if any of the following occur:

- Student has remaining eligibility, ~~or~~
- Student progresses to ~~the next~~ a grade level with a higher annual loan limit
- Student changes from dependent to independent

Loan period may not always include all terms in SAY

Summer term may be "~~leader~~" "header" or "trailer" to the SAY, per

- Strict policy
- By program
- Case by case

Summer Mini-sessions may be combined and treated as a single term header/trailer or individual terms mini-sessions may be assigned to different SAYs

**All standard term-based, credit-hour programs:**

Academic year floats with student's, or a group of students' enrollment

School may use if SAY is at least 30 weeks

All loans borrowed during BBAY must be within not exceed the annual loan limit for student's grade level

Borrower regains eligibility for new annual loan limit after BBAY calendar period elapses

After original loan, additional loans during the same BBAY are permissible if any of the following occur:

- Student has remaining eligibility, ~~or~~
- Student progresses to a grade level with a higher annual loan limit
- Student changes from dependent to independent

Length of BBAY must equal number of terms in SAY, not including summer trailer or leader

~~• Number of hours/weeks in BBAY need not meet 30-week minimum if BBAY includes a summer term~~

• BBAY begins with term in which student actually enrolls

• BBAY may include terms student does not attend, if student could have enrolled at least half -time

Mini-sessions (summer or otherwise) must be combined with each other or with other terms and treated as a single standard term. Student need not enroll in each mini-session but must have been able to enroll at least half -time in the combined term

**Programs offered in a traditional academic year calendar (i.e., one that corresponds to a SAY):**

Length of BBAY must equal number of terms in SAY, excluding summer header or trailer

Number of hours/instructional weeks in BBAY need not meet minimum statutory requirements of an academic year if BBAY includes a shorter summer term

School may use BBAY for

- All students
- Certain programs
- Certain students

Mini-sessions must be treated as a single term and student need not enroll in all mini-sessions, but must have been given the opportunity by the school to enroll in all at least half time

May alternate SAY and BBAY for a student if no overlap of academic years

**Programs not offered in a traditional academic year calendar :**

Must use BBAY that consists of at least two semesters or trimesters, or at least three quarters

BBAY must meet minimum statutory requirements of an academic year in instructional weeks

...

...

...

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Enrollment Status Definitions

**AFFECTED SECTIONS:** 6.9 Defining Enrollment Status  
Appendix G

**POLICY INFORMATION:** 1031/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

Retroactive to the implementation of the *Common Manual* for the following:

- Determining enrollment status for a student enrolled solely in a correspondence program.
- Defining full-time enrollment for each of a school's undergraduate, graduate, and professional programs.

**BASIS:**

§668.2(b); preamble to the *Federal Register* dated August 8, 2007, p. 44621.

**CURRENT POLICY:**

For an undergraduate program, current policy states that half-time enrollment is considered half of the full-time status defined by the school for its students. Current policy states that a school must define full-time enrollment status for each of its programs of study, but does not specifically acknowledge that requirement for each of the school's graduate or professional programs. In the glossary definition of "half-time student," current policy states that the enrollment status for a student who is enrolled in a correspondence program is never more than half-time. Section 6.9 includes no additional information about enrollment status for a student enrolled in correspondence coursework.

**REVISED POLICY:**

For an undergraduate program, revised policy states that a school's definition of half-time enrollment must include at least half of the academic workload of the applicable minimum full-time enrollment definition for that program. Revised policy more clearly states that a school must define full-time enrollment status for each of its undergraduate, graduate, or professional programs.

Revised policy aligns Section 6.9 with glossary information about the enrollment status for a student enrolled solely in a correspondence program, and further expands that section to include regulatory updates that address enrollment status for a student who is enrolled in a non-correspondence program and combines correspondence with regular coursework.

**REASON FOR CHANGE:**

This change is required to comply with final rules published in the November 1, 2007, *Federal Register*, Vol. 72, No. 152, to align Section 6.9 with text already found in the glossary, and to emphasize an existing requirement for a school to define full-time enrollment status for each of its undergraduate, graduate, or professional programs.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Section 6.9, page 17, column 2, as follows:

**6.9**

## Defining Enrollment Status

A school must define full-time enrollment status for each of its undergraduate, graduate, or professional programs of study. A student's enrollment may include any combination of coursework courses, work, research, or special studies, (see ~~Section 6.1~~ Section 6.1 for information regarding the definition of an academic year and the frequency of annual loan limits). A student's enrollment status may affect the student's cost of attendance (COA), and, therefore, the amount of loan funds the school may certify.

[§668.2(b); 07-08 FSA Handbook, Volume 1, Chapter 1, p. 1-11]

## Undergraduate Students

For an undergraduate student, the school's definition of full-time enrollment for a program must meet, at a minimum, one of the following standards:

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

~~The school's definition of h~~Half-time enrollment is considered for an undergraduate program must include at least half of the academic workload of the applicable regulatory minimum full-time status defined by the school for its students enrollment standard for that program, as outlined above.

[§668.2(b)]

## Graduate ~~and~~ or Professional Students

For graduate ~~and~~ or professional students, a school must define full-time enrollment for each of its programs of study is determined based on academic standards developed by the school. The school's definition of h~~Half-time enrollment for a graduate or professional program must include at least is considered~~ half of the full-time academic workload defined by the school for ~~its~~ graduate and or professional students enrolled in that program.

~~[§682-200(b)]~~ [§668.2(b)]

## Students Enrolled in a Correspondence Program or Coursework

An undergraduate or graduate student who is enrolled solely in correspondence study is never considered more than a half-time student, even if the student is enrolled in enough correspondence coursework to be considered full time. A school's definition of half-time enrollment for a student enrolled solely in a program of study by correspondence must be at least 12 hours of work per week, or at least six credit hours per semester, trimester, or quarter.

[§668.2(b); 07-08 FSA Handbook, Volume 3, Chapter 3, p. 3-50]

A student who is enrolled in a non-correspondence study program and combines correspondence coursework with regular coursework may be considered full-time. For a graduate or professional student, a school must define full-time enrollment for each of its programs. For an undergraduate student, a school's definition of full-time enrollment must equal or exceed the applicable minimum full-time enrollment standard (see the subheading in this section entitled *Undergraduate Students* for further information). In addition, an



undergraduate student enrolled in a non-correspondence program who combines correspondence coursework with regular coursework is considered full-time only if at least half of the student's full-time academic workload is comprised of regular (i.e., non-correspondence) coursework that meets half of the school's definition of a full-time academic workload for students enrolled in that program.  
[§668.2(b)]

Revise Appendix G, page 9, column 1, paragraph 10, as follows:

**Full-Time Student:** An enrolled student ~~enrolled in an institution of higher education~~ (other than a student enrolled solely in a program of study by correspondence) who is carrying a full academic workload as determined by the school under standards applicable to all students enrolled in ~~that student's particular~~ the same program of study. The student's workload may include any combination of courses, work, research, or special studies, whether or not for credit, that the school considers sufficient to classify the student as a full-time student. See ~~Section 6.9~~ for a detailed definition of a full-time student that includes credit- and clock-hour requirements.

Revise Appendix G, page 10, column 1, paragraph 8, as follows:

**Half-Time Student:** A student enrolled in an undergraduate program who is: ~~(1) enrolled in a participating school; (2) carrying an academic workload that amounts to~~ includes at least half of the academic workload of a the applicable regulatory minimum full-time student enrollment standard for that program as determined by the school; and ~~(3) not a full-time student.~~ Half-time enrollment for a graduate or professional program must include at least half of the full-time academic workload defined by the school for the graduate or professional students enrolled in that program. A student enrolled solely in an eligible program of study by correspondence is never considered more than a half-time student, even if the student is enrolled in enough correspondence coursework to be considered full time. See Section 6.9 for more information.

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

##### **Enrollment Status Definition Changes**

The *Common Manual* has been revised to incorporate final rule changes concerning enrollment status determinations, and to align Section 6.9 of the Manual with text present in glossary definitions.

For an undergraduate program, a school's definition of half-time enrollment must include at least half of the academic workload of the applicable regulatory minimum full-time enrollment standard for that program.

Previously, the school's definition of half-time enrollment for an undergraduate student was at least half of the full-time enrollment status defined by the school for its students.

Updated Manual text clarifies an existing requirement for a school to define full-time enrollment status for each of its undergraduate, graduate, or professional programs. The school's definition of half-time enrollment for a graduate or professional program did not change: it must include at least half of the full-time academic workload defined by the school for graduate or professional students enrolled in that program.

In addition, Section 6.9 has been updated to consolidate information about enrollment status for a student who enrolls in correspondence coursework:

- An undergraduate or graduate student who is enrolled *solely* in correspondence study is never considered more than a half-time student, even if the student is enrolled in enough correspondence coursework to be considered full time. A school's definition of half-time enrollment for a student enrolled solely in a program of study by correspondence must be at least 12 hours of work per week, or at least six credit hours per semester, trimester, or quarter.
- A student who is enrolled in a non-correspondence study program and combines correspondence coursework with regular coursework may be considered full time. For a graduate or professional student, a school must define full-time enrollment for each of its programs. For an undergraduate

student, a school's definition of full-time enrollment must equal or exceed the applicable minimum full-time enrollment standard. In addition, an undergraduate student enrolled in a non-correspondence program who combines correspondence coursework with regular coursework is considered full-time only if at least half of the student's full-time academic workload is comprised of regular (i.e., non-correspondence) coursework that meets half of the school's definition of a full-time academic workload for students enrolled in that program.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower's enrollment status will be determined consistently for the purpose of eligibility for all Title IV programs.

*School:*

A school may be required to modify its policies for determining half-time enrollment for its undergraduate students, and enrollment status for any student who is attending a non-correspondence program and combines correspondence coursework with regular coursework. A school may choose to define half-time enrollment for an undergraduate program as half of the minimum full-time standard established by federal regulations even though that is less than half the full-time enrollment standard established by the school for students attending that program.

*Lender/Service:*

None.

*Guarantor:*

A guarantor may be required to modify its school program review procedures.

*U.S. Department of Education:*

The Department may be required to modify its school 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:**

October 12, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NELA, Nelnet, NCHelp, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were incorporated without comment. We appreciate the

review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

**COMMENT:**

Two commenters recommended replacement of the phrase “amount to” with “include” in each place that phrase appears in proposed policy text, for example:

The school’s definition of half-time enrollment for a graduate or professional program must ~~amount to~~ include at least half of the full-time academic workload defined by the school for graduate or professional students attending that program.

**Response:**

The Committee agrees.

**Change:**

The phrase “amount to” or “amounts to” has been replaced with “include” or “includes,” as applicable, throughout the policy proposal text, Revised Policy, and Common Bulletin.

**COMMENT:**

Two commenters recommended the following clarification in the “Full-Time Student” glossary definition:

Full-Time Student: An enrolled student (other than a student enrolled solely in a program of study by correspondence) who is carrying a full academic workload as determined by the school under standards applicable to all students enrolled in ~~that student’s particular~~ the same program of study. . .

**Response:**

The Committee agrees.

**Change:**

The “Full-Time Student” glossary definition has been modified per the commenters’ request.

**COMMENT:**

Two commenters requested the following clarification in the “Half-Time Student” glossary definition:

Half-time enrollment for a graduate or professional program must include at least half of the full-time academic workload defined by the school for the graduate or professional students ~~attending~~ enrolled in that program.

**Response:**

The Committee agrees.

**Change:**

The “Half-Time Student” glossary definition has been modified per the commenters’ request. Similar changes have been made in Section 6.9, in the last sentence of the paragraph that immediately follows the subheading “Graduate and Professional Students” and under the new subheading “Students Enrolled in a Correspondence Program or Coursework,” paragraph 2, sentence 4.

**COMMENT:**

Two commenters requested the following change in Section 6.9, under the new subheading “Students Enrolled in a Correspondence Program or Coursework.” paragraph 2, sentence 4:

. . .In addition, an undergraduate student enrolled in a non-correspondence program who combines correspondence coursework with regular coursework is considered full-time only if at least half of the student’s full-time academic workload is comprised of regular (i.e., non-correspondence) coursework ~~that meets half of the school’s definition of a full-time academic workload~~ as defined by the school for students enrolled in that program."

**Response:**

The phrase that the commenters wish to strike closely conforms to regulatory language in §668.2(b)(7)(ii). The Committee believes that regulatory language makes an essential point about the minimum amount of regular coursework that a student must include with correspondence coursework in a non-correspondence program in order to be considered a full-time student.

For example, consider the case of an undergraduate student enrolled for a total of 16 semester credit hours, in both regular and correspondence coursework, in a semester term-based, non-correspondence program. The school defines full-time enrollment for students attending this program as 12 semester credit hours per term; half-time enrollment is 6 semester credit hours per term. As originally written, the proposed policy would require such a student to be enrolled in regular coursework that at least meets the school's definition of half-time enrollment for students enrolled in this program: 6 semester credit hours. As revised by the commenters, the proposed policy could be interpreted to require such a student to be enrolled in regular coursework that is at least half of the student's full-time academic workload of 16 semester credit hours, or 8 semester credit hours.

**Change:**

None.

jcs/edited-aes

**COMMON MANUAL - FEDERAL POLICY PROPOSAL**

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** **Stafford Interest Rates**

**AFFECTED SECTIONS:** **7.4.A Current Stafford Interest Rates**  
**7.4.C Previous Stafford Interest Rates**  
**Figure 7-1**

**POLICY INFORMATION:** **1032/Batch 149**

**EFFECTIVE DATE/TRIGGER EVENT:** Subsidized Stafford loans at a fixed interest rate of 6% that are first disbursed to undergraduate borrowers on or after July 1, 2008, and before July 1, 2009.

Subsidized Stafford loans at a fixed interest rate of 5.6% that are first disbursed to undergraduate borrowers on or after July 1, 2009, and before July 1, 2010.

Subsidized Stafford loans at a fixed interest rate of 4.5% that are first disbursed to undergraduate borrowers on or after July 1, 2010, and before July 1, 2011.

Subsidized Stafford loans at a fixed interest rate of 3.4% that are first disbursed to undergraduate borrowers on or after July 1, 2011, and before July 1, 2012.

**BASIS:**  
Higher Education Act of 1965, Section 427(l)(4), as amended by Section 201 of the College Cost Reduction and Access Act (CCRAA), Public Law 110-84; §682.202(a)(1)(ix) and (x).

**CURRENT POLICY:**  
Current policy states that the interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%.

**REVISED POLICY:**  
Revised policy states that the interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows:

- On or after July 1, 2008, and before July 1, 2009, the fixed interest rate is 6%.
- On or after July 1, 2009, and before July 1, 2010, the fixed interest rate is 5.6%.
- On or after July 1, 2010, and before July 1, 2011, the fixed interest rate is 4.5%.
- On or after July 1, 2011, and before July 1, 2012, the fixed interest rate is 3.4%.

The information on Stafford loan interest rates prior to June 30, 2006, is relocated from Subsection 7.4.A, *Current Stafford Interest Rates*, to Subsection 7.4.C, *Previous Stafford Interest Rates*.

**REASON FOR CHANGE:**  
The change is being made to comply with Section 201 of the College Cost Reduction and Access Act and regulatory changes published in the November 1, 2007, *Federal Register*, Volume 72, page 62000. The purpose for relocating text from Subsection 7.4.A to 7.4.C is to provide a correlation between the text and the titles of the subsections.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Subsection 7.4.A, page 5, column 1, paragraph 1, as follows:

The interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8% for the life of the loan, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows:

- On or after July 1, 2008, and before July 1, 2009, the interest rate is 6%.
- On or after July 1, 2009, and before July 1, 2010, the interest rate is 5.6%.
- On or after July 1, 2010, and before July 1, 2011, the interest rate is 4.5%.
- On or after July 1, 2011, and before July 1, 2012, the interest rate is 3.4%.

[\$682.202(a)(1)(ix) and (x)]

Interest rates applicable to Stafford loans first disbursed on or after July 1, 2006, are listed in Figure 7-1.

The interest rate on all Stafford loans first disbursed on or after July 1, 1994, through June 30, 2006 is a variable rate not to exceed 8.25%. The variable interest rate is adjusted annually on July 1, and remains in effect through June 30 of the following year. During periods when the loan is in an in-school, grace, or authorized deferment status, the interest rate is calculated by adding 1.7% to the bond equivalent rate of the 91-day Treasury bill auctioned at the final auction before the preceding June 1. During periods when the loan is in a repayment or forbearance status, the variable interest rate is calculated by adding 2.3% to the 91-day Treasury bill rate.

[HEA 427A(j); HEA 427A (k)(1) and (2); HEA 427A(1)]

The interest rate on any Stafford loan first disbursed before July 1, 1994, was based on whether the borrower was a "new borrower." For purposes of FFELP loans, a "new borrower" was any borrower who had no outstanding balance on a FFELP loan on the date he or she signed the promissory note for a FFELP loan. For loans disbursed before July 1, 1994, if the borrower had an outstanding balance on a Stafford loan on the date the borrower signed the application and promissory note, the borrower's new loan carried the same interest rate as the outstanding loans.

Revise Subsection 7.4.C, page 5, column 2, paragraph 1, as follows:

Interest rates applicable to Stafford loans first disbursed before July 1, ~~1998~~ 2006, are listed in Figure 7-1.

The interest rate on all Stafford loans first disbursed on or after July 1, 1994, through June 30, 2006, is a variable rate not to exceed 8.25%. The variable interest rate is adjusted annually on July 1, and remains in effect through June 30 of the following year. (Refer to Figure 7-1 for information on the calculation of the applicable interest rates.)

[HEA 427A(f); HEA 427A(g); HEA 427A(j)(1) and (2); HEA 427A (k)(1) and (2)]

The interest rate on any Stafford loan first disbursed before July 1, 1994, was based on whether the borrower was a "new borrower." For purposes of FFELP loans, a "new borrower" was any borrower who had no outstanding balance on a FFELP loan on the date he or she signed the promissory note for a FFELP loan. For loans disbursed before July 1, 1994, if the borrower had an outstanding balance on a Stafford loan on the date the borrower signed the application and promissory note, the borrower's new loan carried the same interest rate as the outstanding loans.

Some fixed-rate Stafford loans have been converted to variable interest rates in accordance with excess interest rebate provisions of the Higher Education Amendments of 1986 and the Higher Education Amendments of 1992. For more information on these provisions, see Section H.2.

Revise Figure 7-1, Stafford Loan Interest Rates, page 6, by including interest rates on undergraduate subsidized Stafford loans first disbursed on or after July 1, 2006, in Figure 7-1 as follows:

See attached chart.

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Stafford Loan Interest Rates**

The *Common Manual* has been revised to comply with Section 201 of the College Cost Reduction and Access Act and regulatory changes published in the *Federal Register* dated November 1, 2007. The interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed:

- On or after July 1, 2008, and before July 1, 2009, the interest rate is 6%.
- On or after July 1, 2009, and before July 1, 2010, the interest rate is 5.6%.
- On or after July 1, 2010, and before July 1, 2011, the interest rate is 4.5%.
- On or after July 1, 2011, and before July 1, 2012, the interest rate is 3.4%.

The information on Stafford loan interest rates disbursed prior to June 30, 2006, is relocated from Subsection 7.4.A, *Current Stafford Interest Rates*, to Subsection 7.4.C, *Previous Stafford Interest Rates*.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

An undergraduate borrower will receive a cost benefit from the gradual reductions in the interest rates on subsidized Stafford loans that begin with loans first disbursed on or after July 1, 2008.

*School:*

A school may receive a positive benefit in terms of the school's cohort default rate if undergraduate borrowers default less frequently as a result of the cost benefit from the gradual reductions in the interest rates on subsidized Stafford loans that begin with loans first disbursed on or after July 1, 2008.

*Lender/Service:*

A lender will need to revise systems and procedures to accommodate the gradual reductions in the interest rates on subsidized undergraduate Stafford loans that begin with loans first disbursed on or after July 1, 2008.

*Guarantor:*

A guarantor will need to revise systems and procedures to incorporate the gradual reductions in the interest rates on subsidized undergraduate Stafford loans that begin with loans first disbursed on or after July 1, 2008.

*U.S. Department of Education:*

The Department will need to revise procedures to incorporate the gradual reductions in the interest rates on subsidized undergraduate Stafford loans that begin with loans first disbursed on or after July 1, 2008.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

October 2, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NCHELP, NELA, Nelnet, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

**COMMENT:**

Eight commenters noted that the fixed interest rate for subsidized Stafford loans to undergraduate borrowers during the period beginning on or after July 1, 2010, and before July 1, 2011, is - according to statute and regulations - 4.5%.

**Response:**

The Committee thanks all the commenters who noted the inaccurate rate.

**Change:**

The rate has been changed from 4.8% to 4.5% for the period beginning on or after July 1, 2010, and before July 1, 2011, in the effective date/trigger event section, the Revised Policy section, the Proposed Language - *Common Manual* section, the Proposed Language - *Common Bulletin* section, and in Figure 7-1.

**COMMENT:**

One commenter noted that the text in Subsection 7.4.C does not accurately reflect the percentage spreads that are added to the 91-day Treasury bill rate for loans with first disbursements on or after 7/1/94 but before 7/1/95 and for loans with first disbursements on/after 7/1/95 but before 7/1/98. The commenter recommended that a cross reference be provided to Figure 7-1 instead of listing the calculations in this section.

Another commenter noted that loans disbursed on or after July 1, 1995, though June 30, 2006, had rates dependent upon loan status and that loans disbursed from July 1, 1995, though June 30, 1998, had different rates by status than loans disbursed from July 1, 1998, through June 30, 2006. The commenter suggested the following language:

For loans first disbursed on or after July 1, 1995, through June 30, 2006, the variable interest rate is lower during periods when the loan is in-school, grace or authorized deferment status than during periods when the loan is in repayment status. See Figure 7-1.

**Response:**

The Committee concurs that the text in Subsection 7.4.C does not accurately reflect the applicable interest rate calculations.

**Change:**

The text in Subsection 7.4.C has been revised and the references have been updated as follows:

The interest rate on all Stafford loans first disbursed on or after July 1, 1994, through June 30, 2006, is a variable rate not to exceed 8.25%. The variable interest rate is adjusted annually on July 1, and remains in effect through June 30 of the following year. (Refer to Figure 7-1 for information on the calculation of the applicable variable interest rates.) ~~During periods when the loan is in an in-school, grace, or authorized deferment status, the interest rate is calculated by adding 1.7% to the bond~~



~~equivalent rate of the 91-day Treasury bill auctioned at the final auction before the preceding June 1. During periods when the loan is in a repayment or forbearance status, the variable interest rate is calculated by adding 2.3% to the 91-day Treasury bill rate.~~  
[HEA 427A (f); HEA 427A(g); HEA 427A(j)(1) and (2); HEA 427A (k)(1) and (2); HEA 427A(l)]

**COMMENT:**

One commenter noted in Figure 7-1 that the text in the Interest Rate column for loans first disbursed on or after 7/23/92 but prior to 7/1/94 contains a “?” which should be changed to a “—”.

**Response:**

The misplaced “?” is a product of software conversion issues between the version of Word used to develop the chart file and the Adobe software in which the policy proposals are delivered to the community. The actual files going to the pre-press coordinator will reflect accurate punctuation and formatting consistent with other language in other lines of the chart.

**Change:**

None.

ce/edited-tmh

## Stafford Loan Interest Rates

## Figure 7-1

Disbursement/Loan Period/Borrower Characteristics	Interest Rate
First disbursement on/after 7/1/06	Fixed interest rate of 6.8%
<u>Subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows:</u>	
<ul style="list-style-type: none"> <li>• <u>On or after July 1, 2008, and before July 1, 2009</u></li> <li>• <u>On or after July 1, 2009, and before July 1, 2010</u></li> <li>• <u>On or after July 1, 2010, and before July 1, 2011</u></li> <li>• <u>On or after July 1, 2011, and before July 1, 2012</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Fixed interest rate of 6%</u></li> <li>• <u>Fixed interest rate of 5.6%</u></li> <li>• <u>Fixed interest rate of 4.5%</u></li> <li>• <u>Fixed interest rate of 3.4%</u></li> </ul>
First disbursement on/after 7/1/98, but before 7/1/06	<p><i>In-school, grace, and deferment periods:</i> Variable interest rate—equal to the 91-day Treasury bill* rate plus 1.7%, not to exceed 8.25%</p> <p><i>Repayment and forbearance periods:</i> Variable interest rate—equal to the 91-day Treasury bill* rate plus 2.3%, not to exceed 8.25%</p>
First disbursement on/after 7/1/95 but before 7/1/98	<p><i>In-school, grace, and deferment periods:</i> Variable interest rate—equal to the 91-day Treasury bill* rate plus 2.5%, not to exceed 8.25%</p> <p><i>Repayment and forbearance periods:</i> Variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, not to exceed 8.25%</p>
First disbursement on/after 7/1/94 but before 7/1/95 for periods of enrollment that include or begin on/after 7/1/94	Variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, not to exceed 8.25%
First disbursement on/after 12/20/93 but before 7/1/94 to a borrower with an outstanding PLUS, SLS, or Consolidation loan, but not a Stafford loan	Variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, not to exceed 9%
First disbursement on/after 10/1/92 but before 7/1/94 to a “new borrower” with no outstanding FFELP loans	Variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, not to exceed 9%
First disbursement on/after 10/1/92 but before 12/20/93 to a borrower with an outstanding PLUS, SLS, or Consolidation loan, but not a Stafford loan	Original fixed interest rate of 8%. These loans were subject to excess interest rebates and converted to a variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, not to exceed 8%.
First disbursement on/after 7/23/92 but prior 7/1/94 to a borrower with an outstanding 7%, 8%, 9%, or 8%/10% Stafford loan	Original interest rate was the same as on the borrower’s previous Stafford loans (i.e., a fixed rate of 7%, 8%, 9%, or 8%/10%). These loans were subject to excess interest rebates and converted to a variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, with a cap equal to the loan’s previous fixed rate (i.e., 7%, 8%, 9%, or 10%).
First disbursement before 10/1/92 for a period of enrollment beginning on/after 7/1/88 to a “new borrower” or a borrower who has an outstanding balance on a PLUS, SLS, or Consolidation loan, but not a Stafford loan	Original interest rate of 8% until 48 months of the repayment period have elapsed and 10% thereafter. These loans were subject to excess interest rebates and must be or have been converted to a variable interest rate—equal to the 91-day Treasury bill* rate plus 3.25%, not to exceed 10%.
First disbursement to a borrower with an outstanding balance on a PLUS, SLS, or Consolidation loan, but not a	Fixed interest rate of 8%.

#### 7.4.D Resolving Interest Rate Discrepancies on Stafford Loans

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Stafford loan, for a period of enrollment before 7/1/88

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First disbursement to a "new borrower" for a period of enrollment on/ after 9/13/83 but before 7/1/88	Fixed interest rate of 8%
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First disbursement to a "new borrower" for a period of enrollment on/ after 1/1/81 but before 9/13/83	Fixed interest rate of 9%
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First disbursement to a "new borrower" for a period of enrollment before 1/1/81	Fixed interest rate of 7%
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\*Based on the bond equivalent rate of the 91-day Treasury bill auctioned at the final auction before the preceding June 1. All variable interest rates are adjusted annually on July 1.

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Simplified Deferment Processing

**AFFECTED SECTIONS:** 11.4 Economic Hardship Deferment  
11.5 Graduate Fellowship Deferment

11.8 Military Deferment  
11.13 Rehabilitation Training Program Deferment  
11.17 Unemployment Deferment

**POLICY INFORMATION:** 1033/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Deferment requests granted by the lender on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.*

**BASIS:**

Preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pages 61962 and 62001; §682.210(s)(1)(iii) - (v).

**CURRENT POLICY:**

Current policy does not allow a lender to grant a deferment to a new borrower (i.e., first borrowed on or after July 1, 1993) based on a deferment granted by another FFELP loan holder or the Department (Direct loan) for the same reason and the same time period.

**REVISED POLICY:**

Revised policy allows, but does not require, a lender to grant certain types of deferments to a new borrower (i.e., first borrowed on or after July 1, 1993), as well as the military service deferment and the military active duty student deferment, based on a deferment granted by another FFELP loan holder or the Department for the same reason and the same time period. A lender may grant the deferment using the simplified process if the borrower requests it verbally or in writing and the decision to grant the deferment is based on information from the other FFELP loan holder, the Department, or an authoritative electronic database maintained or authorized by the Department that supports eligibility for the deferment for the same reason and the same time period. A lender may rely in good faith on the information it obtains from the other FFELP loan holder, the Department, or authoritative database unless the lender has information indicating that the borrower does not qualify for the deferment. A lender must resolve any discrepant information before granting a deferment under the simplified process. If the lender grants a deferment using the simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.

**REASON FOR CHANGE:**

This change is required to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Section 11.4, page 10, column 1, by inserting the following new subsection:

#### **11.4.D Simplified Deferment Processing**

A lender may grant an eligible borrower an economic hardship deferment based on information that the borrower has been granted an economic hardship deferment by another FFELP loan holder or the Department (for a Direct loan) for the same time period. The borrower must request the deferment either verbally or in writing but does not have to provide a completed economic hardship deferment form or the other required documentation listed in Subsection 11.4.B.

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

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

[§682.210(s)(1)(iii) - (v)]

Revise Section 11.5, page 11, column 1, by inserting the following new subsection:

#### **11.5.D Simplified Deferment Processing**

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

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

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

[§682.210(s)(1)(iii) - (v)]

Revise Section 11.8, page 16, column 1, by inserting the following new subsection:

#### **11.8.D Simplified Deferment Processing**

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

In granting the deferment in this manner, the lender may rely in good faith on the information obtained from another FFELP loan holder, the Department, or an authoritative electronic

database maintained and authorized by the Department, unless the lender has information indicating that the borrower does not qualify for the military deferment. The lender must resolve any discrepant information before granting a military deferment in this manner.

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

[§682.210(s)(1)(iii) - (v)]

Revise Section 11.13, page 19, column 1, by inserting the following new subsection:

#### **11.13.D Simplified Deferment Processing**

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

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

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

[§682.210(s)(1)(iii) - (v)]

Revise Section 11.17, page 23, column 2, by inserting the following new subsection:

#### **11.17.D Simplified Deferment Processing**

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

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

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

[§682.210(s)(1)(iii) - (v)]

**PROPOSED LANGUAGE - COMMON BULLETIN:  
Simplified Deferment Processing**

The *Common Manual* has been updated to incorporate the regulatory change that allows, but does not require, a lender to grant certain deferments to a new borrower (i.e., first borrowed on or after July 1, 1993), as well as the military service deferment, and the military active duty student deferment, based on a deferment granted by another FFELP loan holder or the Department for the same reason and the same time period. A lender may grant the deferment using the simplified process if the borrower requests it verbally or in writing and the decision to grant the deferment is based on information from the other FFELP loan holder, the Department, or an authoritative electronic database maintained or authorized by the Department that supports eligibility for the deferment for the same reason and the same time period. A lender may rely in good faith on the information it obtains from the other FFELP loan holder, Department or authoritative database unless the lender has information indicating that the borrower does not qualify for the deferment. A lender must resolve any discrepant information before granting a deferment under the simplified process. If the lender grants a deferment using the simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower will be able to simplify the receipt of deferment from multiple loan holders.

*School:*

A school will be able to counsel borrowers about the ability to simplify the receipt of deferment from multiple loan holders.

*Lender/Service:*

A lender may grant an eligible borrower a deferment based on information obtained from another FFELP lender, the Department, or authoritative electronic database.

*Guarantor:*

Guarantors may have to revise their program review procedures.

*U.S. Department of Education:*

The Department may have to revise its 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:**

October 5, 2007

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

March 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NCHelp, NELA, Nelnet, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

## Responses to Comments

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

### COMMENT:

As noted below, one commenter suggested removing the qualifying language “but is not required to” from the introductory sentence in the first paragraphs of Sections 11.4.D., 11.5.D, 11.7.D, 11.8.D, and 11.17.D, stating that it was redundant.

A lender may, ~~but is not required to,~~ grant an eligible borrower a . . .

This same commenter suggested a similar change to the Lender Implication statement as follows:

A lender ~~will be able to, but is not required to~~ may grant an eligible borrower a deferment based on information obtained from another FFELP lender, the Department, or authoritative database.

### Response:

The Committee agrees.

### Change:

The introductory sentence in each of the above-noted sections has been revised to read:

A lender may grant an eligible borrower a . . .

The Lender Implication statement has been similarly revised to read:

A lender may grant an eligible borrower a deferment based on information obtained from another FFELP lender, the Department, or authoritative electronic database.

### COMMENT:

One commenter noted that the Revised Policy statement and Common Bulletin language does not reference the availability of the simplified deferment process for the new military deferments that are not limited to “new borrowers” on or after July 1, 1993.

Another commenter made a similar comment regarding the old Armed Forces deferment.

### Response:

The Committee agrees with the first commenter.

### Change:

The Revised Policy statement and Common Bulletin language have been revised to include reference that a lender can process the new military service deferment and the military active duty student deferment using the simplified deferment process. No change was made to the information contained in Section 11.3 as the Armed Forces deferment is not eligible for the deferment simplification process.

### COMMENT:

One commenter stated that deferment simplification is not available for borrowers obtaining an internship/residency deferment as reflected in the policy proposal in Subsection 11.7.D, and that reference to the availability of the simplified process for the rehabilitation training deferment was missing from Section 11.13.

### Response:

The Committee agrees.

### Change:

The deferment simplification information that was originally noted for Subsection 11.7.D has been removed. The



rehabilitation training program deferment information is contained in Section 11.13, which has been revised to add reference to the deferment simplification process.

**COMMENT:**

One commenter suggested adding language to Subsections 11.8.D and 11.17.D to more clearly state that when using the deferment simplification process that the borrower does not have to provide the other required documentation for the military deferment and unemployment deferments.

**Response:**

The Committee agrees.

**Change:**

The last sentence of the first paragraph in Subsections 11.8.D and 11.17.D has been revised as follows:

The borrower must request the deferment either verbally or in writing, but does not have to provide a completed military deferment form or the other required documentation listed in Subsection 11.8.B.

The borrower must request the deferment either verbally or in writing, but does not have to provide a completed unemployment deferment form or the other required documentation listed in Subsection 11.17.B.

**COMMENT:**

Two commenters noted that the ability of a borrower's representative to request the new military service deferment was not referenced in the text added to Subsection 11.8.D, and that this ability is supported by the November 1 Final Rule and changes previously made to this section of the *Common Manual*.

**Response:**

The Committee agrees.

**Change:**

The second sentence of paragraph 1 under 11.8.D has been revised as follows:

The borrower, or the borrower's representative, must request the deferment either verbally or in writing, but does not have to provide a completed military deferment form.

nm/edited-rl

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Death Claim Documentation

**AFFECTED SECTIONS:** 13.1.D Claim File Documentation  
13.1.E Missing Claim File Documentation  
13.8.C Death  
Figure 13-3 Timely Filing Deadlines for Claims and Discharges

**POLICY INFORMATION:** 996/Batch 149 (originally distributed in Batch 146)

**EFFECTIVE DATE/TRIGGER EVENT:** Death discharge requests filed by the lender based on determinations or re-determinations of eligible photocopies on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the Common Manual will immediately notify schools and lenders of the change.*

**BASIS:** §682.402(b)(2); Preamble language to the *Federal Register*, dated June 12, 2007, vol.72, p. 32412.

**CURRENT POLICY:** Current policy specifies that for a death claim, the lender must submit an original or certified copy of the death certificate.

**REVISED POLICY:** Revised policy specifies that a lender must submit an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate when filing a death claim.

**REASON FOR CHANGE:** This change is being made based on regulatory changes in the *Federal Register*, dated November 1, 2007, vol. 72, p. 62005.

## PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 13.1.D, page 5, column 2, paragraph 4, as follows:

### *Death Claims*

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

[§682.402(g)(1)(iii)]

Revise Subsection 13.1.E, page 6, column 1, paragraph 2, as follows:

To expedite the claim filing process and avoid the return of claim files to the lender, the guarantor may use a fax machine to request and receive missing information from lenders. The types of documentation that may be transmitted and received by fax include, but are not limited to, the application, promissory note, promissory note assignment, specialty claim documentation, payment history information, deferment or forbearance documentation, and

missing collection history. In case of documentation where an original or true and exact copy, or an accurate and complete photocopy of the original or certified copy, may be required (such as the promissory note and death certificate), the lender may fax a copy of the document so that the guarantor can continue processing the claim. However, the lender must, within the time frame established by the guarantor, forward the original document—or a copy certified as true and exact, or an accurate and complete photocopy of the original or certified copy,—to the guarantor to avoid a future claim return.

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

Revise Subsection 13.8.C, page 27, column 2, paragraph 2, as follows:

### **Suspending Collection**

If a lender receives reliable but unofficial notification of a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or Consolidation loan that paid in full a PLUS loan, the lender must suspend collection activity on the loan for up to 60 days and diligently attempt to obtain an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation. If additional time is needed to obtain this documentation, collection activity may be suspended for up to an additional 60 days, for a total suspension of up to 120 days. If documentation is not received, the lender should treat the period of suspension as though a forbearance had been granted. A signed forbearance agreement is not required for this period. The delinquency status, if any, that existed on the loan before the lender suspended its collection activity remains. The lender must resume collection activity immediately at the level of delinquency at which it was suspended.  
[§682.402(b)(3)]

After receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the borrower's or student's death certificate or notification of discharge approval from the guarantor, the lender may not attempt to collect on a loan or the discharged portion of a loan from the borrower, the borrower's estate, or any endorser.  
[§682.402(b)(4)]

Revise Subsection 13.8.C, page 28, column 1, paragraph 2, as follows:

### **Timely Filing Deadline for Death Claims**

A lender must file a death claim within 60 days of receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate. If a lender discovers that it has on file a photocopy of a death certificate for an account that was never submitted as a death claim or was denied as a death claim (because at the time of original receipt, copies were not acceptable proof of the borrower's death), the lender must file the death claim within 60 days of that discovery. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation.  
[§682.402(b)(2) and (g)(2)(I)]

Revise Figure 13-3, page 46, as follows:

See attached chart.

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

#### **Acceptable Death Claim Documentation**

The *Common Manual* has been revised to include as acceptable death claim documentation, an accurate and complete photocopy of the original or certified copy of the death certificate, in addition to the already acceptable documentation of an original or certified copy of the death certificate. In addition, if a lender discovers that it

has on file a photocopy of a death certificate for an account that was never submitted as a death claim or was denied as a death claim (because at the time of original receipt, copies were not acceptable proof of the borrower's death), the lender must file the death claim within 60 days of that discovery.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower's loan may be discharged with an accurate and complete photocopy of the original or certified copy of the death certificate. This will decrease the burden on the borrower's family to provide an original or certified copy of the death certificate.

*School:*

None.

*Lender/Servicer:*

A lender may submit a death claim with an accurate and complete photocopy of the original or certified copy of the death certificate.

*Guarantor:*

A guarantor may need to update claim review procedures to accept a death claim package with an accurate and complete photocopy of the original or certified copy of the death certificate.

*U.S. Department of Education:*

The Department may need to update program review procedures to include an accurate and complete photocopy of the original or certified copy of the death certificate as acceptable documentation in a claim package.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

October 23, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, CFI, CSLF, EdFund, GHEAC, Great Lakes, HESAA, HESC, KHEAA, LOSFA, MGA, NASFAA, NCHELP, NSLP, OGSPL, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

**Comments:**

Many commenters suggested modifications to the effective date and trigger event of this proposal, as follows:

Several commenters believe that if early implementation is allowed, it should be allowed at the discretion of the guarantor, not the lender.

Several commenters suggested a change to the trigger event to include re-determinations made by the lender (identification on or after July 1, 2008, that a lender possesses a previously received copy of the death certificate).

Two commenters suggested using death discharge requests instead of death discharges as the trigger event. One of these commenters also suggested adding "on or after November 1, 2007" to include the date of earliest implementation. One of these commenters also suggested using "submitted" instead of "received" as this would provide a retroactive implementation date that will allow the lender to submit a death discharge request that was received prior to November 1, 2007.

One commenter suggested revising the trigger event to death discharges filed by the lender. This commenter states that using "filed" more accurately reflects the spirit in which the regulatory change was made. This commenter also suggested adding "and guarantor" to the early implementation piece, as this will ensure that the lender and guarantor are on the same page as far as early implementation goes.

One commenter suggested eliminating "by the lender" from the implementation date, since both lenders and servicers may implement this provision.

One commenter suggested the use of "death certificates" instead of "death discharges" in the trigger event, to provide greater clarity. This commenter also suggested adding "on or after November 1, 2007" at the end of the effective date since early implementation was not permitted prior to November 1, 2007.

One commenter suggested revising the effective date and trigger event to specify that it is claims filed by a lender/servicer and that the early implementation can be by the lender/servicer because the Secretary has authorized each entity to implement early and the lender or servicer is not restricted to the guarantor's timetable for implementation.

**Response:**

The Committee agrees the effective date/trigger event needs modification. The effective date/trigger event has been updated with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different triggering event, the *Common Manual* will immediately notify schools and lenders of the change.

**Change:**

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

"Death discharges ~~received~~ requests filed by the lender based on determinations or re-determinations of eligible photocopies on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007."

**Comment:**

One commenter suggested adding language that the use of a faxed or electronic version of the death certificate is not permitted. The preamble language stated that the Secretary chose not to allow faxed or electronic versions because those documents are more vulnerable to alteration.

**Response:**

The Committee agrees.

**Change:**

Subsection 13.1.D has been revised to include language that the use of a fax or electronic version of the death certificate is not permitted. The Basis section has also been revised to include the preamble to the NPRM. In addition, language to Subsection 13.1.E has been added to address this issue as well.

**Comment:**

One commenter suggested including the effective date of this change in the proposal policy text for clarity. The commenter felt it would be unduly restrictive to require parties to resubmit a photocopy of a death certificate.

**Response:**

The Committee disagrees with the commenter. The *Common Manual* convention is to list in the policy text only a statement of the current policy. The History Appendix and the Summary of Changes document will document the effective date of the change.

**Change:**

None.

**Comment:**

One commenter suggested that, since the November 1, 2007, *Federal Register* is mentioned in the Reason for Change section, it should also be included in the Basis section for consistency.

**Response:**

The Committee disagrees. The November 1, 2007, *Federal Register* made changes to the actual regulations in §682.402(b)(2), which is included in the Basis section.

**Change:**

None.

**Note: Based on comments received when this proposal was distributed in Batch 146, the Committee has decided to revise the proposal and redistribute it for industry comment in Batch 149.**

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NCHHELP, NELA, Nelnet, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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Most commenters supported this proposal as published in Batch 149. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

**Comment:**

One commenter did not believe the proposed policy text in Subsection 13.8.C accurately captured what was discussed by the DACS group. DACS proposed that a death claim must be filed within 60 days of the lender's determination (i.e., receipt) or its redetermination (discovery) that it has the photocopy. The commenter requested a revision to the text that would cover those photocopies that were previously received and still in the borrower's file but were never submitted (or were submitted and returned) because, at the time of original receipt, photocopies were not acceptable proof of the borrower's death.

**Response:**

The Committee agrees.

**Change:**

Subsection 13.8.C. has been revised as follows:

**Timely Filing Deadline for Death Claims**

A lender must file a death claim within 60 days of receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate. If a lender discovers that it has on file a photocopy of a death certificate for an account that was never submitted as a death claim or was denied as a death claim (because at the time of original receipt, copies were not acceptable proof of the borrower's death), the lender must file the death claim within 60 days of that discovery. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation.  
[§682.402(b)(2) and (g)(2)(I)]

## Timely Filing Deadlines for Claims and Discharges\*

## Figure 13-3

### Default Claim ([§Subsection 13.6.A](#))

#### **Loans with monthly installments:**

- On or after the 271st day of delinquency but no later than the 360th day of delinquency.

#### **Loans with installments less frequent than monthly:**

- On or after the 331st day of delinquency but no later than the 420th day of delinquency.

### Ineligible Borrower Claim ([§Subsection 13.6.B](#))

On or after the 31st day and no later than the 120th day after the date on which the final demand letter is mailed to the borrower.

### Bankruptcy Discharge ([§Subsection 13.8.A](#))

- For filing a bankruptcy claim and proof of claim, the earlier of:
  - Within 30 days after the lender's receipt of Notice of First Meeting of Creditors, or other confirmation issued by the debtor's attorney or the bankruptcy court.
  - Within 30 days after receiving the guarantor's instruction to file a bankruptcy claim.
- In response to a borrower's filing of an undue hardship petition (adversary complaint), the earlier of:
  - Within 15 days of receiving the petition.
  - Within 15 days of the date on which the guarantor instructs the lender to file a bankruptcy claim.
- In response to the lender's receipt of an extension from the bankruptcy court regarding the undue hardship petition (adversary complaint), the later of:
  - 25 days before the expiration of any extension received.
  - Within 15 days of the date that the guarantor instructs the lender to file a bankruptcy claim.
- If a borrower defaults and then files a bankruptcy petition, the earlier of:
  - Within 90 days of receiving notification of the bankruptcy's conclusion or reversal.
  - The 360th day of delinquency.

### Closed School or False Certification Discharge ([§Subsections 13.8.B](#) and [13.8.D](#))

- Within 60 days of receiving a completed request from the borrower, or
- If the guarantor receives a request directly from the borrower, within 60 days of the guarantor's instruction to file a claim.

### Death Discharge ([§Subsection 13.8.C](#))

Within 60 days of receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate. Within 60 days of redetermining that a lender had a photocopy of a death certificate in the borrower's file for an account that was never submitted as a death claim or was denied as a death claim because at the time, copies were not acceptable proof of the borrower's death.

### Total and Permanent Disability Discharge ([§Subsection 13.8.F](#))

Within 60 days of receiving a complete loan discharge application or other form(s) approved by the Department.

### Unpaid Refund Discharge ([§Subsection 13.8.G](#))

Once the lender determines that the borrower's discharge request is complete, it must send the completed request and other required information to the guarantor.

\* See each referenced subsection for the comprehensive requirements applicable to each type of claim or discharge.

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Special Allowance Rates and Formulas

**AFFECTED SECTIONS:**

A.2.A	Special Allowance and Excess Interest Rates
Figure A-1	Special Allowance Formulas
Figure A-2	Examples of Special Allowance Calculations
Figure A-3	Excess Interest Formulas
Figure A-4	Example of Excess Interest Calculations
Appendix G	

**POLICY INFORMATION:** 1034/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Loans first disbursed on or after October 1, 2007.

**BASIS:**

Higher Education Act of 1965, Sections 435(p) and 438(b)(2)(I), as amended by the College Cost Reduction and Access Act (CCRAA), Public Law 110-84, and the Third Higher Education Act of 2007, Public Law 110-109; §682.302(f); Dear Colleague Letter FP-07-12; Dear Colleague Letter FP-08-01.

**CURRENT POLICY:**

Current policy contains formulas used to calculate special allowance payments, which include the special allowance factors prescribed by law for each category of loans.

**REVISED POLICY:**

Revised policy states that the special allowance factors used to calculate special allowance payments on loans first disbursed on or after October 1, 2007, are based on whether or not the lender is an eligible not-for-profit holder. As prescribed in the CCRAA, an eligible not-for-profit holder is entitled to a higher special allowance payment.

Revised policy contains a definition for Eligible Not-For-Profit Holder, as it relates to special allowance payments on loans first disbursed on or after October 1, 2007. Revised policy also updates the Manual to include guidance regarding how a lender is designated as an eligible not-for-profit holder by the Department.

Revised policy contains updated special allowance and excess interest formulas, which include the revised special allowance factors prescribed in the CCRAA.

**REASON FOR CHANGE:**

This change is being made to comply with statutory changes derived from the College Cost Reduction and Access Act, and the Third Higher Education Act of 2007, and sub-regulatory guidance issued by the Department of Education.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Subsection A.2.A, page 5, column 1, paragraph 2, as follows:

The amount of special allowance that is payable on an eligible loan is determined by multiplying the average daily balance of principal and capitalized interest on the loan by the applicable special allowance rate. Special allowance rates are calculated and published quarterly by the Department. The formulas used to calculate these rates are exhibited on the following pages. The following factors are considered in the calculation of special allowance rates for a loan:

- ...



The special allowance factor for a loan first disbursed on or after October 1, 2007, is based on whether or not the lender qualifies as an eligible not-for-profit holder. As it relates to special allowance payments on loans first disbursed on or after October 1, 2007, a lender is considered to be an eligible not-for-profit holder if the lender was an active, eligible lender and met any one of the following conditions on September 27, 2007:

- The lender is a state, or a political subdivision, authority, agency, or other instrumentality of such, including those entities that are eligible to issue tax-exempt bonds.
- The lender is a qualified scholarship funding corporation established by a state or one or more political subdivisions, that has not elected to cease status as a qualified scholarship funding corporation.  
[150(d)(2) and (3) of the Internal Revenue Code of 1986]
- The lender is a tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986.
- The lender is acting as trustee on behalf of a state, political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is an eligible lender as defined by the Higher Education Act (HEA) of 1965, as amended.

[HEA 435(p)(1); §682.302(f)(3)(i), (ii) and (v); DCL FP-07-12]

The state may waive the above requirements for a new eligible not-for-profit holder that it determines to be necessary to fill a public purpose of that state. A state may not waive any requirements for trustees.

[HEA 435(p)(2)(A)(ii); DCL FP-07-12]

A lender is not considered to be an eligible not-for-profit holder if any of the following conditions occur:

- The lender is a school lender.
- The lender (directly or through an eligible lender trustee) is owned or controlled, in whole or in part, by a for-profit entity.
- The lender (directly or through an eligible lender trustee) is not the sole owner of the beneficial interest in, and the income from a loan.

[HEA 435(p)(2)(B) and (C); §682.302(3)(f)(iii); DCL FP-07-12]

An eligible not-for-profit holder, regardless of whether that entity is an eligible lender as defined by the HEA, is not considered to be owned or controlled by a for-profit entity, and will not lose its status as sole owner of beneficial interest in and income from a loan by granting security interest in, or using a loan or income from a loan as collateral, to secure a debt obligation for which the not-for-profit holder is the issuer of the debt obligation.

[HEA 435(p)(2)(E); §682.302(f)(3)(vi); DCL FP-07-12]

If a special allowance rate calculation results in a negative number on a loan first disbursed prior to April 1, 2006, special allowance will not be paid for that loan type for that quarter. If a special allowance rate calculation results in a negative number on a loan first disbursed on or after April 1, 2006, the lender must remit the excess interest to the Department.

The amount of each quarterly special allowance payment will vary according to the type of loan, the date the loan was disbursed, the loan period, and, in some cases, the number of quarters for which the loan has been outstanding, or the loan's status.

[§682.302(c)]

If an eligible not-for-profit holder sells a loan to a lender that does not qualify as an eligible not-for-profit holder, the special allowance payment for that loan will be calculated using the special allowance factor prescribed for a lender that does not qualify as an eligible not-for-profit holder beginning on the date the loan is sold.

[HEA 435(p)(3); §682.302(f)(4); DCL FP-07-12]

#### **Not-For-Profit Holder Designation**

In order for a lender to be designated as a not-for-profit holder (directly or through an eligible lender trustee) for purposes of special allowance payments, two certifications must be submitted to the Department: a certification signed by the entity's chief executive officer (CEO) and a certification signed by external legal counsel. For additional information on these certifications, refer to Dear Colleague Letter FP-07-12 dated December 28, 2007.

Revise Appendix A, page 6, Figure A-1, as follows:

See attached chart.

Revise Appendix A, page 8, Figure A-2, as follows:

See attached chart.

Revise Appendix A, page 10, Figure A-3, as follows:

See attached chart.

Revise Appendix A, page 10, Figure A-4, as follows:

See attached chart.

Revise Appendix G, page 7, column 1, paragraph 4, as follows:

Eligible Not-For-Profit Holder: As it relates to special allowance payments on loans first disbursed on or after October 1, 2007, a holder of a loan that is:

- A state, or political subdivision, authority, agency, or other instrumentality of such, including those lenders that are eligible to issue tax-exempt bonds.
- A qualified scholarship funding corporation established by a state, or one or more political subdivisions, that has not elected to cease status as a qualified scholarship funding corporation.
- A tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986.
- A trustee acting on behalf of a state, political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is a eligible lender as defined by the Higher Education Act of 1965, as amended.

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

##### **Special Allowance Rates and Formulas; Definition and Designation of Eligible Not-For-Profit Holder**

The *Common Manual* has been revised to comply with statutory and regulatory changes derived from the College Cost Reduction and Access Act (CCRAA), Public Law 110-84 and the Third Higher Education Act of 2007, Public Law 110-109. For loans first disbursed on or after October 1, 2007, the special allowance factors used to calculate special allowance payments are based on whether or not the lender qualifies as an eligible

not-for-profit holder. As prescribed in the CCRAA, an eligible not-for-profit holder is entitled to a higher special allowance payment.

A new definition for Eligible Not-For-Profit Holder, as it relates to special allowance payments on loans first disbursed on or after October 1, 2007, has been added to Appendix G. The manual has also been revised to include reference to Dear Colleague Letter FP-07-12 which provides guidance on how a lender is designated as an eligible not-for-profit holder by the Department of Education.

The manual has also been revised to include updated versions of Figures A-1, A-2, A-3, and A-4, which include the revised special allowance factors prescribed in the CCRAA.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

None.

*School:*

None.

*Lender/Servicer:*

A lender or servicer will be required to adjust system programming for special allowance billing.

*Guarantor:*

A guarantor may be required to revise program review procedures.

*U.S. Department of Education:*

The Department will be required to issue new codes for special allowance billing and update the special allowance portion of the LaRS.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

September 27, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NELA, Nelnet, NCHelp, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

concise policy statements.

**COMMENT:**

Two commenters recommended revising Subsection A.2.A, page 5, paragraph 2, bullet 2, to include the related citation from the Internal Revenue Code of 1986 - 150(d)(2) and (3), and revising the Internal Revenue Code cite reference in bullet 3 to read 501(c)(3). The commenters also recommended revising the regulatory citation that follows this list of bullets to read 682.302(f)(3)(i), (ii) and (v).

**Response:**

The Committee agrees.

**Change:**

The proposed language in Subsection A.2.A, as well as the Appendix G definition of Eligible Not-For-Profit Holder, has been revised as follows:

- ...
- The lender is a qualified scholarship funding corporation established by a state or one or more political subdivisions, that has not elected to cease status as a qualified scholarship funding corporation. [150(d)(2) and (3) of the Internal Revenue Code of 1986]
- The lender is a tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986.
- ...

[HEA 435(p)(1); §682.302(f)(3)(i), ~~and (ii)~~ and (v); DCL FP-07-12]

**COMMENT:**

Two commenters noted the Dear Colleague Letter reference under the heading Not-For-Profit Holder Designation in the Proposed Language is incorrect and should read "Dear Colleague Letter FP-07-12 dated December 28, 2007".

**Response:**

The Committee agrees.

**Change:**

The paragraph under the heading Not-For-Profit Holder Designation has been revised, as follows:

In order for a lender to be designated as a not-for-profit holder (directly or through an eligible lender trustee) for purposes of special allowance payments, two certifications must be submitted to the Department: a certification signed by the entity's chief executive officer (CEO) and a certification signed by external legal counsel. For additional information on these certifications, refer to Dear Colleague Letter ~~FP-08-01 dated January 8, 2008~~ FP-07-12 dated December 28, 2007.

**COMMENT:**

Two commenters recommended revising the Appendix G definition of Eligible Not-For-Profit Holder by deleting the last sentence of bullet 4, which reads: "The trustee shall not receive any compensation for acting as trustee other than reasonable and customary fees". The commenters indicated that this statement goes beyond the list of definitions in the related Dear Colleague Letter, and references just one of a number of criteria that a trustee must meet to be considered an eligible not-for-profit holder.

**Response:**

The Committee agrees.

**Change:**

The Appendix G definition of Eligible Not-For-Profit Holder, as well as the proposed language in Subsection

A.2.A, has been revised, as follows:

Eligible Not-For-Profit Holder: As it relates to special allowance payments on loans first disbursed on or after October 1, 2007, a holder of a loan that is:

- ...
- ...
- ...
- A trustee acting on behalf of state, political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is a eligible lender as defined by the Higher Education Act of 1965, as amended. ~~The trustee shall not receive any compensation for acting as trustee other than reasonable and customary fees.~~

sf/edited-bb

Special Allowance Formulas

Figure A-1

**FORMULA 1**

ELIGIBLE NOT-FOR-PROFIT HOLDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.34% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

OTHER ELIGIBLE LENDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.19% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

- ~~Stafford loans first disbursed on or after October 1, 2007, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 2** below).~~

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**FORMULA 2**

ELIGIBLE NOT-FOR-PROFIT HOLDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

OTHER ELIGIBLE LENDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.79% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

- ~~Stafford loans first disbursed on or after October 1, 2007, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 1** above).~~

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**FORMULA 3**

NOT-FOR-PROFIT HOLDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

FOR-PROFIT LENDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.79% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

- ~~PLUS Loans first disbursed on or after October 1, 2007.~~

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**FORMULA 4**

ELIGIBLE NOT-FOR-PROFIT HOLDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.24% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

OTHER ELIGIBLE LENDERS

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.09% + APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

- ~~Consolidation loans first disbursed on or after October 1, 2007.~~

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**FORMULA 5**

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.74% - APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

- ~~Stafford loans first disbursed on or after January 1, 2000, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 6** below).~~

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**FORMULA 6**

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.34% - APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

- ~~Stafford loans first disbursed on or after January 1, 2000, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 5** above).~~

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**FORMULA 7**

~~(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.64% - APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4~~

- PLUS loans first disbursed on or after January 1, 2000.
- Consolidation loans made from applications received by lenders on or after January 1, 2000.

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**FORMULA 8**

$$(AVERAGE\ 91\text{-DAY}\ T\text{-BILL} + 2.2\% - APPLICABLE\ INTEREST\ RATE\ OF\ THE\ LOAN) \div 4$$

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- Stafford loans first disbursed on or after July 1, 1998, but before January 1, 2000, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 9** below).

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**FORMULA 9**

$$(AVERAGE\ 91\text{-DAY}\ T\text{-BILL} + 2.8\% - APPLICABLE\ INTEREST\ RATE\ OF\ THE\ LOAN) \div 4$$

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- Stafford loans first disbursed on or after July 1, 1998, but before January 1, 2000, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 8** above).

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**FORMULA 10**

$$(AVERAGE\ 91\text{-DAY}\ T\text{-BILL} + 2.5\% - APPLICABLE\ INTEREST\ RATE\ OF\ THE\ LOAN) \div 4$$

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- Stafford loans first disbursed on or after July 1, 1995, but before July 1, 1998, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 11** below).

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**FORMULA 11**

$$(AVERAGE\ 91\text{-DAY}\ T\text{-BILL} + 3.1\% - APPLICABLE\ INTEREST\ RATE\ OF\ THE\ LOAN) \div 4$$

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- Subsidized and unsubsidized Stafford loans first disbursed on or after July 1, 1995, but before July 1, 1998, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 10** above).
- Subsidized Stafford loans first disbursed on or after October 1, 1992, but before July 1, 1995.
- Unsubsidized Stafford loans first disbursed on or after October 1, 1992, but before July 1, 1995, for periods of enrollment beginning on or after October 1, 1992.
- PLUS loans first disbursed on or after October 1, 1992, but before January 1, 2000.
- SLS loans first disbursed on or after October 1, 1992.
- Consolidation loans made on or after October 1, 1992, from applications received by lenders before January 1, 2000.

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**FORMULA 12**

$$(AVERAGE\ 91\text{-DAY}\ T\text{-BILL} + 3.25\% - APPLICABLE\ INTEREST\ RATE\ OF\ THE\ LOAN) \div 4$$

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- Subsidized Stafford loans first disbursed on or after November 16, 1986, but before October 1, 1992.
- Unsubsidized Stafford loans first disbursed before October 1, 1992, for periods of enrollment beginning on or after October 1, 1992.
- Variable rate PLUS/SLS loans first disbursed before October 1, 1992.
- Fixed rate PLUS/SLS loans first disbursed on or after November 16, 1986, but before July 1, 1987.
- Subsidized Stafford loans and fixed-rate PLUS/SLS loans first disbursed on or after October 17, 1986, but before November 16, 1986, for periods of enrollment beginning on or after November 16, 1986.
- Consolidation loans made on or after November 16, 1986, but before October 1, 1992.

**FORMULA 13**

$$(AVERAGE\ 91\text{-DAY}\ T\text{-BILL} + 3.5\% - APPLICABLE\ INTEREST\ RATE\ OF\ THE\ LOAN) \div 4$$

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- Subsidized Stafford loans and fixed-rate PLUS/SLS loans first disbursed on or after October 17, 1986, but before November 16, 1986, for periods of enrollment beginning before November 16, 1986.
- Subsidized Stafford loans and fixed-rate PLUS loans first disbursed on or after October 1, 1981, but before October 17, 1986.
- Consolidation loans made on or after October 1, 1986, but before November 16, 1986.

**FORMULA 14**

$$(AVERAGE\ 91\text{-DAY}\ T\text{-BILL} + 3.5\% - APPLICABLE\ INTEREST\ RATE\ OF\ THE\ LOAN)$$

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This amount should be rounded up to the nearest 1/8 of 1%\*, and the result should be divided by 4.

- Subsidized and Nonsubsidized Stafford loans, and fixed-rate PLUS loans, first disbursed before October 1, 1981.

\* Decimal equivalents are: 0.125, 0.250, 0.375, 0.500, 0.625, 0.750, 0.875, or the next whole percent.

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Examples of Special Allowance Calculations

Figure A2

EXAMPLE 1

A subsidized Stafford loan is first disbursed on or after July 1, 1994, but before July 1, 1995, and is currently accruing interest at 8.25%. Special allowance for this loan is calculated using **Formula 11**.

If the average 91-day T-bill bond equivalent rate for the preceding quarter is 5.79%, the quarterly special allowance rate for the loan is calculated as follows:

$$(5.79\% + 3.10\% - 8.25\%) \div 4 = 0.16\%$$

If the loan has an average daily balance for the quarter of \$3,000, applying the above rate yields the following quarterly special allowance amount:

$$0.0016 \times \$3,000 = \$4.80$$

EXAMPLE 2

A Stafford loan is first disbursed to a borrower on or after October 1, 1992, but before July 1, 1994. The borrower has an outstanding loan that was first disbursed at a 9% interest rate on or after January 1, 1981, but before October 1, 1981. The new loan currently accrues interest at 8.92% because it has been converted to an annual variable interest rate as a result of excess interest provisions. Special allowance for the new loan is calculated using **Formula 11** (special allowance for the previous loan is calculated using **Formula 14**).

If the quarterly average 91-day T-bill bond equivalent rate for the preceding quarter is 5.79%, the quarterly special allowance rate for the loan is calculated as follows:

$$(5.79\% + 3.10\% - 8.92\%) \div 4 = -0.0075\%$$

Because the special allowance rate calculation resulted in a negative 0.0075%, special allowance is not paid for this loan for this quarter.

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Excess Interest Formulas

Figure A3

**FORMULA 1**

ELIGIBLE NOT-FOR-PROFIT HOLDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94%\*) ÷ 4

OTHER ELIGIBLE LENDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.79%\*) ÷ 4

- Stafford loans first disbursed on or after October 1, 2007, when such loans are in repayment.

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**FORMULA 2**

ELIGIBLE NOT-FOR-PROFIT HOLDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.34%\*) ÷ 4

OTHER ELIGIBLE LENDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.19%\*) ÷ 4

- Stafford loans first disbursed on or after October 1, 2007, when such loans are in an in-school grace or deferment period.

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**FORMULA 3**

ELIGIBLE NOT-FOR-PROFIT HOLDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94%\*) ÷ 4

OTHER ELIGIBLE LENDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.79%\*) ÷ 4

- PLUS Loans first disbursed on or after October 1, 2007.

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**FORMULA 4**

ELIGIBLE NOT-FOR-PROFIT HOLDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.24%\*) ÷ 4

OTHER ELIGIBLE LENDERS

(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.09%\*) ÷ 4

- Consolidation loans first disbursed on or after October 1, 2007.

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**FORMULA 5**

(APPLICABLE INTEREST RATE OF THE LOAN - AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.34%\*) ÷ 4

- Stafford loans first disbursed on or after April 1, 2006, and prior to October 1, 2007, when such loans are in repayment.

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**FORMULA 6**

(APPLICABLE INTEREST RATE OF THE LOAN - AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.74%\*) ÷ 4

- Stafford loans first disbursed on or after April 1, 2006, and prior to October 1, 2007, when such loans are in an in-school, grace, or deferment period.

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**FORMULA 7**

(APPLICABLE INTEREST RATE OF THE LOAN - AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.64%\*) ÷ 4

- Consolidation and PLUS loans first disbursed on or after April 1, 2006, and prior to October 1, 2007.

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\* The average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in the quarter (also called the 3month commercial paper rate) as reported by the Federal Reserve in Publication H-15 for each quarter plus the indicated percentage is known as the special allowance support level.

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### Example of Excess Interest Calculations

Figure A4

A PLUS loan is first disbursed on October 2, 2006, and is accruing interest at 8.5%. Excess interest for this loan is calculated using **Formula 7**.

If the loan has an average daily principal balance for the quarter of \$1,000, applying the above rate yields the following quarterly excess interest amount:

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For the quarter ending December 31, 2006, the average 3-month commercial rate is 5.38%. The special allowance support level is 8.02% (5.38% + 2.64%). The quarterly excess interest rate is calculated as follows:

$$0.0012 \times \$1,000 = \$1.20$$

$$(8.50\% - 8.02\%) \div 4 = 0.12\%$$

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# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** Undergraduate, Graduate, and Professional Students

**AFFECTED SECTIONS:** Appendix G

**POLICY INFORMATION:** 1035/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

**BASIS:**

§668.2(b); preamble to the *Federal Register* dated November 1, 2007, pp. 62015-62016; 07-08 FSA Handbook, Volume 3, Chapter 5, p. 3-91.

**CURRENT POLICY:**

Current policy describes a graduate or professional student as a student who is enrolled in a program or course above the baccalaureate level at an institution of higher education, or enrolled in a program leading to a first professional degree. Current policy describes an undergraduate student as a student who is enrolled in a school in a course of study at or below the baccalaureate level that usually does not exceed four academic years, or is up to five academic years in length and is designed to lead to a first degree. Current policy does not provide a definition of professional degree.

**REVISED POLICY:**

Revised policy describes a graduate or professional student as a student who:

- Is enrolled in a program or course above the baccalaureate level at a school or enrolled in a program designed to lead to a professional degree, or
- Has completed the equivalent of at least three years of full-time study at a school, either before entrance into the program or as part of the program itself, e.g., a dual degree program that allows an individual to complete a bachelor's degree and either a graduate or professional degree within the same program. A student is considered an undergraduate student for at least the first 3 years of a dual degree program. Revised policy states that the school defines the point at which a student enrolled in a dual-degree program is considered a graduate student after the first 3 years and provides an example.

Revised policy describes an undergraduate student as a student who is enrolled in a program that usually does not exceed four years, or is enrolled in a four or five year program at a school that is designed to lead to an undergraduate degree. A student enrolled in a program of any other longer length is considered an undergraduate student for only the first four years of that program. References to a *first* undergraduate or professional degree, and reference to an *academic* year as a measure of the length of an undergraduate student's program have been deleted.

In addition, revised policy updates the undergraduate student definition to include the following:

- A student who has completed a baccalaureate program of study and who is subsequently completing state-required teacher certification or recertification coursework.
- A student enrolled in a dual-degree program that allows an individual to complete a bachelor's degree and either a graduate or professional degree within the same program. A student is considered an undergraduate student for at least the first three years of a dual degree program.

Finally, revised policy incorporates a new definition and examples of "professional degree." A professional degree is one that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required

**REASON FOR CHANGE:**

This change is required to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 152. Specifically, these changes are needed to clarify that 1) a graduate or professional student may be enrolled in an eligible program at an eligible proprietary school that is not included in the regulatory definition of "institution of higher education"; 2) a school may, without reference to the statutory definition of "academic year," define what a year is in its programs for the purpose of determining whether a student is an undergraduate or graduate student; 3) the definition of "undergraduate student" or "professional student" should not be confined to a student who is pursuing a first undergraduate or professional degree.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Appendix G, page 9, column 2, paragraph 7, as follows:

**Graduate or Professional Student:** A student who:

- Is enrolled in a program or course above the baccalaureate level ~~at an institution of higher education~~, or enrolled in a program leading to a first professional degree at an eligible school.
- Has completed the equivalent of at least three years of full-time study at ~~an institution of higher education~~ an eligible school, either before entrance into the program or as part of the program itself, e.g., a dual degree program that allows an individual to complete a bachelor's degree and either a graduate or professional degree within the same program. A student is considered an undergraduate student for at least the first 3 years of a dual degree program. The school defines the point at which a student enrolled in a dual-degree program is considered a graduate student after the first 3 years. For example, in a 5-year program leading to a graduate degree, the school may define a student as a graduate student after the first 3 or 4 years of the program. [07-08 FSA Handbook, Volume 3, Chapter 5, p. 3-91]
- Is not receiving Title IV aid as an undergraduate student for the same period of enrollment.

Revise Appendix G, page 15, column 1, by inserting a new paragraph 4, as follows:

**Professional Degree:** A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include, but are not limited to: Pharmacy (Pharm. D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod. D.), and Theology (M. Div. or M.H.L.).

**Professional Judgment:** . . .

**Professional Student:** See Graduate or Professional Student, and Professional Degree.

Revise Appendix G, page 19, column 1, paragraph 1, as follows:

**Undergraduate Student:** A student enrolled at an eligible school who; ~~is enrolled in a school in a course of study that usually does not exceed four years, or is up to five years in length and~~

is designed to lead to a degree at the baccalaureate level. A student enrolled in a program of any other, longer length is considered an undergraduate student only for the first four years of that program.

- Is enrolled in a four or five year program that is designed to lead to an undergraduate degree. A student enrolled in a program of any other longer length is considered an undergraduate student for only the first four years of that program.
- Has ~~Students who have~~ completed a baccalaureate program of study and who are is subsequently completing state-required teacher certification or recertification coursework ~~are treated as undergraduates.~~
- ~~For the purpose of~~ Is enrolled in a dual-degree programs that allows an individuals to complete a bachelor's degree and either a graduate or professional degree within the same program; ~~a student is considered an undergraduate student for at least the first three years of that program. A student is considered an undergraduate student for at least the first three years of a dual degree program.~~

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

##### **Undergraduate, Graduate, and Professional Students**

The *Common Manual* has been updated with the general provisions final rule changes published in the *Federal Register* on November 1, 2007. These regulatory changes clarify the definitions of "undergraduate student," "graduate or professional student," and provide a new definition of a professional degree.

References to a *first* undergraduate or professional degree have been removed from the definitions of "undergraduate student," and "graduate or professional student."

The definition of "graduate or professional student" has been modified to:

- Remove references to the student's enrollment in an *institution of higher education*, which excludes eligible proprietary schools.
- Clarify dual-degree programs, i.e., a program that allows an individual to complete a bachelor's degree and either a graduate or professional degree within the same program. A student is considered an undergraduate student for at least the first 3 years of a dual-degree program. The school defines the point at which a student enrolled in a dual-degree program is considered a graduate student after the first 3 years. For example, in a 5-year program leading to a graduate degree, the school may define a student as a graduate student after the first 3 or 4 years of the program.

The definition of "undergraduate student" has been clarified to remove references to the length of the program in *academic* years, to acknowledge a school's ability to define what a year is in its programs (i.e., based on grade level) for the purpose of determining when a student is an undergraduate or graduate/professional student. An undergraduate student is a student who is enrolled at an eligible school who:

- Is enrolled in a program that usually does not exceed four years, or is enrolled in a four or five year program at a school that is designed to lead to an undergraduate degree. A student enrolled in a program of any other longer length is considered an undergraduate student for only the first four years of that program.
- Has completed a baccalaureate program of study and who is subsequently completing state-required teacher certification or recertification coursework.
- Is enrolled in a dual-degree program that allows an individual to complete a bachelor's degree and either a graduate or professional degree within the same program. A student is considered an undergraduate student for at least the first three years of a dual degree program.

Finally, the Manual has been updated to incorporate a new definition of "professional degree": a degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include, but are not limited to: Pharmacy (Pharm. D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod. D.), and Theology (M. Div. or M.H.L.).

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

A borrower attending an eligible proprietary institution is no longer excluded from the definition of "graduate or professional student." A borrower attending an eligible school and enrolled in an eligible undergraduate, graduate, or professional program to obtain a second or subsequent degree is not excluded from the definition of "undergraduate student," or "graduate or professional student." A student's eligibility to receive FFELP loans at the undergraduate level for attendance in teacher certification coursework and at the undergraduate or graduate level for attendance in a dual-degree program is more clearly identified.

*School:*

A school may need to revise its FFELP loan certification procedures for undergraduate and graduate/professional students.

*Lender/Servicer:*

None.

*Guarantor:*

A guarantor may be required to update program review procedures.

*U.S. Department of Education:*

The Department may be required 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:**

October 12, 2007

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NELA, Nelnet, NCHHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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\_\_Many of the commenters supported this proposal as written. Other commenters recommended wordsmithing, grammatical, or other non-substantive changes that were incorporated without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

**COMMENT:**

Two commenters recommended that the second paragraph of the proposed glossary definition of “Undergraduate Student” be revised as follows:

Students who have completed a baccalaureate program of study and who are subsequently completing state-required teacher certification or recertification coursework are treated as undergraduates for the purposes of the Pell Grant program, but not for the purposes of annual loan limits.

One of these commenters stated that, as written, the proposed policy limits students who have completed a baccalaureate degree and are undergoing teacher certification or recertification to a lower unsubsidized Stafford annual loan limit than is granted them in §682.204(d)(6)(iii).

**Response:**

The aforementioned proposed policy text, as originally written, describes a general enrollment classification for a category of students. No inference about annual loan limits is intended. Even though the unsubsidized Stafford loan limit is higher for a student with a baccalaureate degree who is enrolled in teacher certification or recertification coursework than for a third, fourth, or fifth year independent, undergraduate, degree-seeking student, it is incorrect to imply that such students are not treated as undergraduates for the purposes of annual loan limits. Students enrolled in teacher certification/recertification coursework are ineligible for either the graduate subsidized or unsubsidized annual loan limits. Historically, a student enrolled in teacher certification or recertification coursework has generally been considered a fifth-year undergraduate student for the purpose of annual loan limits (see Section 5.11, page 15, column 1, paragraph 1).

**Changes:**

None. However, the Committee will review the aforementioned policy text in Section 5.11, page 15, column 1, paragraph 1, to determine whether it requires clarification based on recent changes in the additional unsubsidized annual loan limit for undergraduate students enrolled in teacher certification or recertification coursework.

**COMMENT:**

Two commenters requested that all information provided in the Reason for Change be deleted, with the exception of the reference to the *Federal Register* containing the final rule changes. These commenters indicated that the remaining information is superfluous and unnecessary. The commenters also indicated that the reference to a graduate or professional student being enrolled in a proprietary school is confusing because this information does not appear elsewhere in this proposal.

**Response:**

The Committee notes that information provided in the Reason for Change was taken from the Department's proposed and final rule preamble discussion. That discussion provided enlightening information about the rationale for these changes. The Committee believes that this background information will help Manual users understand the significance of the corresponding changes in the Manual's text.

**Change:**

None.

**COMMENT:**

Two commenters recommended that all references to “a school” be removed from the definition of “Graduate or Professional Student.” The commenter stated that the proposed change was required to provide clarity, given that it should be understood that the student is enrolled at a school.

**Response:**

The Committee believes that it is important to retain reference to an eligible school in the definitions of both “Graduate or Professional Student,” and “Undergraduate Student.” Both definitions apply to eligibility for Federal Stafford and PLUS loans. Undergraduate, graduate, and professional students who are not enrolled at an eligible school are ineligible for Federal Stafford and PLUS loans for attendance at that institution. The use of the word “school” in these definitions is not generic. It has a very specific meaning, as defined in the glossary, and refers to postsecondary institutions that are eligible to participate in the Title IV programs:

“School: An institution of higher education, a proprietary institution of higher education, or a postsecondary vocational school declared eligible by the U.S. Department of Education to participate in one or more Title IV programs. . .”

**Change:**

The “Graduate or Professional Student” definition has been modified to reference “an eligible school.” Similar changes have been made to the “Undergraduate Student” definition.

**COMMENT:**

Two commenters recommended the following revision to the definition of “Undergraduate Student”:

**Undergraduate Student:** A student who: ~~is enrolled in a school in a course of study that usually does not exceed four years, or is up to five years in length and is designed to lead to a degree at the baccalaureate level. A student enrolled in a program of any other, longer length is considered an undergraduate student for only the first four years of that program.~~

- ~~Is enrolled in a program of study that usually does not exceed four years, or is enrolled in a longer program designed to lead to a degree at the baccalaureate level. A~~ Students who have has completed a baccalaureate program of study and who are is subsequently completing state-required teacher certification or recertification coursework are is treated as an undergraduates.
- ~~For the purpose of~~ Is enrolled in a dual degree programs that allows individuals to complete a bachelor’s degree and either a graduate or professional degree within the same program; a A student is considered an undergraduate student for at least the first three years of that a dual degree program.
- Is enrolled in a four or five year program designed to lead to an undergraduate degree. A student enrolled in a program of any other longer length is considered an undergraduate student for only the first four years of that program.

The commenter indicated that the proposed changes provided clarity and consistency with federal regulations, which separate the information outlined in bullets 1 and 3 above.

**Response:**

While the Committee appreciates the commenter’s desire that policy text be consistent with regulations, the Committee does not believe that the regulatory language provides the greatest clarity in this instance. For example, the Committee believes that students who are enrolled in teacher certification and recertification coursework, which by its nature does not culminate in a degree, should be addressed separately from students who are enrolled in baccalaureate degree programs. In addition, the Committee believes that reference to a baccalaureate degree program that is longer than four years, noted in the commenter’s bullet 1, should be connected to more specific information about such a program that is included in the commenter’s bullet 3, similar to the following excerpt from the final rule preamble, p. 62016:

Specifically, these sections describe an undergraduate student as a student enrolled in a course of study that usually does not exceed four years, or is enrolled in a four or five year program designed to lead to a degree. A student enrolled in a program of any longer period is considered an undergraduate student for only the first four years of that program.



**Change:**

The definition of “Undergraduate Student” has been modified as follows:

**Undergraduate Student:** ~~A student who: is enrolled in a school in a course of study that usually does not exceed four years, or is up to five years in length and is designed to lead to a degree at the baccalaureate level. A student enrolled in a program of any other, longer length is considered an undergraduate student only for the first four years of that program.~~

- Is enrolled in a program that usually does not exceed four years, or is enrolled in a four or five year program at a school that is designed to lead to an undergraduate degree. A student enrolled in a program of any other longer length is considered an undergraduate student for only the first four years of that program.
- ~~Has~~ Students who have completed a baccalaureate program of study and who ~~are~~ is subsequently completing state-required teacher certification or recertification coursework ~~are treated as undergraduates at a school.~~
- ~~For the purpose of~~ Is enrolled in a dual-degree programs ~~at a school~~ that allows an individuals to complete a bachelor’s degree and either a graduate or professional degree within the same program, ~~a student is considered an undergraduate student for at least the first three years of that program. A student is considered an undergraduate student for at least the first 3 years of~~ a dual-degree program.

**COMMENT:**

One commenter requested a clarification in the proposed policy text that addresses undergraduate and graduate status in a dual-degree program (i.e., a program allowing an individual to complete a bachelor’s degree and either a graduate or professional degree within the same program). This commenter asked the Committee to clarify that, while a student attending such a program must be considered an undergraduate for at least the first three years of the program, the school determines at what point students in such a program are considered graduate students.

**Response:**

The Committee agrees.

**Change:**

The “Graduate or Professional Student” definition has been modified as follows:

A student who:

...

Has completed the equivalent of at least three years of full-time study at a school, either before entrance into the program or as part of the program itself, e.g., a dual degree program that allows an individual to complete a bachelor’s degree and either a graduate or professional degree within the same program. A student attending a dual-degree program is considered an undergraduate student for at least the first 3 years of the program. The school defines the point at which a student enrolled in a dual-degree program is considered a graduate student after the first 3 years. For example, in a 5-year program leading to a graduate degree, the school may define a student as a graduate student after the first 3 or 4 years of the program.

A citation from the FSA Handbook has also been added to the Basis to support the commenter’s requested clarification.

jcs/edited-aes

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 17, 2008

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 17

**SUBJECT:** HEROES Waiver Extension

**AFFECTED SECTIONS:** H.4.A HEROES Act Waivers

**POLICY INFORMATION:** 1036/Batch 149

**EFFECTIVE DATE/TRIGGER EVENT:** Affected individuals eligible for waivers of statutory and regulatory provisions on or after October 1, 2007.

**BASIS:**

*Federal Register*, Volume 72, Number 246 dated December 26, 2007, p. 72947.

**CURRENT POLICY:**

Current policy reflects an end to the HEROES waivers effective September 30, 2007.

**REVISED POLICY:**

Revised policy extends current HEROES waivers through September 30, 2012.

**REASON FOR CHANGE:**

The HEROES waivers were extended by Congress and the Department published a new "end date" for current waiver provisions.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Subsection H.4.A, page 103, column 1, paragraph 3, as follows:

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

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**HEROES Waiver Extension**

Previously, HEROES Act waivers were scheduled to end on September 30, 2007. However, Congress removed the September 30, 2007, end-date for the current provisions in statute and, as a result the Department further extended the waivers to September 30, 2012, in a *Federal Register* notice published December 26, 2007. The Department may terminate or otherwise publish changes to existing waivers prior to the September 2012 date.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Borrower:*

Waivers of existing regulatory requirements for affected individuals, as defined, are extended to provide relief for

borrowers in special, defined circumstances.

*School:*

None.

*Lender/Service:*

Lenders must ensure that their servicing systems and procedures, and all published literature provides accurate information regarding the applicable waivers of provisions for affected individuals.

*Guarantor:*

Guarantors must ensure that their servicing systems and procedures, and all published literature provides accurate information regarding the applicable waivers of provisions for affected individuals. Guarantors must also update program review and audit procedures with information regarding the extended waivers.

*U.S. Department of Education:*

The Department must update program review and audit procedures with information regarding the extended waivers.

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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 4, 2008

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

April 10, 2008

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CFI, CSLF, EAC, FAME, GHEAC, Great Lakes, HESC, KHEAA, MOHELA, NASFAA, NCHELP, NELA, Nelnet, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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

ma-bg/edited-chh