

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1311	Guarantor Responsibilities in Loan Rehabilitation	<i>Common Manual</i> text has been revised to remove language that dictates guarantor requirements regarding rehabilitation of defaulted FFELP loans.	Organizational	NA

Batch 205 (Approved)

**COMMON MANUAL – ORGANIZATIONAL POLICY PROPOSAL**

Date: June 30, 2016

	DRAFT	Comments Due	
X	FINAL	Consider at GB meeting	Aug 18
	APPROVED	with changes/no changes	

**SUBJECT: Guarantor Responsibilities in Loan Rehabilitation**

**AFFECTED SECTIONS: 13.7 Rehabilitation of Defaulted FFELP Loans**

**POLICY INFORMATION: 1311/Batch 205**

**EFFECTIVE DATE/TRIGGER EVENT:**

**BASIS:** HEA §428F; §682.405; *Dear Colleague Letter* GEN-08-12/FP-08-10.

**CURRENT POLICY:**

Current policy includes actions required of a guarantor during rehabilitation of a defaulted loan.

**REVISED POLICY:**

Revised policy removes or revises language that dictates guarantor requirements regarding rehabilitation of defaulted FFELP loans.

**REASON FOR CHANGE:**

The *Common Manual* is designed for lenders, servicers, and schools and should not be dictating guarantor actions. This change is necessary to align the *Common Manual* with its original intent of guiding lenders, servicers and schools in the FFEL Program requirements.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Section 13.7, page 16, column 1, paragraph 2, as follows:

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

~~The nine payments must be received during the 10-month period immediately preceding the rehabilitation of the defaulted loan. Payments will be considered voluntary if made directly by the borrower. A lump sum prepayment of future installments cannot be used to satisfy the requirement that the borrower make nine payments during a period of 10 consecutive months. If the borrower fails to send nine payments on time during the 10-month period in which payment are required for rehabilitation, he or she must begin the entire cycle again. A new cycle will begin from the time a new, on-time, voluntary, reasonable and affordable payment is received regardless of any prepayments of future installments the borrower have made.~~

~~The guarantor will make the determination of what constitutes a reasonable and affordable payment based on each borrower's financial circumstances. Factors to be considered include the borrower's monthly income (and that of his or her spouse, if applicable), the monthly expenses of the borrower and any spouse or dependents, and the unpaid balance on all FFELP loans held by other holders.~~

~~A guarantor will assist a borrower in securing the purchase of each defaulted loan by an eligible lender only after:~~

- ~~▪ The borrower satisfies his or her obligation to make nine payments during a period of 10 consecutive months, as prescribed above.~~
- ~~▪ The borrower authorizes the guarantor to capitalize collection costs.~~
- ~~▪ The borrower requests assistance in obtaining rehabilitation repurchase.~~

~~If the guarantor is unable to secure a lender, the borrower will be responsible for obtaining an eligible lender to purchase his or her defaulted loans(s).~~

A FFELP loan is rehabilitated only after the borrower has made the required payments and the loan is sold to a lender or assigned to ED.

...

Revise Section 13.7, page 17, column 1, paragraph 3, as follows:

The purchasing lender guarantor will receive ~~provide~~ payment history information (such as payment amounts and dates when the loan was in a default status) with the loan documentation ~~sent to the purchasing lender~~ to assist in the accurate conversion to repayment. A rehabilitated loan retains the same interest rate and deferment provisions that were applicable when the loan was first disbursed and repayment terms and all other benefits applicable to other FFELP loans made under the same loan type.[§682.405]

...

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**Guarantor Responsibilities in Loan Rehabilitation**

*Common Manual* text has been revised to remove language that dictates guarantor requirements regarding rehabilitation of defaulted FFELP loans.

**GUARANTOR COMMENTS:**

None.

**IMPLICATIONS:**

*Student/Borrower:*

None.

*School:*

None.

*Lender/Service:*

None.

*Guarantor:*

None.

*U.S. Department of Education:*

None.

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**To be completed by the Policy Committee**

**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

June 7, 2016.

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

August 18, 2016

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

**Comments Received from:**

AES/PHEAA, ASA, College Assist, FAME, Great Lakes, HESC, MDHE, MGA, NCHER, NELA, OCAP, PPSV, SCSL, TG, UHEAA, USA Funds, and VSAC.

**Responses to Comments**

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Most commenters supported this proposal as written. Some commenters recommended wordsmithing 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:** One commenter suggested adding language to clarify the final step in the rehabilitation process. They stated there is nothing currently in the Manual that indicates rehabilitation is not complete until the loan is actually sold to a lender or assigned to ED.

**Response:**

The Committee agrees.

**Change:**

Policy language in 13.7 has been added as follows:

~~A guarantor will assist a borrower in securing the purchase of each defaulted loan by an eligible lender only after:~~

- ~~▪ The borrower satisfies his or her obligation to make nine payments during a period of 10 consecutive months, as prescribed above.~~
- ~~▪ The borrower authorizes the guarantor to capitalize collection costs.~~
- ~~▪ The borrower requests assistance in obtaining rehabilitation repurchase.~~

~~If the guarantor is unable to secure a lender, the borrower will be responsible for obtaining an eligible lender to purchase his or her defaulted loans(s).~~

~~A FFELP loan is rehabilitated only after the borrower has made the required payments and the loan is sold to a lender or assigned to ED.~~

**COMMENT:**

One commenter suggested removing additional language that addresses guarantor procedures and is not relevant to a lender purchasing rehabilitations loans.

**Response:**

The Committee agrees.

**Change:**

Language in 13.7, page 16, beginning in Colum 1, paragraph 2 has been revised as follows:

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

~~The nine payments must be received during the 10-month period immediately preceding the rehabilitation of the defaulted loan. Payments will be considered voluntary if made directly by the borrower. A lump sum prepayment of future installments cannot be used to satisfy the requirement that the borrower make nine payments during a period of 10 consecutive months. If the borrower fails to send nine payments on time during the 10-month period in which payment are required for rehabilitation, he or she must begin the entire cycle again. A new cycle will begin from the time a new, on-time, voluntary, reasonable and affordable payment is received regardless of any prepayments of future installments the borrower have made.~~

~~The guarantor will make the determination of what constitutes a reasonable and affordable payment based on each borrower's financial circumstances. Factors +to be considered include the borrower's~~

~~monthly income (and that of his or her spouse, if applicable), the monthly expenses of the borrower and any spouse or dependents, and the unpaid balance on all FFELP loans held by other holders.~~

**COMMENT:**

One commenter recommended deleting language from section H.4.B, page 147, Figure H-2 Item 18 referencing 13.7 for HEROES Act Waivers for Rehabilitation of Defaulted Loans.

**Response:**

The Committee agrees that this entry needs to be removed to coincide with the recommended deletion of the chart reference in this policy proposal. However, the Committee recommends addressing this change in a separate policy proposal as we believe Figure H-2 will require other updates in addition to this change.

**Change:**

None.

om/edited-kh