

Common Manual Policy Proposal Batch 206 Transmittal

November 17, 2016

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1314	Reaffirmation Agreement Form	<p>6.11.E Exceeding Loan Limits</p> <p>Incorporates mention of the <i>Reaffirmation Agreement</i>, the new OMB-approved form that a borrower uses to reaffirm any debt that exceeds Stafford annual and/or aggregate loan limits.</p>	Federal	For reaffirmation agreements provided to borrowers after March 30, 2016.
1315	Bankruptcy	<p>13.8.A Bankruptcy</p> <p>Removes the cross-reference about not yet disbursed or partially disbursed loans when the lender receives a bankruptcy notice.</p>	Correction	Retroactive to July 1, 2010.

Batch 206 (Approved)

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: November 17, 2016

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	11/17/16

SUBJECT: Reaffirmation Agreement Form

AFFECTED SECTIONS: 6.11.E Exceeding Loan Limits

POLICY INFORMATION: 1314/Batch 206

EFFECTIVE DATE/TRIGGER EVENT: For reaffirmation agreements provided to borrowers after March 30, 2016.

BASIS:
Dear Colleague Letter (DCL) GEN-15-20.

CURRENT POLICY:
A borrower who inadvertently exceeded Stafford annual and/or aggregate loan limits may regain Title IV eligibility by, among other options, making repayment arrangements satisfactory to the holder of the loan. These arrangements may include having the borrower sign an agreement acknowledging the debt and affirming his or her intention to repay the excess amount as part of the normal repayment process.

REVISED POLICY:
Revised policy incorporates mention of the *Reaffirmation Agreement*, the new OMB-approved form that a borrower uses to reaffirm any debt that exceeds Stafford annual and/or aggregate loan limits.

REASON FOR CHANGE:
This change is necessary to comply with DCL GEN-15-20, which announces the form and requires program participants to provide to borrowers only the OMB-approved Reaffirmation Agreement form after March 30, 2016.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 6.11.E, page 41, column 2, paragraph 2, bullet 3 as follows:

- The borrower makes arrangements satisfactory to the holder of the loan to repay the excess Stafford loan amount. These arrangements may include having the borrower sign a Reaffirmation Agreement form ~~an agreement~~ acknowledging the debt and affirming his or her intention to repay the excess amount as part of the normal repayment process. Consolidation of the loan(s) that exceeded the annual or aggregate loan limit (provided that the loan(s) is otherwise eligible for consolidation) is also considered to be a satisfactory repayment arrangement.

[§668.35(d)(2); ~~DCL GEN-13-02; DCL GEN-15-20; 45-46 16-17 FSA Handbook, Volume 34, Chapter 53, pp. 3-1274-90 to 3-1284-91 and Volume 5, Chapter 1, pp. 5-16 and 5-17]~~

PROPOSED LANGUAGE - COMMON BULLETIN:
Reaffirmation Agreement

The *Common Manual* is being revised to incorporate the OMB-approved form, the *Reaffirmation Agreement*. This is the only acceptable form for the borrower to acknowledge he has exceeded Stafford annual or aggregate loan limits and affirm the intent to repay the overage.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower: Borrowers must complete and sign the *Reaffirmation Agreement* form to acknowledge the overage and affirm the intent to repay.

School: A school must complete Section 3 of the form and provide the *Reaffirmation Agreement* form to borrowers.

Lender/Servicer: The Lender/Servicer must ensure processes and systems incorporate protocols to send only the new form on or after the effective date.

Guarantor: None.

U.S. Department of Education: None.

To be completed by the Policy Development Contractor

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY DEVELOPMENT CONTRACTOR:

August 16, 2016

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

November 10, 2016

PROPOSAL DISTRIBUTED TO:

CM Governing Board Representatives

CM Guarantor Designees

Interested Industry Groups and Others

Comments Received from:

NASFAA, NCHER, OCAP, PPSV, UHEAA, USA Funds.

Responses to Comments

Most commenters supported this proposal as written. Although some of the comments included below are non-substantive in nature, we wanted to address them nonetheless. We thank all commenters for their thorough review.

COMMENT: One commenter recommended several formatting changes to ensure the proposal strictly aligns with the prior Policy Committee's Formatting Guide.

Response:

Although the Policy Development Committee refers to the PC's Formatting Guide when developing proposals, we may take liberty to deviate from it on occasion.

Change:

Several of the commenter's formatting suggestions were incorporated.

COMMENT: One commenter suggested inserting Dear Colleague Letter 13-02 as a reference.

Response:

Even though the DCL does not apply to the proposed change, the PDC agrees that it should be added to support the policy overall.

Change:

Reference to DCL 13-02 has been added.

COMMENT: One commenter suggested wording changes to the Common Bulletin language, as follows:

The *Common Manual* ~~is being~~ has been revised to incorporate the changes to the type of agreement a borrower who has inadvertently exceeded Stafford annual or aggregate loan limits must sign to regain Title IV eligibility. The Department of Education developed an OMB-approved form, the Reaffirmation Agreement, which This is now the only acceptable form for the borrower to acknowledge the overage he has exceeded Stafford annual or aggregate loan limits and affirm the intent to repay it.

Response:

The PDC agrees in part.

Change:

The Common Bulletin language is revised to read as follows:

The *Common Manual* is being revised to incorporate the OMB-approved form, the *Reaffirmation Agreement*. This is the only acceptable form for the borrower to acknowledge he has exceeded Stafford

annual or aggregate loan limits and affirm the intent to repay the overage.

COMMENT: One commenter suggested following the guidance in Dear Colleague Letter GEN-15-20 and changing the Effective Date/Trigger Event from “on or after” to “after.”

Response:

The PDC agrees.

Change:

The Effective Date/Trigger Event has been changed from “on or after” to “after.”

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: November 17, 2016

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with changes/no changes	11/17/16

SUBJECT: Bankruptcy

AFFECTED SECTIONS: 13.8.A Bankruptcy

POLICY INFORMATION: 1315/Batch 206

EFFECTIVE DATE/TRIGGER EVENT: Retroactive to July 1, 2010.

BASIS:
Health Care and Education Reconciliation Act of 2010.

CURRENT POLICY:
Current policy includes a cross-reference to guidance for the lender when it receives a bankruptcy notice for a loan that is not yet disbursed or partially disbursed.

REVISED POLICY:
Revised policy removes the cross-reference about not yet disbursed or partially disbursed loans when the lender receives a bankruptcy notice.

REASON FOR CHANGE:
The cross-reference is no longer applicable because FFELP loans are no longer being originated.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 13.8.A, page 19, column 1, paragraph 4 as follows:

If the bankruptcy action requires the lender to file a claim with the guarantor, the lender must file a bankruptcy claim within the applicable timely filing deadlines defined in this subsection. The lender must file the claim for the balance outstanding on the date that the lender receives the bankruptcy notice, less any funds returned by the school prior to the date on which the claim is filed. ~~(If a lender holds loans that are not yet disbursed or are partially disbursed at the time the lender is notified of the borrower's bankruptcy filing, see Subsection 7.7.1 for processing information related to subsequent disbursements.)~~ If, after claim filing, the lender receives funds returned from the school, the lender must credit those amounts to the borrower's loan and notify the guarantor of the revised claim amount.

PROPOSED LANGUAGE - COMMON BULLETIN:
Bankruptcy

The *Common Manual* has been revised to remove a cross-reference. The cite references bankruptcy guidance applicable only in portfolios with active loan origination processes, and thus, no longer applies to any FFELP lender's loans.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower: None.

School: None.

Lender/Service: None.

Guarantor: None.

U.S. Department of Education: None.

To be completed by the Policy Development Contractor

POLICY CHANGE PROPOSED BY:
Policy Committee

DATE SUBMITTED TO CM POLICY DEVELOPMENT CONTRACTOR:
Batch 206/November 2016

May 26, 2016

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

November 10, 2016

PROPOSAL DISTRIBUTED TO:

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

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