

#	Subject	Summary of Change to Common Manual	Type of Update	Effective Date
1264	Gainful Employment Program Debt Measures	<p>4.1.C Maintaining Eligibility</p> <p>Adds information about debt measures for gainful employment programs.</p>	Federal	Gainful employment program debt measures implemented by a school on and after July 1, 2012.
1265	Gainful Employment Program Debt Warnings and Sanctions	<p>4.1.C Maintaining Eligibility</p> <p>Adds information about gainful employment debt warnings and sanctions.</p>	Federal	§668.7(h) through (l); §668.26(d)(1) and (3); <i>Federal Register</i> published on June 13, 2011.
1266	Home-Schooled Students and Title IV Eligibility	<p>5.1.B Student Eligibility Requirements</p> <p>Clarifies that some states issue a secondary school completion credential to home-schooled students. If this is the case in the state in which the student was home schooled, the student must obtain this credential in order to qualify for Title IV aid. If a school's policy permits students to self-certify completion of a secondary school education, the home-schooled student may also self-certify that he or she received this state-issued credential.</p>	Federal	<p>Publication date of the 02-03 FSA Handbook, Volume 1.</p> <p>For provisions that permit a home-schooled student to self-certify that he or she received a state-issued secondary school completion credential for home-schooled students, publication date of the 03-04 FSA Handbook, Volume 1.</p>
1267	Ability-to-Benefit Provisions	<p>5.1.B Student Eligibility Requirements</p> <p>5.10 Required High School Diploma or Equivalent</p> <p>5.11 Ability to Benefit Provisions</p> <p>5.11.A Testing ATB Students with Special Needs</p> <p>5.11.B School Liability in ATB Testing</p> <p>Appendix G</p> <p>Strikes language from the <i>Common Manual</i> that pertains to a borrower obtaining Title IV eligibility by any means other than a high school diploma or its equivalent.</p>	Federal	Students first enrolled in a program of study on or after July 1, 2012, who do not have a high school diploma or its equivalent.

1268	Changes to Verification Requirements	<p>6.6.A Performing Verification Requirements</p> <p>Notates that the Department will publish annually a potentially changing set of data elements that are subject to verification each award year, and that it may revise applicable verification documentation requirements. Also notates that schools may choose to originate Title IV aid prior to the completion of verification, but prohibits the disbursements of subsidized funds prior to the completion of verification and more clearly states that borrowers who are eligible to receive only unsubsidized Stafford and/or PLUS Loan funds are not subject to verification requirements.</p> <p>Revised verification exemptions are listed.</p>	Federal	<p><i>Federal Register</i> published October 29, 2010, pp. 66954 – 66958; <i>Dear Colleague Letter</i> (DCL) GEN-11-13.</p>
1269	Completing Verification Before Professional Judgment	<p>6.6.B Use of Professional Judgment to Determine EFC</p> <p>Requires the school to complete any federally-mandated professional judgment before exercising professional judgment.</p>	Federal	<p>Preamble to the <i>Federal Register</i> published October 29, 2010, p. 66903.</p>
1270	Academic Competitiveness and National SMART Grants	<p>9.5.A Return Amounts for the Title IV Grant and Loan Programs</p> <p>9.5.B Processing Returned Funds</p> <p>Appendix G</p> <p>Deletes any reference to the Academic Competitiveness or National SMART grant programs from text that describes a school's responsibilities to calculate a return of Title IV funds or process a return of unearned Title IV funds.</p> <p>Also deletes the glossary definitions the Academic Competitiveness and National SMART grant programs.</p>	Federal	<p>HEA §401A(e); §668.19(a)(3); <i>Federal Register</i> dated June 23, 2008; DCL P-11-02.</p>
1271	Disaster Relief Waivers	<p>11.21.M Natural Disasters, Local or National Emergency, or Military Mobilization</p> <p>Appendix H.4.D Disaster Waivers</p> <p>Includes the updated guidance reflected in DCL GEN-10-16 regarding disaster relief waivers.</p>	Federal	<p><i>Dear Colleague Letter</i> (DCL) GEN-10-16.</p>

Batch 186

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: Gainful Employment Program Debt Measures

AFFECTED SECTIONS: 4.1.C Maintaining Eligibility

POLICY INFORMATION: 1264/Batch 186

EFFECTIVE DATE/TRIGGER EVENT: Gainful employment program debt measures implemented by a school on or after July 1, 2012.

BASIS:

Federal Register published on June 13, 2011; §668.7(a) through (g).

CURRENT POLICY:

Current policy does not include information about debt measures for gainful employment programs.

REVISED POLICY:

Revised policy adds information about debt measures for gainful employment programs.

REASON FOR CHANGE:

This change is being made to update the Manual with Final Rules published in the *Federal Register* on June 13, 2011.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.1.C, page 12, column 1, paragraph 3, by adding a new subheading and text, as follows:

Eligibility of Gainful Employment Programs

A gainful employment (GE) program must meet minimum standards to demonstrate that it sufficiently prepares its students for gainful employment in a recognized occupation. GE programs are evaluated annually based on a fiscal year (FY) from October 1 through September 30 designated by the calendar year in which it ends. For example, FY 2013 is from October 1, 2012 to September 30, 2013.

The Department evaluates a GE program using two debt measures—the loan repayment rate and debt-to-earnings ratios. A program must meet at least one of the three following thresholds or it will be a failing program:

- The program's annual loan repayment rate is 35% or greater.
- The program's annual loan payment is 30% or less of discretionary income.
- The program's annual loan payment is 12% or less of average annual earnings. [§668.7(a)(1)(i) and (ii); §668.7(a)(2)(iii)]

A program is considered satisfactory if either of the following applies:

- The data needed to determine whether a program satisfies these minimum standards are not available to the Department.
- There are 30 or fewer borrowers whose loans entered repayment or 30 or fewer students who completed the program in the most recent FY that is evaluated. (See Debt-to-Earnings Ratios) [§668.7(a)(1)(iii); §668.7d]

Loan Repayment Rate

The loan repayment rate is used to determine if former students (both those who completed the program and those who did not complete the program) who entered repayment succeed in paying down the balance of their FFELP and Direct loans by at least one dollar during the most recently completed FY that is evaluated. A program satisfies this measure if the program's annual loan repayment rate is 35% or greater.

Definitions applicable to the loan repayment rate include the following:

- Original Outstanding Principal Balance (OOPB) is the amount of the outstanding balance, including capitalized interest, on FFEL and Direct loans owed by students for attendance in the program on the date those loans first entered repayment. Parent PLUS loans and Teach Grant-related loans are excluded. For Consolidation loans, the OOPB includes only the loans attributable to a borrower's attendance in the program.
[§668.7(b)(1)]
- Loans Paid in Full (LPF) are loans that have never been in default, or in the case of a Consolidation loan, neither the Consolidation loan nor the underlying loan(s) have ever been in default and have been paid in full by a borrower. A loan that is paid in full by a Consolidation loan is not counted as paid in full for this purpose.
[§668.7(b)(2)]
- Payments-Made Loans (PML) are loans that have never been in default (in the case of a Consolidation Loan, neither the Consolidation loan nor the underlying loan(s) have ever been in default), where payments made by a borrower during the most recently completed FY reduce the outstanding balance by the end of that FY (including accrued, non-capitalized interest) to an amount that is at least one dollar less than the outstanding balance of the loan at the beginning of that FY.
[Federal Register dated June 13, 2011, p. 34400]

For a Consolidation loan that paid loans for a post-baccalaureate certificate or master's, doctoral, or first-professional degree program, the total outstanding balance (including accrued, non-capitalized interest) at the end of the most recent FY may be less than or equal to the total outstanding balance at the beginning of the year.

PML includes a loan(s) for a borrower in the process of qualifying for Public Service Loan Forgiveness who submits an employment certification to the Department. The employment certification must demonstrate the borrower is engaged in qualifying employment. The borrower must have made qualifying payments on the loan during the most recently completed FY, even if the payments did not reduce the principal balance.

PML also includes loans for a borrower in the income-based, income-contingent, or any other repayment plan that makes scheduled payments on the loan during the most recently completed FY for an amount that is equal to or less than the interest that accrues on the loan during the FY. However, the Department limits the dollar amount of these interest-only or negative amortization loans in the numerator of the ratio to no more than 3% of the total amount of OOPB in the denominator.
[§668.7(b)(3)]

Generally, borrowers who are included in the loan repayment rate are those who entered repayment on their applicable loans during the third and fourth FYs prior to the most recently completed FY for which the debt measures are calculated (2YP). For example, for FY 2012, the 2YP is FY 2008 and FY 2009.
[§668.7(a)(2)(iv)(A)(1)]

However, for FY 2012, FY 2013, and FY 2014, the first and second FYs (2YP-A) prior to the most recently completed FY for which the loan repayment rate is calculated, will be used as an alternate method to calculate the rate. For example, if the most recently completed FY is

2012, the 2YP-A is FY 2010 and FY 2011. The Department will calculate the loan repayment rate using two loan repayment rates for a program—one with the 2YP and the other with the 2YP-A, provided that the 2YP-A represents more than 30 borrowers whose loans entered repayment. If both loan repayment rates are calculated, the Department will use the highest rate to make a determination of whether the programs meet the required minimum standard. [§668.7(a)(2)(iv)(A)(2) and §668.7(b)(1)(iv)]

If a program has 30 or fewer borrowers who entered repayment during the 2YP, the period is extended to include the fifth and sixth prior FYs to include additional borrowers who entered loan repayment during a 4 year period (4YP). For example, for FY2012, the 4YP is FY 2006, FY 2007, FY 2008, and FY 2009. [§668.7(a)(2)(v); §668.7(d)]

For a medical or dental program with a required residency or internship, the 2YP is adjusted to include the sixth and seventh FYs (2YP-R) prior to the most recently completed FY for which the debt measures are calculated. For example, for FY 2012, the 2YP-R is FY 2005 and FY 2006. Also, the 4YP is adjusted to include the sixth, seventh, eighth, and ninth FYs (4YP-R) prior to the most recently completed FY for which the debt measures are calculated. For example, for FY 2017, the 4YP-R is FY 2008, FY 2009, FY 2010, and FY 2011. For these purposes, a required medical or dental internship or residency is a supervised training program that meets all of the following requirements:

- Requires the student to hold a degree as a doctor of medicine or osteopathy, or a doctor of dental science.
 - Leads to a degree or certificate awarded by a school of higher education, a hospital, or a health care facility that offers post-graduate training.
 - Must be completed before the borrower may be licensed by the state and board certified for professional practice or service.
- [§668.7(a)(2)(iv)(B) and §668.7(a)(2)(v)(B)]

For the most recently completed FY, the Department calculates the loan repayment rate for a program annually using the following ratio:

$$\frac{\text{OOPB of LPF} + \text{OOPB of PML}}{\text{OOPB of all included loans borrowed by students to enroll in the program}}$$

[§668.7(b)]

For the most recently completed FY, the OOPB in the numerator and the denominator excludes loans that were in any of the following statuses:

- An in-school deferment during any part of the FY.
- A military-related deferment status during any part of the FY.
- Discharged as a result of the borrower's death.
- Discharged as a result of the borrower's total and permanent disability (TPD) or pending TPD discharge.

[§668.7(b)(4)]

Debt-to-Earnings Ratios

Debt-to-earnings ratios are used to determine the portion of a typical graduate's (completer's) annual earnings or discretionary income that is consumed by repayment of educational debt incurred to attend a particular GE program. A program satisfies these measures if a typical completer's annual loan payment represents 30% or less of discretionary income, or 12% or less of average annual earnings.

The discretionary income rate calculation is:

Annual loan payment

Higher of the mean or median annual earnings – 150% of poverty guideline for a family of one
[§668.7(c)(1)(i)]

The earnings rate calculation is:

Annual loan payment

Higher of the mean or median annual earnings
[§668.7(c)(1)(ii)]

The Department determines the annual loan payment for a program by calculating the median loan debt of the program for each student who completed the program during the 2YP, the 2YP-R, the 4YP, or the 4YP-R. The loan debt includes FFEL and Direct loans (except parent PLUS loans and Teach Grant-related loans) and any private education loans or debt obligations from school financing plans owed by the student for attendance in a program. However, if the school provides tuition and fee information, the Department will use the total amount of tuition and fees charged to the student for enrollment in all programs at the school if that amount is less than the total loan debt that the student incurred.
[§668.7(c)(2), (3) and (4)(i)]

To determine the loan debt for a student, the Department includes all the loan debt incurred by the student for attendance in programs at the school to the highest credentialed program subsequently completed by the student at the school. Although loan debt incurred by the student for attendance in programs at other schools is not included in the student's loan debt, the Department may include loan debt incurred by the student for attending other schools if the school and other school(s) are under common ownership or control.
[§668.7(c)(4)(ii) and (iii)]

The Department uses the median loan debt for the program and the current annual interest rate on Direct Unsubsidized loans to calculate the annual loan payment based on the following:

- A 10-year repayment schedule for a program that leads to an undergraduate or post-baccalaureate certificate or to an associate's degree.
- A 15-year repayment schedule for a program that leads to a bachelor's or master's degree.
- A 20-year repayment schedule for a program that leads to a doctoral or first-professional degree.

[§668.7(c)(2)(ii)]

To determine the annual earnings of the borrower, the Department obtains from the Social Security Administration (SSA), or other Federal agency, the most currently available mean and median annual earnings of the students who completed the program during the 2YP, the 2YP-R, the 4YP, or the 4YP-R. The Department calculates the debt-to-earnings ratios using the higher of the mean or median annual earnings.

[§668.7(c)(3)]

For the FY that debt-to-earnings ratios are calculated, the following students are excluded if:

- The student's loan(s) were in a military-related deferment at any time during the calendar year for which earnings are obtained.
- The student died.

- The student was enrolled in any other eligible program at the school or at another school during the calendar year for which the earnings information is gathered.
- The student's loan(s) was discharged as a result of total and permanent disability (TPD) or is pending TPD discharge.
[§668.7(c)(5)]

A program automatically satisfies the debt-to-earnings measures if any one of the following applies:

- A program has 30 or fewer students who entered repayment or completed the program, during the 2YP or 2YP-R, and the 4YP or 4YP-R.
- SSA did not provide the mean and median earnings for the programs.
- The median loan debt calculated is zero.
[§668.7(d)]

Debt Measures and Data Corrections

Before issuing the draft results of the debt-to-earnings ratios for a program, the Department provides to a school a list of the students who will be included in the applicable 2YP or 4YP for calculating the ratios. No later than 30 days after the date the Department provides the list, the school may provide evidence showing that a student should be included on or removed from the list and the school may correct or update the identity information provided for a student on the list, such as name, Social Security number, or date of birth. After the 30-day correction period, the school may no longer challenge whether students should be included on the list or update the identity information of those students.
[§668.7(e)(1)(i) and (ii)]

The Department makes applicable changes that result from the information provided by a school and creates a final list of students to submit to the SSA. The Department calculates the draft debt-to-earnings ratios based on the mean and median earnings provided by the SSA for the students on the final list. A school may not challenge the mean and median annual earnings that SSA provides to the Department. However, a school may demonstrate that a failing program would meet a debt-to-earnings standard by recalculating the debt-to-earnings ratios using the median loan debt for the program and alternative earnings (see Final Debt Measures and Alternative Earnings Recalculations).
[§668.7(e)(1)(iii) and (iv)]

No later than 45 days after the Department issues the draft results of the debt-to-earnings ratios for a program and no later than 45 days after the Department issues the draft results of the loan repayment rate for a program, respectively, a school may challenge the accuracy of the loan data for a borrower that was used to calculate the draft loan repayment rate, or the mean loan debt for the program that was used for the numerator of the draft debt-to-earnings ratios, by submitting evidence showing that the borrower loan data or the program median loan debt is inaccurate. The school may also challenge the accuracy of the list of borrowers included in the applicable 2YP or 4YP used to calculate the draft loan repayment rate by submitting evidence showing that a borrower should be included on or removed from the list or correcting or updating the identity information provided for a borrower on the list.
[§668.7(e)(2)]

For debt measures in general, if the information provided by a school is accurate, the Department uses the corrected information to recalculate the debt measures for the program. For a failing program, if the SSA is unable to include in its calculation of the mean and median earnings for the program, for one or more students on the final list, the Department adjusts the median loan debt by removing the highest loan debt associated with the number of students the SSA is unable to include in its calculation. For example, if the SSA is unable to include three students in its calculation, the Department removes the loan debt for the

same number of students on the list that had the highest loan debt. The Department then recalculates the debt-to-earnings ratios for the program based on the adjusted median loan debt.

[\$668.7(e)(3)]

Final Debt Measures and Alternative Earnings Recalculations

The Department notifies the school of the final debt measures for the program. A school may demonstrate that a failing program would meet a debt-to-earnings standard by recalculating the debt-to-earnings ratios using the median loan debt for the program and alternative earnings from either a state-sponsored data system, a school survey conducted in accordance with National Center for Educational Statistics (NCES) standards, or, for FY 2012, FY 2013, and FY 2014, the Bureau of Labor Statistics (BLS). Alternative earnings are described below.

[\$668.7(f); §668.7(g)(1)]

State Data

For final debt-to-earnings ratios, a school may use state data to recalculate those ratios for a failing program only if one of the following applies:

- The school obtains earnings data from state-sponsored data systems for more than 50% of the students in the applicable 2YP or 4YP, or a comparable two- or four-year period, and that number of students is more than 30.
- The school uses the actual, state-derived mean or median earnings of the students in the applicable 2YP or 4YP, or a comparable two- or four-year period, and the school demonstrates that it accurately used the actual state-derived data to recalculate the ratios.

[\$668.7(g)(2)]

Survey Data

For final debt-to-earnings ratios, a school may use survey data to recalculate those ratios for a failing program only if the school uses reported earnings obtained from a school survey conducted of the students in the applicable 2YP or 4YP, or a comparable two- or four-year period, and the survey data is for more than 30 students. The school may use the mean or median annual earnings derived from the survey data if it submits a copy of the survey and certifies that it was conducted in accordance with the statistical standards and procedures established by NCES and submits an examination-level attestation by an independent public accountant or independent governmental auditor, as appropriate, that the survey was conducted in accordance with the specified NCES standards and procedures. The attestation must be conducted in accordance with the general, field work, and reporting standards for attestation engagements contained in the Government Accounting Office's (GAO) *Government Auditing Standards*, and with procedures for attestations contained in guides developed by and available from the Department's Office of Inspector General.

[\$668.7(g)(3)]

Bureau of Labor Statistics (BLS) Data

For the final debt-to-earnings ratios calculated by the Department for FY 2012, FY 2013, and FY 2014, a school may use BLS earnings data to recalculate those ratios for a failing program only if the school identifies and provides documentation of the occupation by Standard Occupational Classification (SOC) code, or combination of SOC codes, in which more than 50% of the students in the 2YP or 4YP were placed or found employment, and that number of students is more than 30. The school may use placement records it maintains to satisfy accrediting agency or state requirements if those records indicate the occupation in which the student was placed. Otherwise, the school must submit employment records or other documentation showing the SOC code(s) in which the students typically found employment.

The school uses the most current BLS earnings data for the identified SOC code to calculate the debt-to-earnings ratio. If more than one SOC code is identified the school must calculate the weighted average earnings of those SOC codes based on BLS employment data or school placement data. In either case, the school must use BLS earnings at no higher than the 25th percentile. The school must submit, upon request, all the placement, employment, and other records maintained by the school for the program that the school examined to determine whether those records identified the SOC codes for the students who were placed or found employment.

[§668.7(g)(4)]

Alternative Earnings Process

A school must notify the Department of its intent to use alternative earnings no later than 14 days after the date the school is notified of its final debt measures. The school must submit all supporting documentation related to recalculating the debt-to-earnings ratios using alternative earnings no later than 60 days after the date the school is notified of its final debt measures. Pending the Department's review of the school's submission, the school is not subject to the requirements arising from the program's failure to satisfy the debt measures, provided the submission was complete, timely, and accurate.

[§668.7(g)(5)(i)]

If the Department denies the school's submission, the Department notifies the school of the reasons for the denial and the debt measures become the final measures for that FY. If the Department approves the school's submission, the recalculated debt-to-earnings ratios become final for that FY.

[§668.7(g)(5)(iii)]

Dissemination of Final Debt Measures

After the Department calculates the final debt measures, including the recalculated debt-to-earnings ratios, and provides those debt measures to a school, the school must disclose for each of its programs, the final loan repayment rate and final debt-to-earnings ratio.

The Department may disseminate the final debt measures and information about or related to the debt measures to the public at any time or in any manner and form, including publishing information that will allow the public to ascertain how well programs perform under the debt measures and other appropriate objective metrics.

[§668.7(g)(6)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Gainful Employment Program Debt Measures

The *Common Manual* has been revised to include gainful employment program debt measures. A gainful employment (GE) program must meet minimum standards to demonstrate that it sufficiently prepares its students for gainful employment in a recognized occupation. GE programs are evaluated annually based on a fiscal year (FY) from October 1 through September 30 designated by the calendar year in which it ends. For example, FY 2013 is from October 1, 2012 to September 30, 2013.

The Department evaluates a GE program using two debt measures—the loan repayment rate and debt-to-earnings ratios. A program must meet at least one of the three following thresholds or it will be a failing program:

- The program's annual loan repayment rate is 35% or greater.
- The program's annual loan payment is 30% or less of discretionary income.
- The program's annual loan payment is 12% or less of average annual earnings.

A program is considered satisfactory if either of the following applies:

- The data needed to determine whether a program satisfies these minimum standards are not available to the Department.
- There are 30 or fewer borrowers whose loans entered repayment or 30 or fewer students who completed the program in the most recent FY that is evaluated. (See *Debt-to-Earnings Ratios*.)

The Manual has also been revised to include a description of how the Department calculates and disseminates the draft and final measures and offers a school the ability to correct certain data. Further, the Manual has been revised to include how a school may offer alternative earnings data if a program is deemed a failing program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

Prospective borrowers will have more information about gainful employment programs that train students in a recognized occupation by viewing debt measures for loan repayment rates and debt-to-earnings.

School:

A school may need to provide the Department with information correcting draft loan repayment rate information and/or debt-to-earnings information.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

The Department will need to create processes to implement the procedures used for debt measures for gainful employment programs.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

June 30, 2011

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2012

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

AES/PHEAA; ASA; FAME; Great Lakes; MGA; NASFAA; NCHELP; NSLP; OCAP; PPSV; SCSLC; SLND; SLSA; TG; TSAC; USA Funds; VSAC.

Responses to Comments

Many 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.

COMMENT:

Two commenters suggest using an acronym for "loan repayment rate" so that readers don't get confused by

reading “annual loan repayment” rather than “annual loan repayment rate.” The commenters noted that it’s important to emphasize this new term.

Response:

The Committee appreciates the commenters’ suggestions. However, the Committee notes that the term “annual loan repayment” is not used within the proposal and “annual loan repayment rate” is only used twice. The two occurrences of “annual loan repayment rate” are both used in the context of meeting the threshold of 35% or greater. Therefore, the Committee does not believe that readers will be confused.

Change:

None.

COMMENT:

One commenter noted that under the heading Eligibility of Gainful Employment Programs, it should be clarified that there are two debt measures, but three thresholds and a program must meet at least one of the minimum standards or it will be a failing program.

Response:

The Committee agrees.

Change:

The first paragraph under Eligibility of Gainful Employment Programs has been revised, as follows:

The Department evaluates a GE program using two debt measures—the loan repayment rate and debt-to-earnings ratios. A program must meet at least one of the three following thresholds or it will be a failing program:

COMMENT:

Two commenters suggested adding information under heading Eligibility of Gainful Employment Programs to note that a program is considered satisfactory if it has 30 or fewer borrowers or completers in the most recent fiscal year that is evaluated, and to provide a cross-reference to Debt-to-Earnings where this information is currently detailed.

Response:

The Committee agrees.

Change:

The paragraph has been revised and restructured, as follows:

A program is considered satisfactory if either of the following apply:

- The data needed to determine whether a program satisfies these minimum standards are not available to the Department.

- There are 30 or fewer borrowers whose loans entered repayment or 30 or fewer students who completed the program in the most recent FY that is evaluated. (See *Debt-to-Earnings Ratios*.)
[§668.7(a)(1)(iii); §668.7d]

COMMENT:

Three commenters requested revisions to the first sentence under the heading *Loan Repayment Rate*. Two commenters suggested revising the parenthetical to read, “both completers and non-completers . . .” or to replace “that” with “who.”

A third commenter suggested revising the parenthetical to read, “both those that completed the program and those who withdrew from the program . . .” This commenter also suggested adding, “by at least one dollar” to the end of this sentence.

Response:

The Committee appreciates the suggestions. The Committee agrees that the “who” should replace “that.” The Committee notes that “non-completers” has not been defined within this proposal. Regarding the second

suggestion, the Committee notes that using the phrase “those who withdrew from the program” may not take into account other situations such as a student that was expelled by a school. The Committee agrees that with the additional information being added to the end of this sentence.

Change:

The Committee has revised the sentence, as follows:

The loan repayment rate is used to determine if former students (both those ~~that~~ who completed the program and those ~~that~~ who did not complete the program) who entered repayment succeed in paying down the balance of their FFELP and Direct loans by at least one dollar during the most recently completed FY that is evaluated.

COMMENT:

One commenter suggested clarifying information in the definition of “Loans Paid in Full,” as follows:

- *Loans Paid in Full (LPF)* are loans that have never been in default and have been paid in full by a borrower, or in the case of a Consolidation loan, neither the Consolidation loan nor the underlying loan(s) have ever been in default ~~and have been paid in full by a borrower~~. A loan that is paid in full by a Consolidation loan, is not counted as paid in full for this purpose.

Response:

The Committee notes that changing the sentence as suggested would break up information describing defaulted loans. Consolidation loans must also have been paid in full by a borrower in order to qualify as a loan paid in full.

Change:

The Committee revised the sentence, for clarity, to place the information about a Consolidation loan in a parenthetical, to read as follows:

- *Loans Paid in Full (LPF)* are loans that have never been in default, ~~or~~ (in the case of a Consolidation loan, neither the Consolidation loan nor the underlying loan(s) have ever been in default) and have been paid in full by a borrower. A loan that is paid in full by a Consolidation loan is not counted as paid in full for this purpose.

COMMENT:

Two commenters suggested revising the paragraph about payment made loans for borrowers in the process of qualifying for Public Service Loan Forgiveness, as follows:

PML includes a loan(s) for a borrower in the process of qualifying for Public Service Loan Forgiveness who submits an ~~Employment Certification for Public Service Loan Forgiveness form~~ to the Department. ~~The employment certification must that demonstrates the borrower is engaged in qualifying employment, and that the borrower made qualifying payments on the loan during the most recently completed FY, even if the payments did not reduce the principal balance. To assist in keeping track of their qualifying employment, borrowers are encouraged, but not required, to submit an annual Employment Certification for Public Service Loan Forgiveness form to the Department.~~

The commenters state that this suggestion provides clarification. The form, itself, does not demonstrate that the borrower made qualifying payments on the loan. It is merely a vehicle to assist with the tracking of qualifying employment. The ED-servicer will assist the borrower in keeping track of qualifying payments.

Response:

The Committee agrees that the Department does not require a borrower to use the Employment Certification for Public Service Loan Forgiveness form approved by the Department. The Committee also agrees that an employment certification will not provide information regarding whether a borrower has made qualifying payments for this forgiveness program. As such, the Committee believes that all information regarding the Department’s form should be deleted, as it is irrelevant to information regarding payments made loans for GE debt measures.

Change:

The paragraph has been revised, as follows:

PML includes a loan(s) for a borrower in the process of qualifying for Public Service Loan Forgiveness who submits an Employment Certification for Public Service Loan Forgiveness form to the Department. The employment certification must demonstrate the borrower is engaged in qualifying employment, ~~and~~ ~~the borrower must have~~ made qualifying payments on the loan during the most recently completed FY, even if the payments did not reduce the principle balance.

COMMENT:

Two commenters suggested revisions to the discretionary income rate calculation denominator, as follows:

$$\frac{\text{Annual loan payment}}{\text{Higher of the mean or median annual earnings of program completers} - 150\% \text{ of poverty guideline for a family of one 4}}$$

One commenter suggested a change to the denominator by stating, “. . .poverty guideline for a single person.”

Response:

The Committee appreciates the suggestions. The paragraph that immediately precedes this calculation states that debt-to-income ratios include only program completers, therefore the Committee believes that the information does not need to be repeated within the calculation itself. The Committee does believe that the poverty guideline information should be clarified.

Change:

Discretionary income rate calculation has been revised as follows:

$$\frac{\text{Annual loan payment}}{\text{Higher of the mean or median annual earnings} - 150\% \text{ of poverty guideline for a family of one 4}}$$

COMMENT:

One commenter suggested revising information under the loan repayment rate ratio that describes what loans are excluded from the OOPB in the numerator and denominator, to include parent PLUS loan in the list of exclusions.

Response:

The Committee understands the commenter’s concern; however this list of exclusions describes loans that are in certain statuses rather than loan types that are excluded from the OOPB. Within the definition of OOPB, the Committee notes that parent PLUS loans and Teach Grant-related loans are excluded from the OOPB. The Committee does acknowledge that revisions should be made to clarify the exemption list referred to by the commenter.

Change:

The lead-in sentence and bullets are revised as follows:

For the most recently completed FY, the OOPB in the numerator and the denominator excludes loans that ~~are~~ were in any of the following statuses:

- ~~In an~~ An in-school deferment during any part of the FY.
- ~~In a~~ A military-related deferment status during any part of the FY.
- Discharged as a result of the borrower’s death ~~of the borrower~~.
- Discharged as a result of the borrower’s total and permanent disability (TPD) or ~~are~~ pending TPD discharge.

COMMENT:

One commenter suggested adding a lead-in phrase to the second paragraph after the debt-to-earnings ratio

calculations to clarify that the paragraph is about how the Department determines the loan debt for a student.

Response:

The Committee agrees.

Change:

The paragraph has been revised by including a lead-in phrase, as follows: "To determine the loan debt for a student the The Department includes all the loan debt incurred by the student for attendance in programs at the school to the highest credentialed program subsequently completed by the student at the school."

COMMENT:

One commenter noted that the first paragraph, last sentence under the heading *Debt Measures and Data Corrections*, is incorrect because the third paragraph states that they can challenge students who should be on the list and that the school can correct or update the identity information for those students.

Response:

The Committee agrees, although information in §668.7(e)(1)(B)(ii) appears to conflict with information in §668.7(e)(2)(ii).

Change:

The first paragraph has been revised, as follows:

Before issuing the draft results of the debt-to-earnings ratios for a program, the Department provides to a school a list of the students who will be included in the applicable 2YP or 4YP for calculating the ratios. No later than 30 days after the date the Department provides the list, the school may provide evidence showing that a student should be included on or removed from the list and the school may correct or update the identity information provided for a student on the list, such as name, social security number, or date of birth. ~~After the 30-day correction period, the school may no longer challenge whether students should be included on the list or update the identity information of those students.~~

COMMENT:

One commenter noted that the last sentence of the second paragraph under the heading *Debt Measures and Data Corrections* isn't quite accurate because while the mean and median annual earnings from SSA cannot be appealed, the school may appeal by using alternative measures.

Response:

The Committee agrees.

Change:

A new sentence has been added to the second paragraph, and a new heading has been added before the fifth paragraph, as follows:

...A school may not challenge the mean and median annual earnings that SSA provides to the Department. However, a school may demonstrate that a failing program would meet a debt-to-earnings standard by recalculating the debt-to-earnings ratios using the median loan debt for the program and alternative earnings (See Final Debt Measures and Alternative Earnings Recalculations.)

...

Final Debt Measures and Alternative Earnings Recalculations

The Department notifies the school of the final debt measures for the program. A school may demonstrate that a failing program would meet a debt-to-earnings standard by recalculating the debt-to-earnings ratios using the median loan debt for the program and alternative earnings from either a state-sponsored data system, a school survey conducted in accordance with National Center for Educational Statistics (NCES) standards, or, for FY 2012, FY 2013, and FY 2014, the Bureau of Labor Statistics (BLS). Alternative earnings are described below.

ma/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: Gainful Employment Program Debt Warnings and Sanctions

AFFECTED SECTIONS: 4.1.C Maintaining Eligibility

POLICY INFORMATION: 1265/Batch 186

EFFECTIVE DATE/TRIGGER EVENT: Gainful employment debt warnings on or after July 1, 2012.

BASIS:

§668.7(h) through (l); §668.26(d)(1) and (3); *Federal Register* published on June 13, 2011.

CURRENT POLICY:

Current policy does not include information about gainful employment debt warnings and sanctions.

REVISED POLICY:

Revised policy adds information about gainful employment debt warnings and sanctions.

REASON FOR CHANGE:

This change is being made to update the Manual with Final Rules published in the *Federal Register* on June 13, 2011.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.1.C, by adding text after the new subheading, Eligibility of Gainful Employment Programs in Policy Proposal 1264. The proposed policy text below immediately follows text under *Dissemination of Final Debt Measures*—the last topic addressed in Policy Proposal 1264. Due to the complex and voluminous nature of the proposal, the Committee has separated these proposals for ease during the review process.

Gainful Employment Debt Measure Warnings and Sanctions

Except for programs that have a small number of students, a program fails for a fiscal year (FY) if its final debt measures do not meet any of the minimum standards. The Department provides a transition year for the purposes of the debt measure warnings and sanctions for programs that become ineligible based on final debt measures for FY 2012, FY 2013, and FY 2014. For this period only, the Department caps the number of those ineligible programs by sorting all programs by category of school (public, private nonprofit, and proprietary) and then by loan repayment rate, from the lowest rate to the highest rate. For each category of schools, beginning with the ineligible program with the lowest loan repayment rate, the Department identifies the ineligible programs that account for a combined number of students who completed the programs during FY 2014 that do not exceed 5% of the total number of students who completed programs in that category. For example, the Department does not designate as ineligible a program, or two or more programs, that have the same loan repayment rate, if the total number of students who completed that program or programs would exceed the 5% cap for a school category.

[\$668.7(k)]

Starting with the debt measures calculated for FY 2012, a failing program becomes ineligible if it does not meet any of the minimum standards for 3 out of the 4 most recent FYs. The Department notifies the school that the program is ineligible and the school may no longer disburse Title IV aid to students enrolled in that program except under the conditions discussed below.

[\$668.7(h)(i)]

A school may use funds that it has received under the Federal Pell Grant Program or TEACH Grant Program, or a campus-based program, or request additional funds from the Department, under conditions specified by the Department, if the school does not possess

sufficient funds, to satisfy any unpaid commitment made to a student under that Title IV program only if all of the following apply:

- The school's participation in that Title IV program ends during a payment period.
- The school continues to provide, from the date that the participation ends until the scheduled completion date of that payment period, educational programs to otherwise eligible students enrolled in the formerly eligible programs of the school.
- The commitment was made prior to the end of the participation.
- The commitment was made for attendance during that payment period or a previously completed payment period.

[§668.26(d)(1)]

A school may use funds that it has received under the Federal Direct Loan Program (FDLP) or request additional funds from the Department, under conditions specified by the Department, if the school does not possess sufficient funds, to credit to a student's account or disburse to the student the proceeds of a FDLP loan only if all of the following apply:

- The school's participation in the FDLP ends during a period of enrollment.
- The school continues to provide, from the date that the participation ends until the scheduled completion date of that period of enrollment, educational programs to otherwise eligible students enrolled in the formerly eligible programs of the school.
- The loan was made for attendance during that period of enrollment.
- The proceeds of the first disbursement of the loan were delivered to the student or credited to the student's account prior to the end of the participation.

[§668.26(d)(3)]

First-Year Failure

When the Department notifies a school of a failing program, the school must warn currently enrolled students as soon as administratively feasible, but no later than 30 days after the date the Department notifies the school that the program failed. The school must warn prospective students at the time the student first contacts the school requesting information about the program. If the prospective student intends to use Title IV aid to attend the program, the school may not enroll the student until 3 days after the debt warnings are first provided to the student. If more than 30 days pass from the date the debt warnings are first provided to the student and the date the student seeks to enroll in the program, the school must provide the debt warnings again and may not enroll the student until three days after the debt warnings are most recently provided to the student.

[§668.7(j)(3)]

For a failing program that does not meet the minimum standards for a single FY, the school's warning must be in plain language and provided in an easy to understand format. The warning must:

- Explain the debt measures and show the amount by which the program did not meet the minimum standards.
- Describe any actions the school plans to take to improve the program's performance under the debt measures.
- Be delivered orally or in writing directly to the student in accordance with the procedures established by the school. Delivering the debt warning directly to the student includes communicating with the student face-to-face or by telephone, communicating with the student along with other affected students as part of a group

presentation, and sending the warning to the student's e-mail address.

- If a school opts to deliver the warning orally to a student, it must maintain documentation of how that information was provided, including any materials the school used to deliver that warning and any documentation of the student's presence at the time of the warning.

- A school must continue to provide the debt warning until it is notified by the Department that the failing program now satisfies one of the minimum standards.

[§668.7(j)(1)]

To the extent practicable, the school must provide alternatives to English-language warnings for those students for whom English is not their first language.

[§668.7(j)(6)]

Second-Year Failure

For a failing program that does not meet the minimum standards for two consecutive FYs or for 2 out of the 3 most recently completed FYs, the school must do the following:

- Provide the debt warning as described above for a single year failure except that the school will describe what actions it will take in response to the second failure.
- If the school plans to discontinue the program, it must provide the timeline for doing so, and the options available to the student.
- A plain language explanation of the risks associated with enrolling or continuing in the program, including the potential consequences for, and options available to, the student if the program becomes ineligible for Title IV aid.
- A plain language explanation of the resources available, including www.collegenavigator.gov, that the student may use to research other educational options and compare program costs.
- A clear and conspicuous statement that a student who enrolls or continues in the program should expect to have difficulty repaying his or her student loans.
- A school must continue to provide this warning to enrolled and prospective students until the program has met one of the minimum standards for two of the last three FYs.
- Prominently display the debt warning on the program home page of its Web site and include the debt warning in all promotional materials it makes available to prospective students.
- A school that voluntarily discontinues a failing program must notify enrolled students at the same time that it provides the written notice to the Department that it relinquishes the program's Title IV program eligibility.

[§668.7(j)(2), (4), and (5)]

Restrictions for Ineligible and Voluntarily Discontinued Failing Programs

An ineligible program, or a failing program that a school voluntarily discontinues, remains ineligible until the school reestablishes the eligibility of that program under 34 CFR 600.20(d). For this purpose, a school voluntarily discontinues a failing program on the date the school provides written notice to the Department that it relinquishes the Title IV program eligibility of that program. A school may not reestablish the eligibility of a failing program that it voluntarily discontinued until one of the following occurs:

- The end of the second FY following the FY the program was voluntarily discontinued

if the school voluntarily discontinued the program at any time after the program is determined to be a failing program, but no later than 90 days after the date the Department notified the school that it must provide the second year debt warnings.

- The end of the third FY following the FY the program was voluntarily discontinued if the school voluntarily discontinued the program more than 90 days after the date the Department notified the school that it must provide the second year debt warnings.

A school may not seek to reestablish the eligibility of an ineligible program, or to establish the eligibility of a program that is substantially similar to the ineligible program, until the end of the third FY following the FY the program became ineligible. A program is substantially similar to the ineligible program if it has the same credential level and the same first four digits of the Classification of Instructional Program (CIP) code as that of the ineligible program.
[§668.7(l)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Gainful Employment Program Debt Warnings and Sanctions

The *Common Manual* has been revised to include gainful employment debt measure warnings and sanctions for programs that fail the debt measure minimum standards for a single and second year. The Manual has also been updated with notifications that a school must provide to current and prospective students for the first and second year failing programs. Further, the Manual has been revised to include restrictions that are placed on ineligible and voluntarily discontinued failing programs in regards to reestablishing Title IV program eligibility.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Student:

A current and a prospective student will be made aware when a gainful employment (GE) program has failed debt measures for a single and second year by required school notifications.

School:

A school will be required to provide notification to current and prospective students when one of its GE programs has failed the GE debt measures.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

The Department may need to update its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

June 30, 2011

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2012

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received from:

AES/PHEAA; ASA; FAME; Great Lakes; MGA; NASFAA; NCHELP; NSLP; OCAP; PPSV; SCSLC; SLND; SLSA; TG; TSAC; USA Funds; VSAC.

Responses to Comments

Many 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.

COMMENT:

One commenter suggested adding several regulatory citations to the proposal.

Response:

The Committee agrees.

Change:

Regulatory citations were added to the proposal as requested by the commenter.

ma/edited-chh

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: Home-Schooled Students and Title IV Eligibility

AFFECTED SECTIONS: 5.1.B Student Eligibility Requirements

POLICY INFORMATION: 1266/Batch 186

EFFECTIVE DATE/TRIGGER EVENT: Publication date of the 02-03 FSA Handbook, Volume 1.

For provisions that permit a home-schooled student to self-certify that he or she received a state-issued secondary school completion credential for home-schooled students, publication date of the 03-04 FSA Handbook, Volume 1.

BASIS:

02-03 FSA Handbook, Volume 1, Chapter 1, p. 1-4; 03-04 FSA Handbook, Volume 1, Chapter 1, p. 1-4.

CURRENT POLICY:

Current policy does not clarify Title IV eligibility requirements for a home-schooled student who receives a secondary education in a state that issues a secondary school completion credential to home-schooled students.

REVISED POLICY:

Revised policy clarifies that some states issue a secondary school completion credential to home-schooled students. If this is the case in the state in which the student was home schooled, the student must obtain this credential in order to qualify for Title IV aid. If a school's policy permits students to self-certify completion of a secondary school education, the home-schooled student may self-certify that he or she received this state-issued credential.

REASON FOR CHANGE:

This change is necessary to align the Manual text with FSA Handbook guidance.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: *The reference to ability-to-benefit provisions in the text of Subsection 5.1.B, below, is addressed separately in policy proposal 1267, also in Batch 186.*

Revise Subsection 5.1.B, page 2, column 1, subbullet 2, as follows:

-
-
- The student must have—and may self-certify that he or she has—completed a secondary school education in a home school setting that is treated as a home or private school under applicable state law. Some states issue a secondary school completion credential to home-schooled students. If this is the case in the state in which the student was home schooled, the student must obtain this credential in order to qualify for Title IV aid. If a school's policy permits students to self-certify completion of a secondary school education, the school may permit the home-schooled student to self-certify that he or she received this state-issued credential. Federal regulations do not require a home-schooled student to pass an ability-to-benefit test approved by the Department in order to qualify for Title IV assistance aid. An underage home-schooled student is considered to be beyond the age of compulsory school attendance in the state in which the postsecondary school is located if that state does not consider the student to be truant once he or she has completed a home-school program, or if that state would not require the student to attend school or continue to be home-schooled. [§668.32(e)(4); DCL GEN-02-11; 11-12 FSA Handbook, Volume 1, Chapter

PROPOSED LANGUAGE - COMMON BULLETIN:

Home-Schooled Students and Title IV Eligibility

The *Common Manual* has been revised to clarify that some states issue a secondary school completion credential to home-schooled students. If this is the case in the state in which the student was home schooled, the student must obtain this credential in order to qualify for Title IV aid. If a school's policy permits students to self-certify completion of a secondary school education, the school may permit the home-schooled student to self-certify that he or she received this state-issued credential.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Student:

A student may find it necessary to produce a state-issued credential substantiating completion of a secondary education in a home school, if the school requires it.

School:

A school may need to revise its policies and procedures for determining the Title IV eligibility of students who claim to have completed a secondary education in a home school. A school may have a policy of permitting its students to self-certify completion of a secondary education. In that case, the school must ensure that a home-schooled student's self-certification includes the fact that he or she obtained a state-issued secondary school completion credential if the student was home-schooled in a state that issues such a credential. A school may also need to update its policies on determining the validity of a student's claim of high school completion, in cases when that is questioned, to address students that completed a home school program in a state that issues a secondary school completion credential for home schooling.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 8, 2011

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2012

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

AES/PHEAA, ASA, FAME, Great Lakes, MGA, NASFAA, NCHELP, NSLP, OCAP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Two commenters recommended technical corrections 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.

jcs/edited-kk

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: Ability-to-Benefit Provisions

AFFECTED SECTIONS: 5.1.B Student Eligibility Requirements
5.10 Required High School Diploma or Equivalent
5.11 Ability-to-Benefit Provisions
5.11.A Testing ATB Students with Special Needs
5.11.B School Liability in ATB Testing
Appendix G

POLICY INFORMATION: 1267/Batch 186

EFFECTIVE DATE/TRIGGER EVENT: Students first enrolled in a program of study on or after July 1, 2012, who do not have a high school diploma or its equivalent.

BASIS:
H.R. 2055 Amendment to HEA, Section 484(d).

CURRENT POLICY:
Current policy states that a borrower who does not have a high school diploma or its equivalent may take an ability-to-benefit test or enroll and successfully complete 6 credit hours to obtain Title IV eligibility.

REVISED POLICY:
Revised policy strikes language from the *Common Manual* that pertains to a borrower obtaining Title IV eligibility by any means other than a high school diploma or its equivalent.

REASON FOR CHANGE:
This policy is necessary to implement changes made to the HEA through H.R. 2055.

PROPOSED LANGUAGE - COMMON MANUAL:
Note: The text that references the eligibility of a home-schooled student below is being modified further by policy proposal 1266, also in Batch 186

Revise Subsection 5.1.B, page 1, column 2, paragraph 2, bullet 1, as follows:

Student Eligibility Requirements

- ...
 - The student must ~~(a)~~ be beyond the age of compulsory school attendance in the state in which the postsecondary school is located, and ~~(b)~~ pass an independently administered ability-to-benefit test that has been approved by the Department (see Section 5.11). ~~[\$668.32(e)(2)] See below for additional information about home-schooled students who are under the age of compulsory school attendance.~~
 - The student must have—and may self-certify that he or she has—completed a secondary school education in a home school setting that is treated as a home or private school under applicable state law. ~~Federal regulations do not require a home-schooled student to pass an ability-to-benefit test approved by the Department in order to qualify for Title IV assistance.~~ An underage home-schooled student is considered to be beyond the age of compulsory school attendance in the state in which the postsecondary school is located if that state does not consider the student to be truant once he or she has completed a home-school program, or if that state would not require

the student to attend school or continue to be home-schooled.
[§668.32(e)(4); DCL GEN-02-11]

Revise Section 5.10, page 14, column 2, paragraph 1, as follows:

Required High School Diploma or Equivalent

To be eligible for Title IV aid, the student must have a high school diploma or its equivalent, ~~or must demonstrate an ability to benefit from a program of study offered by a school (see Section 5.11 for more information on ability-to-benefit provisions).~~ Historically some students may have been admitted under prior ability-to-benefit provisions; see History of Ability-to-Benefit Provisions, Appendix H.3. A school must develop and follow procedures to evaluate the validity of a student's claim of high school completion if the school or the Department has reason to believe that the student's high school diploma is not valid or the student obtained a diploma from an entity that does not provide secondary school education (see also Section 4.2).

[§668.16(p); §668.32(e)(1) and (2)]

Revise Section 5.11, page 15, column 1 and 2, as follows:

Ability-to-Benefit Provisions

~~To receive Title IV aid, a student without a high school diploma or its equivalent must demonstrate the potential to succeed in (i.e., an ability to benefit from) a program of study offered by a school. A student who is admitted on an ability to benefit (ATB) basis must meet one of the following requirements:~~

~~[§668.32(e); §682.201(a)(8)]~~

- ~~• The student takes—and achieves at least a passing score as specified by the U.S. Department of Education on—an independently administered test that has been approved by the Department to establish (according to the Department's criteria) whether the student has the ability to benefit from the education or training being offered. The independent administrator for the ATB test must be an individual or organization that has been certified by the test publisher and has no fiscal interest in the school. [§668.141(a)(1)]~~
- ~~• The student obtains a passing score on a Department-approved state test or assessment. [§668.141(a)(1)]~~
- ~~• The student is enrolled in an eligible school that participates in a state-approved testing process that is approved by the Department. [§668.141(a)(2)]~~
- ~~• The student satisfactorily completes six credit hours or equivalent coursework that is applicable toward a degree or certificate offered by the school. The student is ineligible to receive Title IV aid while earning the six credit hours or their equivalent. However, in cases where a student is enrolled in a payment period with modules that are independently completed and graded prior to the end of that payment period, there could be a situation in which a student successfully completes a module and earns the qualifying hours prior to the end of the payment period. In that case, a school could calculate the cost of attendance for the remaining modules in the payment period and award and disburse Title IV funds for those remaining credits, if appropriate. Six credit hours are defined as any one of the following, as applicable:
 - ~~——— Six semester hours,~~
 - ~~——— Six trimester hours.~~
 - ~~——— Six quarter hours.~~~~

_____225 clock hours.

Testing out of a class does not equate to the completion of the six credit hours otherwise required for ATB purposes.

~~[\$668.32(e)(5)]~~

To determine a student's eligibility to receive Title IV aid, a school may accept a passing score on an approved ATB test that has been properly administered by an individual who has been certified by the test publisher or the state. If an ATB test is given at a facility other than an assessment center, the independent test administrator may not have any current or prior financial or ownership interest in the school, may not be a current or former employee of or consultant to the school, may not be a current or former member of the board of directors for the school, and may not be a current or former student of the school.

~~[\$668.142]~~

If a school is aware that a student has a disqualifying status that would not permit the student to be employed in the occupation for which the school's program prepares students, the student is not eligible to receive Title IV aid. A student should not be considered to have an ability to benefit if, at the time of loan certification, the student would not meet the requirements for employment in the student's state of residency in the occupation for which the student is training. The disqualifying factor may be a physical or mental condition, age, criminal record, or any other reason accepted by the Department. The school will not be held responsible for improper certification if it could not reasonably be expected to be aware of the student's disqualifying condition. For information about false certification loan discharge based on ability-to-benefit provisions, see Subsection 13.8.D.

~~[\$682.402(e)(13)]~~

Revise Subsections 5.11.A and 5.11.B, page 16, column 1, paragraph 1, as follows:

5.11.A

Testing ATB Students with Special Needs

~~If no test can be approved for individuals with disabilities, the Department considers any modified test or testing procedure, or instrument that has been developed for the purpose of evaluating the ability of individuals with disabilities to benefit from postsecondary education, to be an approved test for purposes of assessing those individuals' ability to benefit. The test must measure both basic verbal and quantitative skills at the secondary school level. The Department considers the passing scores for these testing procedures to be those recommended by the test publisher or state, as applicable.~~

~~[\$668.149]~~

~~The Department will ensure, as part of its approval process, that a test for an individual for whom English is not his or her native language and who is enrolled in a program that is taught in his or her native language will be linguistically correct and culturally sensitive regardless of the language in which the test is written.~~

~~[\$668.148]~~

5.11.B

School Liability in ATB Testing

~~Regulations stipulate the instances in which a school will be assessed a liability based on administration of the ability-to-benefit provisions. These instances are limited to~~

- ~~• Funds disbursed to students whose ability to benefit from the course was determined in a test that was provided by a test administrator that was not independent of the school at the time the test was given.~~

~~[\$668.154(a)]~~

- ~~• Funds disbursed to students for whom the ATB testing process was compromised by the school in any way.~~

~~[\$668.154(b)]~~

- ~~Funds disbursed to students for whom the school is unable to document that the students received passing scores on an approved test.~~
~~§668.154(c)~~

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

~~**Ability-to-Benefit (ATB):** Basis on which a student without a high school diploma, its recognized equivalent, or a General Education Development (GED) Certificate may qualify for Title IV aid. A student who has passed an approved test or has satisfactorily completed at least six credit hours or equivalent coursework applicable toward a degree or certificate offered by the school may qualify for Title IV aid. ATB is a condition of student eligibility and the student must meet this condition by one of these two methods prior to the school's certification or award of any Title IV aid. The Department maintains a list of approved tests for measuring a student's ability to benefit from the educational program the student seeks. See Section 5.11.~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Ability-to-Benefit Provisions

The *Common Manual* is updated to implement revised ability-to-benefit provisions. The school may no longer award Title IV funds to students who have not enrolled in an eligible program of study prior to July 1, 2012, and who do not have a high school diploma or its equivalent.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower must have a high school diploma or its equivalent to receive Title IV funds.

School:

A school may no longer certify Title IV aid for a student who does not have a high school diploma or its equivalent.

Lender/Service:

None.

Guarantor:

A guarantor may need to amend its program review procedures.

U.S. Department of Education:

The Department may need to amend its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

December 27, 2011

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2012

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received from:

AES/PHEAA, ASA, FAME, Great Lakes, MGA, NASFAA, NCHELP, NSLP, OCAP, PPSV, SCSLC, SLND,

Responses to Comments

Many commenters supported this proposal as written. One commenter recommended a wordsmithing change that was 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 questioned the removal of text in Section 5.11, stating that since the elimination of ATB is only for new students, students enrolled now and receiving aid by virtue of ATB can continue to do so.

Response:

The Committee appreciates the commenter's concern. However, the change eliminates the ability-to-benefit (ATB) alternatives for establishing eligibility for federal student aid for enrollment periods beginning on or after July 1, 2012. However, historically some students may have been admitted under prior ability to benefit provisions. These provisions are included in the History of Ability to Benefit Provisions, Appendix H.3. Students who are currently enrolled and receiving aid by virtue of ATB have already established their eligibility and once the student has established their ability to benefit they do not need to continue to do so to receive additional aid. Therefore, upon publication of the *Common Manual* in July 2012 the ATB provisions set by H.R. 2055 will be the only ones a school can use to determine aid eligibility.

Change:

A reference to the History of Ability-to-Benefit Provisions, Appendix H.3 has been included in Subsection 5.10.

COMMENT:

One commenter stated that the Department will be releasing a DCL describing who retains eligibility even though they were an ATB student because they were enrolled prior to July 1, 2012. This clarification should be in the final policy.

Response:

The Committee agrees and when a DCL regarding this issue is published any applicable language from that DCL will be incorporated into the Manual through a subsequent policy proposal.

Change:

None.

ly/edited-rrl

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: Changes to Verification Requirements

AFFECTED SECTIONS: 6.6.A Performing Verification Requirements

POLICY INFORMATION: 1268/Batch 186

EFFECTIVE DATE/TRIGGER EVENT: Award year 2012-2013.

BASIS:
Federal Register published October 29, 2010, pp. 66954–66958; *Dear Colleague Letter* (DCL) GEN-11-13.

CURRENT POLICY:
Current policy requires the school to complete verification using a fixed set of data elements; permits a school to use a flexible set of documents to accomplish the verification process; provides certain verification exemptions to students and classes of students; permits the school to originate – but not deliver – FFELP loans prior to completing verification.

REVISED POLICY:
Revised policy notes that the Department will publish annually a potentially changing set of data elements that are subject to verification each award year, and that it may revise applicable verification documentation requirements. Revised policy also notes that the school may choose to originate Title IV aid prior to the completion of verification, but prohibits the disbursement of subsidized funds prior to the completion of verification and more clearly states that borrowers who are eligible to receive only unsubsidized Stafford and/or PLUS Loan funds are not subject to verification requirements. Revised policy lists the revised verification exemptions.

REASON FOR CHANGE:
The Final Rule published October 29, 2010, amends the verification regulations as noted. The Department provided additional clarifications and guidance in DCL GEN-11-13.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 6.6.A, page 20, column 1, paragraph 5, as follows:

6.6.A Performing Verification Requirements

~~A school may require a student financial aid applicant to document the data used in determining a student's expected family contribution (EFC). A school must is required to obtain and use such specific documentation to verify the EFC if the student aid applicant is selected by the Central Processing System (CPS) according to criteria established by the Department, or if the school has reason to believe that any information provided on the Free Application for Federal Student Aid (FAFSA) is incorrect. Beginning with the 2012-2013 award year, the Department will provide annually in the *Federal Register* a list of the data elements subject to verification and updates regarding acceptable documentation. The school also may establish its own verification policies to require certain students to complete the verification process. The school may choose to originate but may not disburse a new subsidized Stafford loan, or disburse Perkins, Supplemental Education Opportunity Grant, or additional Federal Work Study funds if the student fails to submit the federally required verification documentation in a timely manner.~~
[§668.54(a)(3) and (5); §668.56; §668.58(a)(2)(iii)]

A school must develop and apply an adequate system to identify and resolve discrepancies in the information provided by the aid applicant. The school must reconcile all conflicting information before disbursing any funds, whether or not the student's application was selected for verification. It is the school's responsibility to ensure compliance with federal requirements and verification procedures. For more information on verification, schools

should refer to federal regulations and the Department's most recent FSA Handbook, Application and Verification Guide.

[§668, Subpart E; 11-12 FSA Handbook, Application and Verification Guide, Chapter 5, pp. AVG-104 to AVG-105]

A school may choose to originate but may not disburse subsidized Title IV loan funds until the student completes the verification process. However, unless the school has reason to believe that the information provided on the FAFSA is incorrect, verification is not required if the student has no need—even if the student is selected for verification. Parent PLUS borrowers are not subject to verification, nor are Grad PLUS loan borrowers who are eligible to receive no subsidized Title IV funds, although PLUS loan eligibility may be affected by changes to the student's EFC that result from the verification process. So a graduate student who is eligible only for unsubsidized Stafford loan funds and a Grad PLUS loan need not provide the documentation required under verification rules unless the school's own policies require it. But if the student is eligible for any subsidized campus-based funds, the school still must complete the verification process.

[§668.58(a)(2)(iii)]

Exemptions

Foreign schools are exempt from verification requirements with respect to a Stafford or PLUS loan applicant's financial information. Other schools also may be exempt from certain verification requirements if they are participating in the Department's Quality Assurance Program (see Section 4.7).

In addition, the school is not required to complete verification for an aid applicant if any of the following applies:

- The student withdraws prior to being selected for verification and all Title IV funds were disbursed prior to the withdrawal date.
- The student dies.
- The student does not receive Title IV aid based on reasons other than a failure to complete verification.
- The student receives only unsubsidized student aid.
- The aid applicant is a transfer student who completed verification at the previous school, applies for aid at the new school based on the same FAFSA, and the current school obtains a letter from the previous school providing each of the following:
 - A statement that it has verified the student's information.
 - The transaction number of the applicable valid ISIR.

[HEA §487(a)(3); §668.51(c); §668.54(b)]

If CPS selects for verification a student who completed the verification process already, the school need not re-verify any data previously verified and that remains unchanged, but must complete the verification process again for any data not previously confirmed or that was confirmed in the past but changed in the interim.

[§668.54(a)]

~~If an applicant is selected for verification and the school believes that the information provided on the FAFSA is correct, it may certify a loan, but may not release loan proceeds before the verification process is complete. If verification is not completed within 45 days from the date the school receives the loan proceeds, the school must return the proceeds to the lender promptly, but no later than 10 business days after the last day of the 45-day period.~~
[§668.58(c); §668.167(b)(2) and (3)]

~~If, during the 10-business-day return period, the verification process is completed, the school may deliver the proceeds rather than return them to the lender, provided the delivery is made on or before the last day of the return period. For more information on delivery requirements, see Section 8.7.~~

~~[\$668.167(b)(3); Department of Education Policy Bulletin Verification Exemptions Certification and Verification dated June 2, 1997]~~

~~If a student is selected for verification but withdraws before providing all required verification documentation, the school must comply with the return of Title IV funds requirements outlined in Subsection 9.5.D.Verification Not Completed before Withdrawal.~~

~~[FSA Handbook, 11-12 FSA Handbook, Application and Verification Guide, Chapter 4, p. AVG-81]~~

Change to EFC

~~If the EFC used to originate Title IV loans in certifying a FFELP loan changes as a result of the verification process, the school must make the necessary corrections and any resulting adjustments to the borrower's loan eligibility. No tolerance is permitted on a FFELP loan when determining whether a loan should be decreased. The school must ensure that it is responsible for eliminating any overaward of loan funds that results from corrections identified during the verification process (see Section 8.6).~~

~~[\$668.59(c)(1)]~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Changes to Verification Requirements

The *Common Manual* has been revised to include updated information regarding the verification process. The revised text notes that the Department will publish annually a potentially changing set of data elements that are subject to verification each award year, and that it may revise applicable verification documentation requirements. Revised policy also states that the school may choose to originate Title IV assistance prior to completing the verification process but may not disburse subsidized funds prior to the completion of verification. Revised policy also more clearly states that borrowers who are eligible to receive only unsubsidized Stafford and/or PLUS Loan funds are not subject to verification requirements. Revised policy lists revised verification exemptions.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Student:

More students will be required to complete verification, including providing the tax transcript. Revised verification and documentation rules may result in delays in the completion of the verification process and in some cases, delayed origination and/or disbursement of Title IV funds.

School:

The school must amend policies and procedures to comply with the new verification requirements, incorporating methods to obtain information and documentation regarding more data elements, and to provide amended information and support to students undergoing the verification process. The school may be required to perform more verification transactions, and delays in aid origination and/or disbursement may result in the financial aid office managing additional student concerns.

Lender/Service:

None.

Guarantor:

Guarantors may revise and enhance their school-facing materials to include additional resources and tools for schools that are changing policies and processes.

U.S. Department of Education:

The Department may be required to amend various publications to ensure their consistency with published regulation, and may be required to amend program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
January 31, 2012

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2012

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

Comments Received from:
AES/PHEAA, ASA, FAME, Great Lakes, MGA, NASFAA, NCHELP, NSLP, OCAP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

Many 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.

COMMENT:

One commenter suggested additional language under "Exemptions" to clarify the information that the new school must obtain from the student's previous school in order to document that the previous school completed the verification process.

Response:

The Committee agrees.

Change:

The final bullet is revised to read, as follows:

- The aid applicant is a transfer student who completed verification at the previous school and the current school obtains a letter from the previous school providing each of the following:
 - : A statement that it has verified the student's information.
 - : The transaction number of the applicable valid ISIR.

COMMENT:

One commenter suggested language to the first paragraph of Subsection 6.6.A to clarify that for future award years the Department intends to implement targeted verification, and that the school may not be required to verify all required data elements for each student.

Response:

The Committee agrees.

Change:

The language has been amended to accommodate those proposed process changes, as follows:

Beginning with the 2012-2013 award year, the Department will provide annually in the *Federal Register* a list of the data elements that the school must verify subject to verification and updates regarding acceptable documentation.

COMMENT:

One commenter noted that the school may choose to originate aid for the student prior to the completion of the verification process but may not disburse that aid. This changes statements in two paragraphs.

Response:

The Committee agrees.

Change:

In both instances, paragraphs 1 and 3, the text is revised to indicate that the school may choose to originate aid prior to completion of the verification process but may not disburse those funds.

bg/edited-tmm

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: **Completing Verification before Professional Judgment**

AFFECTED SECTIONS: **6.6.B Use of Professional Judgment to Determine EFC**

POLICY INFORMATION: **1269/Batch 186**

EFFECTIVE DATE/TRIGGER EVENT: Award year 2012-2013.

BASIS: Preamble to the *Federal Register* published October 29, 2010, p. 66903.

CURRENT POLICY:

Current policy does not require the school to complete verification prior to exercising professional judgment.

REVISED POLICY:

Revised policy requires the school to complete any federally-mandated verification before exercising professional judgment.

REASON FOR CHANGE:

The preamble to the Final Rule published October 29, 2010, states the federal intent that the school completes any federally-mandated verification before the school uses professional judgment to adjust the student's budget components.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 6.6.B, page 21, column 1, paragraph 2, as follows:

6.6.B

Use of Professional Judgment to Determine EFC

A financial aid administrator (FAA) is permitted to increase or decrease a student's expected family contribution (EFC) based on extenuating circumstances. In adjusting the EFC, the FAA must adjust a specific data element within the calculation. Alterations must be documented in the student's file.

If the Central Processing System has selected the student for verification, the school must complete that verification process and obtain a new Institutional Student Information Record, if applicable, prior to exercising professional judgment (PJ). If the school's own policies impose the verification requirement, then the school may also establish in its policies whether its verification must precede any PJ.

In determining whether a student has extenuating circumstances, an FAA may request and use additional information concerning the financial status or personal circumstances of a student or the student's family.

[HEA §479A; Preamble to the *Federal Register* published October 29, 2010, p. 66903; DCL GEN-92-21; 11-12 FSA Handbook, Application and Verification Guide, Chapter 5, pp. AVG-103 to AVG-104]

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

PROPOSED LANGUAGE - COMMON BULLETIN:

Completing Verification before Professional Judgment

The *Common Manual* has been revised to include the requirement that the school complete any federally-mandated verification before the school uses professional judgment to adjust the student's budget components.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A student who would benefit from the school's professional judgment calculations may experience a delay in receipt of funds based on the time frame necessary to complete the verification process.

School:

A school may be required to amend policies and procedures. If students experience delays in the receipt of Title IV funds, the school's cash flow may be similarly delayed.

Lender/Service:

None.

Guarantor:

A guarantor may need to amend its school-focused training materials and resources.

U.S. Department of Education:

The Department advises that this is a long-standing policy and thus it may not be required to amend publications and materials except to ensure consistency.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 4, 2012

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2012

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

AES/PHEAA, ASA, FAME, Great Lakes, MGA, NASFAA, NCHELP, NSLP, OCAP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

All commenters supported this proposal. One commenter recommended a wordsmithing change that was 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.

bg/edited-tmm

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: Academic Competitiveness and National SMART Grants

AFFECTED SECTIONS: 9.5.A Return Amounts for the Title IV Grant and Loan Programs
9.5.B Processing Returned Funds
Appendix G

POLICY INFORMATION: 1270/Batch 186

EFFECTIVE DATE/TRIGGER EVENT: Award year 2011-2012

BASIS:

HEA §401A(e); §668.19(a)(3); *Federal Register* dated June 23, 2008; DCL P-11-02.

CURRENT POLICY:

Current policy requires a school to consider the amount of an Academic Competitiveness or National SMART grant that the student received when calculating a return of Title IV funds. Current policy that prescribes an order in which unearned funds must be returned to the Title IV programs also references these two grant programs.

REVISED POLICY:

Revised policy deletes any reference to the Academic Competitiveness and National SMART grant programs from text that describes a school's responsibilities to calculate a return of Title IV funds or process a return of unearned Title IV funds. Revised policy also deletes the glossary definitions the Academic Competitiveness and National SMART grant programs.

Note: Reference to the Academic Competitiveness and National SMART grant programs was deleted from Section 6.7 and 8.7.H of the Manual through approved policy proposal 1250 in Batch 179.

REASON FOR CHANGE:

This change is necessary to acknowledge the statutory sunset of appropriations that fund new awards in the Academic Competitiveness and National SMART grant programs. The last period of enrollment for which a student may have received funds from either program was for a crossover payment period (i.e., a payment period that crossed over July 30 and July 1 of 2011) that the school assigned to the 2010-2011 award year. Sufficient time should have passed for a school to address any subsequent withdrawal of students who were the last recipients of funds from these programs.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 9.5.A, page 17, column 1, paragraph 3, as follows:

Aid Types to Be Included in the Return Calculations

When calculating the return of Title IV funds, the school must include the following Title IV funds, as applicable:

- ...
- ...
- ...
- Federal Pell grant.
- ~~Academic Competitiveness grant.~~

- ~~National SMART grant.~~
- TEACH grant.
- ...

Revise Subsection 9.5.B, page 22, column 1, paragraph 1, as follows:

Applying Returned Funds

~~The Higher Education Act and federal regulations specify the order in which unearned funds~~
A school must be return unearned Title IV funds returned to the Title IV programs. The school must ensure that returned funds are applied to eliminate outstanding balances on loan and grants for the payment period, or period of enrollment, in the following order:

- ...
- ...
- ...
- ...
- ...
- ...
- ...
- ...
- Federal Pell
- ~~Academic Competitiveness grants.~~
- ~~National SMART grants.~~
- Federal Supplemental Educational Opportunity Grants (SEOGs).
- ...

Revise Appendix G, page 1, column 1, paragraph 2, as follows:

~~**Academic Competitiveness Grant (ACG):** A federal need- and merit-based grant that is intended to encourage a student to complete a rigorous secondary school program of study. For more information about this program, see the FSA Handbook.~~

Revised Appendix G, page 16, column 1, paragraph 8, as follows:

~~**National Science and Mathematics Access to Retain Talent Grant (National SMART Grant):** A federal need- and merit-based grant that is intended to encourage a student to major in one of the physical, life, or computer sciences; engineering; technology; mathematics; or a critical foreign language. For more information about this program, see the FSA Handbook.~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Academic Competitiveness and National SMART Grants

The *Common Manual* has been revised to delete any reference to the Academic Competitiveness and National SMART grant programs from text that describes a school's responsibilities to calculate a return of Title IV funds or process a return of unearned Title IV funds. Glossary definitions for these programs have been removed.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

A school may find it necessary to revise its policies and procedures for the return of Title IV funds to remove references to the Academic Competitiveness and National SMART grant programs.

Lender/Service:

None.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

July 5, 2011

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2012

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received from:

AES/PHEAA, ASA, FAME, Great Lakes, MGA, NASFAA, NCHELP, NSLP, OCAP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

All 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.

jcs/edited-kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2012

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

SUBJECT: Disaster Relief Waivers

AFFECTED SECTIONS: 11.21.M Natural Disasters, Local or National Emergency, or Military Mobilization
Appendix H.4.D Disaster Waivers

POLICY INFORMATION: 1271/Batch186

EFFECTIVE DATE/TRIGGER EVENT: August 23, 2010.

BASIS:
Dear Colleague Letter (DCL) GEN-10-16.

CURRENT POLICY:
Current policy reflects guidance provided by the Department regarding disaster relief waivers as outlined in DCLs GEN-04-04 and GEN-05-17.

REVISED POLICY:
Revised policy includes the updated guidance reflected in DCL GEN-10-16 regarding disaster relief waivers.

REASON FOR CHANGE:
On August 23, 2010, the Department of Education issued DCL GEN-10-16 which provided updated guidance on the disaster waivers and superseded DCLs GEN-04-04 and GEN-05-17.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 11.21.M, page 37, column 1, paragraph 2, as follows:

11.21.M Natural Disasters, Local or National Emergency, or Military Mobilization

If the lender determines that the ability of the borrower or endorser to make payments is adversely affected by a natural disaster, a local or national emergency (declared by the appropriate government agency), or a military mobilization, the lender may grant an administrative forbearance for a period not to exceed 3 months. The lender must document the reason it granted the forbearance in the borrower's loan file. Continuation of the forbearance beyond the 3-month period based on the same situation requires supporting documentation and an agreement with the borrower or endorser. [§682.211(f)(12); Disaster Letter 99-28; DCL GEN-10-16]

Revise Appendix H.4.D, page 147, column 1, paragraph 2, as follows:

H.4.D Disaster Waivers

In DCL GEN-04-04 posted on February 24, 2004, the Department issued general guidance for helping Title IV participants affected by a disaster. This guidance supplements the FSA Handbook and Disaster Letter 99-28, published August, 5, 1999, which provided separate guidance on the treatment of borrowers who have been affected by a disaster.

The Pell Grant Hurricane and Disaster Relief Act (P.L. 109-66) and the Student Grant Hurricane and Disaster Relief Act (P.L. 109-67) authorized the Department to provide a waiver of a student's Title IV grant overpayment if the student withdrew from a school because of a major disaster. On November 9, 2005, the Department issued DCL GEN-05-17, to implement the Title IV grant overpayment waiver.

On June 24, 2008, the Department issued DCL GEN-08-10 to remind Title IV participants that the waivers first published in DCL GEN-04-04 and DCL GEN-05-17 remain in effect.

On August 23, 2010, the Department issued DCL GEN-10-16 to provide updated guidance for helping Title IV participants affected by Federal disaster. The guidance provided in DCL GEN-10-16 superseded the guidance in DCL GEN-04-04 and DCL GEN-05-17.

Unless stated otherwise, this regulatory relief applies to all Title IV recipients and their families who, at the time of a disaster, were residing in, employed in, or attending a school located in a federally-declared disaster area. This relief also applies to schools, lenders, servicers, and guaranty agencies that are located in such areas. Federally-declared disaster designations are available on the Federal Emergency Management Agency's (FEMA) Website. Only disasters designated for "Individual Assistance" are eligible for this regulatory relief.

A school or lender that deviates from otherwise required actions on the basis of these waivers must document that fact and indicate what alternative procedures were followed.

Schools should consult ~~DCL GEN-04-04~~DCL GEN-10-16 for additional information about waivers that are specific to the Federal Pell Grant, Campus-Based, and Federal Direct Loan Programs.

Revise Appendix H.4.D, page 148, column 1, paragraph 2, as follows:

Satisfactory Academic Progress

If a student fails to meet a school's satisfactory academic progress standards due to a disaster, the school ~~should~~ may suspend the satisfactory academic progress standards for that student in accordance with its policies for satisfactory academic progress appeals due to mitigating circumstances. (For more information, see the 08-09 FSA Handbook, Volume 2, Chapter 10, pp. 2-127 and 2-130.) The school must document in the student's file that a disaster constituted the mitigating circumstances that caused the student's failure to maintain satisfactory academic progress.

Revise Appendix H.4.D, page 148, column 2, paragraph 1, as follows:

Leaves of Absence

A school is not required to collect a written request for an approved leave of absence from a student who was directly affected by a disaster, nor does the request have to be made before the leave of absence starts. A school's documentation of its decision to grant the leave of absence must include the reason for the leave of absence and the reason for waiving the required written request made prior to the leave of absence. For more information about the requirements for an approved leave of absence, see Section 9.3.

Revise Appendix H.4.D, page 148, column 2, paragraph 2, as follows:

Institutional Charges and Refunds

A school is strongly encouraged to provide a full refund of tuition, fees, and other institutional charges, or to provide a credit in a comparable amount against future charges for a student who withdraws from school as a direct result of a disaster. The Department urges a school to consider providing easy and flexible re-enrollment options to such a student. However, before a school makes a refund of institutional charges, it must perform the required return of Title IV funds calculation based upon the originally assessed institutional charges (see Subsection 9.5.A). After determining the amount that the school must return to the Title IV programs, any reduction of institutional charges should take into account the funds that the school is required to return. The Department does not expect that a school would both return funds to the Title IV programs and also provide a refund of those same funds to the student.

The school should not include the number of days on which classes were not offered as a result of the disaster in either the numerator or denominator of the return of Title IV funds calculation for students whose withdrawal date is after such an unscheduled break.

Revise Appendix H.4.D, page 149, column 1, paragraph 4, as follows:

Administrative Forbearance

A loan holder may grant an administrative forbearance for up to 3 months to a borrower who has been adversely affected by a disaster. The loan holder must provide notice to the borrower allowing the borrower an opportunity to decline the forbearance. See Subsection 11.21.M.

PROPOSED LANGUAGE - COMMON BULLETIN:

Disaster Relief Waivers

The *Common Manual* has been revised to include updated information regarding the Department's waiver of statutory and regulatory requirements for Title IV participants affected by a major disaster. The revisions also include clarification that if a lender grants an administrative forbearance to a borrower adversely affected by a disaster, that the borrower must have the opportunity to decline the forbearance.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Student/Borrower:

A student may be eligible for an approved leave of absence without submitting a written request first if they are adversely affected by a disaster. A borrower will have the opportunity to decline an administrative forbearance.

School:

A school may choose to evaluate and revise their policies and procedures for satisfactory academic progress, leaves of absence, and Return to Title IV for situations affected by disaster.

Lender/Service:

A lender may need to update procedures to provide notice to the borrower with an option to decline if the lender grants an administrative forbearance without a prior borrower request.

Guarantor:

A guarantor may need to revise its training and compliance tools for schools.

U.S. Department of Education:

The Department may find it necessary to revise its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

August 22, 2011

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2012

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

AES/PHEAA, ASA, FAME, Great Lakes, MGA, NASFAA, NCHELP, NSLP, OCAP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Two 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:

Two commenters suggested removing the proposed language to Subsection 11.21.M as they felt it could lead to confusion.

Response:

The Committee agrees.

Change:

The proposed sentence has been removed from Subsection 11.21.M as requested by the commenters.

COMMENT:

Two commenters suggested adding language to Subsection 11.21.M as follows:

In addition, this administrative forbearance may be used by lenders for Federal disasters in which the Federal Emergency Management Agency has designated the affected areas as eligible for “Individual Assistance” under the Federal disaster declaration.

Response:

The Committee disagrees. DCL GEN-10-16 states that a Federal disaster area has to be eligible for “Individual Assistance” in order for regulatory relief waivers to apply. The Committee feels that because lenders already have the regulatory authority in 34 CFR 682.211(f) to grant this forbearance, no regulatory relief is needed and the addition of this sentence would lead to confusion about when a lender can use an administrative forbearance.

Change:

No change.

COMMENT:

Two commenters suggested adding language to Appendix H.4.D to clarify that the guidance in DCL GEN-10-06 does not supersede the regulatory guidance found in 34 CFR 682.211(f).

Response:

The Committee does not believe this language is necessary as guidance from Dear Colleague Letters had been used historically throughout the Manual. It is generally understood that Dear Colleague Letters are considered subregulatory guidance and cannot supersede regulations.

Change:

No change.

COMMENT:

Two commenters suggested adding language to Appendix H.4.D, as follows:

This relief also applies to schools, lenders, guaranty agencies, and their servicers that are located in such areas.

Response:

The Committee agrees with modification.

Change:

Revise Appendix H.4.D, page 147, column 1, paragraph 5, as follows:

Unless stated otherwise, this regulatory relief applies to all Title IV recipients and their families who, at the time of a disaster, were residing in, employed in, or attending a school located in a federally-declared disaster area. This relief also applies to schools, lenders, servicers, and guaranty agencies that are located in such areas. Federally-declared disaster designations are available on the Federal Emergency Management Agency’s (FEMA) Website. Only disasters designated for “Individual Assistance” are eligible for this regulatory relief.

