

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1232	Incentive Compensation	<p>4.1.A Establishing Eligibility Appendix G</p> <p>Removes the list of permissible incentives and clarifies that incentive compensation cannot be based in any part on the success of securing enrollments or financial aid.</p> <p>Also removes the definition of “commissioned salesperson” from the Glossary.</p>	Federal	Incentive compensation provided by a school to a person or entity on or after July 1, 2011.
1233	Evaluating the Validity of a Student’s High School Completion	<p>4.2 Administrative Capability Standards</p> <p>5.9 Required High School Diploma or Equivalent</p> <p>Requires a school to develop and follow procedures to evaluate the validity of student’s high school completion if the school or the Department has reason to believe that the high school diploma is not valid or the student obtained a diploma from an entity that does not provide secondary school education.</p>	Federal	Determinations by a school or the Department that a student’s claim of high school completion is suspect on or after July 1, 2011, beginning with applicants who complete a FAFSA for the 2011-2012 award year.
1234	Loan Limits and Progressing from Undergraduate to Graduate Grade Levels	<p>6.11.A Stafford Annual Loan Limits</p> <p>Reorganizes information about Stafford annual loan limit changes when an undergraduate student’s grade level changes within an academic year.</p> <p>Delineates the effect on annual loan limits for undergraduate grade level changes vs progression from an undergraduate to a graduate grade level within an academic year.</p> <p>Provides information about annual loan limit changes as a student progresses from undergraduate to graduate grade levels in regular degree programs or in dual-degree programs.</p>	Federal	<p>For general grade level changes, retroactive to the implementation of the <i>Common Manual</i>.</p> <p>For grade level changes in a dual-degree program, July 1, 2008, unless implemented by the school no earlier than November 1, 2007.</p>
1235	Withdrawal Dates at a School That Is Required to Record Attendance	<p>9.4 Withdrawal Dates</p> <p>States that a school is required to record attendance if any of the following conditions exist:</p> <ul style="list-style-type: none"> • An outside entity requires that the school record attendance. • The school itself has a requirement that its instructors take attendance. • The school or an outside entity has a requirement that can only be met by recording attendance or a comparable process. 	Federal	Students who withdraw on or after July 1, 2011.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 17, 2011

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With no changes	Mar 17

SUBJECT: Incentive Compensation

AFFECTED SECTIONS: 4.1.A Establishing Eligibility
Appendix G

POLICY INFORMATION: 1232/Batch 175

EFFECTIVE DATE/TRIGGER EVENT: Incentive compensation provided by a school to a person or entity on or after July 1, 2011.

BASIS:
§668.14(b)(22).

CURRENT POLICY:
Current policy states that a school cannot provide incentive compensation based on the success of securing enrollments or financial aid to an entity involved in recruitment, admissions, or awarding financial aid. Current policy also provides a list of twelve permissible incentives or safe harbors that are approved by the Department.

REVISED POLICY:
Revised policy removes the list of permissible incentives and clarifies that incentive compensation cannot be based in any part on the success of securing enrollments or financial aid. The definition of “commissioned salesperson” is removed from the Glossary.

REASON FOR CHANGE:
This change is made to comply with final rule changes published in the *Federal Register* dated October 29, 2010.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 4.1.A, page 3, column 2, bullet 4, as follows:

- The school will not provide any commission, bonus, or other incentive payment to a person or entity engaged in student recruitment, or admission activities, or in making decisions regarding the awarding of Title IV aid, based in any part, directly or indirectly, upon the success of securing enrollments or the awarding of financial aid. ~~This prohibition does not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Title IV aid. (See subheading “Permissible Incentive Compensation” later in this subsection for more information, including a list discussion of permissible activities that do not violate this provision.)~~
[§668.14(b)(22)(4)]

Revise Subsection 4.1.A, page 4, column 2, paragraph 2, as follows:

~~Permissible Incentive Compensation~~

~~The following are examples of compensation incentives that a school may offer that have been approved by the Department (a school is not limited to offering only these compensation plans, however):~~

- ~~Fixed compensation (annual salary or hourly wage), as long as it is not adjusted more than twice during any 12-month period (with the exception of a cost of living increase that is paid to substantially all full-time employees) and any adjustment is not based solely on the number of students recruited, admitted, enrolled, or awarded financial aid.~~
[§668.14(b)(22)(ii)(A)]

- ~~Compensation to recruiters based on the recruitment of students who enroll only in non-Title IV programs.
[§668.14(b)(22)(ii)(B)]~~
- ~~Compensation to recruiters who arrange contracts between the school and an employer whose employees enroll at the school and for whom the employer pays (directly or by reimbursement) 50% or more of the tuition and fees charged to its employees. This compensation cannot, however, be based on the number of employees who enroll at the school or the revenue they generate. The recruiters also may not have contact with the employees.
[§668.14(b)(22)(ii)(C)]~~
- ~~Compensation paid as part of a profit-sharing or bonus plan that is substantially the same amount or the same percentage of salary or wages, and is made to all or substantially all of the school's full-time professional and administrative staff. Such payments may be limited to all or substantially all of the full-time employees at one or more organizational levels at the school. The organizational level, however, may not consist predominantly of recruiters, admissions staff, or financial aid staff.
[§668.14(b)(22)(ii)(D)]~~
- ~~Compensation based on students who successfully complete their educational programs or one academic year of their educational program, whichever is shorter. For this purpose, successful completion of an academic year means the student has earned at least 24 semester or trimester credit hours or 36 quarter credit hours, or has successfully completed at least 900 clock hours of instruction at the school.
[§668.14(b)(22)(ii)(E)]~~
- ~~Compensation paid to employees who perform clerical "pre-enrollment" duties, such as answering telephone calls, referring inquiries, or distributing school materials.
[§668.14(b)(22)(ii)(F)]~~
- ~~Compensation to managerial or supervisory employees who do not directly manage or supervise employees who are directly involved in recruiting or admissions activities or the awarding of Title IV program funds.
[§668.14(b)(22)(ii)(G)]~~
- ~~Token gifts awarded to the school's students or alumni, provided the gifts are not in the form of money. No more than one gift may be provided annually to an individual, and the cost of the gift can be no more than \$100.
[§668.14(b)(22)(ii)(H)]~~
- ~~Profit distributions based proportionately on an individual's ownership interest in the school.
[§668.14(b)(22)(ii)(I)]~~
- ~~Compensation paid for Internet-based recruitment and admission activities that provide information about the school to prospective students, refer prospective students to the school, or permit prospective students to apply for admission on-line.
[§668.14(b)(22)(ii)(J)]~~
- ~~Payments to third parties, including tuition sharing arrangements, that deliver various services to the school, provided that none of the services involve recruiting or admission activities or the awarding of Title IV program funds.
[§668.14(b)(22)(ii)(K)]~~
- ~~Payments to third parties, including tuition sharing arrangements, that deliver various services to the school, even if one of the services involves recruiting or admission activities or the awarding of Title IV program funds, provided that the individual does not receive a commission, bonus, or other incentive payment based directly or indirectly upon the success of securing enrollments or financial aid.~~

~~[\$668.14(b)(22)(ii)(L)]~~

As a condition for a school to be eligible to participate in a Title IV program, it may not provide any commission, bonus, or other incentive payment to a person or entity engaged in student recruitment, admission activities, or making decisions regarding the awarding of Title IV aid based in any part, directly or indirectly, upon the success of securing enrollments or the awarding of financial aid. A commission, bonus, or other incentive payment is defined as a sum of money or something of value, other than a fixed salary or wages, paid to or given to a person or an entity for services rendered.

This prohibition not only applies to employees actually engaged in student recruitment, admission activities, and/or the awarding of Title IV aid, but also any higher level employees with responsibilities for those areas. This prohibition also applies to any applicable activities occurring throughout the completion of the educational program, not just to pre-enrollment activities.

~~[\$668.14(b)(22)(iii)]~~

The following types of compensatory situations would not be considered in violation of the incentive compensation prohibition:

- Incentive compensation for the recruitment of foreign students residing in foreign countries who are not eligible to receive federal student assistance.
~~[\$668.14(b)(22)(i)(A)]~~
- Merit-based adjustments to employee compensation as long as the adjustments are not based in any part, directly or indirectly, upon the success of securing enrollments or the awarding of financial aid.
~~[\$668.14(b)(22)(ii)(A)]~~
- Profit-sharing payments to any person not engaged in student recruitment or admission activities or in making decisions regarding the awarding of Title IV aid.
~~[\$668.14(b)(22)(ii)(B)]~~
- Payments to a third party solely for prospective student contact information as long as it is not based on any additional conduct or action by the third party or the prospective students, or on the number of students who apply, enroll, or are awarded financial aid.
~~[\$668.14(b)(22)(iii)(B)(2)]~~

Revise Appendix G, page 5, column 1, paragraph 5, as follows:

~~Commissioned Salesperson:~~

~~A person who receives compensation related to, or calculated on the basis of, student applications for enrollment, actual student enrollments, or student acceptances for enrollment.~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Incentive Compensation

The *Common Manual* has been revised to conform to a final rule change published in the *Federal Register* dated October 29, 2010. This change prohibits schools from paying or providing an incentive based on securing enrollment or the awarding of financial aid and applies not only to employees actually engaged in student recruitment, admission activities, and/or the awarding of financial aid, but also to any higher level employees with responsibilities for those area. The previous “safe harbors” for incentive compensation payments have been removed. The definition of “commissioned salesperson” has been removed from the Glossary.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:
None.

School:
A school will need to review and possibly amend its compensation plans to ensure that they comply with the new provisions.

Lender/Service:
None.

Guarantor:
The guarantor may wish to update its training materials.

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:
November 18, 2010

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
March 10, 2011

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

Comments Received from:
AES/PHEAA, ASA, Great Lakes, HESC (NY), MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Others provided wordsmithing suggestions which were incorporated without comment. We appreciate the review of all commenters and their careful consideration of this policy.

COMMENT:

One commenter noted that citations provided for proposed language included references to a specific page number in a *Federal Register*. The commenter indicated that it was not conventional to include *Federal Register* page numbers and recommended, for consistency, that they be deleted.

Response:

While not normal practice, the Committee has in the past included references to specific *Federal Register* page numbers in citations to support preamble guidance or clarification not found in regulatory language. A search of the 2010 *Electronic Common Manual* produced 16 such references. However, no such preamble language is used in the proposed manual text, therefore the committee agrees that the reference is not needed in this instance and it has been removed.

Change:

The reference in the basis to the *Federal Register* has been removed.

COMMENT:

One commenter recommended the removal of the definition of "commissioned salesperson" from the Glossary as this term is not in the current or proposed Common Manual text.

Response:

The Committee agrees.

Change:

The definition for "commissioned salesperson" has been removed from the Glossary.

COMMENT:

One commenter suggested changes to Subsection 4.1.A, paragraph 1, to better clarify the difference between "commission, bonus, or other incentive payment" and "fixed salary or wages."

Response:

The Committee agrees.

Change:

The first paragraph of Subsection 4.1.A has been revised to include a definition of "commission, bonus, or other incentive payment."

COMMENT:

Three commenters recommended additional clarifying bulletin language for better context.

Response:

The Committee agrees.

Change:

The common bulletin language has been revised as follows:

Incentive Compensation

The *Common Manual* is being revised to conform to a final rule change published in the *Federal Register* dated October 29, 2010. This change prohibits schools from paying or providing an incentive based on securing enrollment or the awarding of financial aid and applies not only to employees actually engaged in student recruitment, admission activities, and/or the awarding of financial aid, but also to any higher level employees with responsibilities for those area. The previous "safe harbors" for incentive payments have been removed.

COMMENT:

One commenter proposed the addition of a guarantor implication statement to include the guarantor amending its program review procedures and/or amending its training materials.

Response:

The Committee agrees with the addition of an implication statement to include the amendment of training materials. The Committee does not agree that an implication statement is necessary regarding amending review procedures because the award year beginning July 1, 2011 would be outside the scope of a FFELP program review.

Change:

The guarantor implication statement has been revised to include the amendment of training materials.

COMMENT:

Four commenters proposed additional language in Subsection 4.1.A, paragraph 2, bullet 4 to provide a more comprehensive description of prohibited third-party activities. Three commenters also requested that the list of examples from §668.14(b)(22)(iii)(B)(2)(i) be included.

Response:

The Committee agrees with adding a more comprehensive description. The committee does not agree with adding the list of examples because it does not provide sufficient value, as it is not an all-inclusive list.

Change:

Subsection 4.1.A, page 4, column 2, paragraph 2, bullet 4 has been revised as follows:

- Payments to a third party solely for prospective student contact information as long as it is not based

on any additional conduct or action by the third party or the prospective students, or on the number of students who apply, enroll, or are awarded financial aid.
[§668.14(b)(22)(iii)(B)(2)]

COMMENT:

One commenter requested that a trigger event be added to the proposal. They proposed a trigger event of compensation provided by the school on or after July 1, 2011.

Response:

The Committee agrees.

Change:

The trigger event has been revised as proposed with modification.

rp/edited-kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 17, 2011

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With no changes	Mar 17

SUBJECT: Evaluating the Validity of a Student's High School Completion

AFFECTED SECTIONS: 4.2 Administrative Capability Standards
5.9 Required High School Diploma or Equivalent

POLICY INFORMATION: 1233/Batch 175

EFFECTIVE DATE/TRIGGER EVENT: Determinations by a school or the Department that a student's claim of high school completion is suspect on or after July 1, 2011, beginning with applicants who complete a FAFSA for the 2011-2012 award year.

BASIS:
§668.16(p); *Federal Register* dated October 29, 2010, pp. 66888 to 66889.

CURRENT POLICY:
Current policy does not explicitly require a school to have a procedure to evaluate the validity of a student's high school completion.

REVISED POLICY:
Revised policy requires a school to develop and follow procedures to evaluate the validity of a student's high school completion if the school or the Department has reason to believe that the high school diploma is not valid or the student obtained a diploma from an entity that does not provide secondary school education.

REASON FOR CHANGE:
This change is necessary to update the Manual with final rules published in the *Federal Register* dated October 29, 2010.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Section 4.2, page 15, column 1, paragraph 1, as follows:

A school must demonstrate that it is capable of adequately administering the ~~FFELP~~ Title IV programs by meeting the following additional requirements:

- ...
- ...
- ...
- ...
- ...
- ...
- A school must report annually to the Department the amount of any reasonable expenses that were paid or provided by a private education loan lender or group of lenders to an agent of the school with responsibilities for financial aid. The school must report all of the following:
 - ...
 - ...
 - The dates of each activity for which the expenses were paid or provided.

- A brief description of each activity for which the expenses were paid or provided.
[§668.16(d)(1) and (2)]
- The school must establish and maintain records required under 34 CFR Part 668 (General Provisions) and as required for each Title IV program.
- A school must develop and follow procedures to evaluate the validity of a student's 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. This requirement does not apply to a student who receives a secondary education in a home school setting that is treated as a home or private school under applicable state law.
[§668.16(p); *Federal Register* dated October 29, 2010, p. 66888]

Revise Section 5.9, page 14, column 2, paragraph 2, as follows:

**5.9
Required High School Diploma or Equivalent**

To be eligible for ~~FFELP funds~~ Title IV aid, the ~~borrower, or the dependent student for whom a parent seeks a PLUS loan,~~ 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 5.10 for more information on ability-to-benefit provisions). 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)]

The following are considered equivalent to a high school diploma for establishing Title IV eligibility:
[§668.32(e)(1) and (2)]

- . . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Evaluating the Validity of a Student's High School Completion

The *Common Manual* has been revised to include a new administrative capability standard published as a final rule in the *Federal Register* dated October 29, 2010. 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. This requirement does not apply to a student who receives a secondary education in a home school setting that is treated as a home or private school under applicable state law.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A student may be required to produce additional documentation to substantiate that the student has a valid high school diploma, or that the diploma was issued by an entity that provides secondary school education.

School:

A school may find it necessary to develop and implement procedures to evaluate the validity of a student's high school completion if either the school or the Department questions whether the student's high school diploma is valid or was issued by an entity that provides secondary school education.

Lender/Servicer:

None.

Guarantor:

A guarantor may be required to update its compliance and training tools for schools.

U.S. Department of Education:

The Department may find it necessary to disseminate additional guidance for schools on evaluating the validity of a student's high school completion through *Dear Colleague Letters*, electronic announcements, or the *Federal Student Aid Handbook*.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

November 18, 2010

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 10, 2011

PROPOSAL DISTRIBUTED TO:

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Comments Received from:

AES/PHEAA, ASA, Great Lakes, HESC (NY), MGA, NASFAA, NCHelp, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Others provided wordsmithing suggestions which were incorporated without comment. We appreciate the review of all commenters and their careful consideration of this policy.

COMMENT:

One commenter noted that citations provided for proposed language included references to a specific page number in a *Federal Register*. The commenter indicated that it was not conventional to include *Federal Register* page numbers in citations and recommended, for consistency, that they be deleted.

Response:

While not normal practice, the Committee has in the past included references to specific *Federal Register* page numbers in citations to support text derived from preamble guidance or clarification that is not found in regulatory language. A search of the 2010 *Electronic Common Manual* produced 16 such references. The *Federal Register* page number cited in this proposal supports useful proposed text about this rule's non-applicability to a home-schooled student, a point which is not explicitly stated in the language of the new rule.

Change:

None.

COMMENT:

One commenter recommended that the Effective Date/Trigger Event be changed to "On or after July 1, 2011, for any FAFSA completed for the 2011-2012 and subsequent award years." The commenter referred to the October 29, 2010, *Federal Register* preamble which states, "This requirement will apply to institutions beginning on July 1, 2011, the effective date for these regulations. This means that institutions will be required to follow the procedures developed under §668.16(p) for any applicant who completes a FAFSA beginning with the 2011-2012 award year."

Response:

The Committee agrees with the commenter that the effective date should clarify the applicability of these new requirements beginning with the 2011-2012 award year. However, the Committee believes that the event which will trigger the evaluation of a student’s high school completion is an instance in which either the school or the Department has cause to suspect the validity of a student’s high school diploma.

Change:

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

Determinations by a school or the Department that a student’s claim of high school completion is suspect on or after July 1, 2011, beginning with applicants who complete a FAFSA for the 2011-2012 award year.

The *Federal Register* page that provides the Department’s guidance concerning the effective date for this change has been included in the Basis.

COMMENT:

One commenter noted long-standing Departmental guidance permitting a school to rely on a student’s FAFSA self-certification that he or she has received a high school diploma or GED, or that the student has completed a secondary education in a home school as defined by state law. The Department’s guidance does not require a school to ask for a copy, but if the school’s policy requires a copy for admission, the school must rely on that copy and not the student’s self-certification alone. The commenter was unable to locate in the current Manual any mention of this provision. The commenter opined that it is difficult to predict how this existing Departmental policy may be impacted as the result of the new rules for evaluating the validity of a student’s high school completion, and asked the Committee to keep this issue in mind for possible future policy development after the publication of the 2011-2012 FSA Handbook.

Response:

The Committee thanks the commenter for the astute suggestion to maintain a place-holder in the event the Department issues new guidance concerning self-certification of high school completion in light of these final rule changes. The Committee will create a reminder for that purpose.

The Manual does currently include language that permits the self-certification of high school completion, GED attainment, or secondary school completion in a home school in Subsection 5.1.B, page 2, column 1, paragraph 1, bullet 1, and subbullet 2:

In addition to meeting the requirements of Subsection 5.1.A, each student who is seeking a Stafford loan or a Grad PLUS loan—and each student for whom a parent borrower is seeking a PLUS loan—must meet the following eligibility requirements:

- The student must have—**and may self-certify that he or she has**—at least a high school diploma or the recognized equivalent of a high school diploma (see Section 5.9), or the student must meet one of the following standards
 - . . .
 - 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.

Change:

None.

jcs/edited-kk

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: March 17, 2011

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With no changes	Mar 17

SUBJECT: Loan Limits and Progressing from Undergraduate to Graduate Grade Levels

AFFECTED SECTIONS: 6.11.A Stafford Annual Loan Limits

POLICY INFORMATION: 1234/Batch 175

EFFECTIVE DATE/TRIGGER EVENT: For general grade level changes, retroactive to the implementation of the *Common Manual*.

For grade level changes in a dual-degree program, July 1, 2008, unless implemented by the school no earlier than November 1, 2007.

BASIS:

§668.2(b); FSA 09-10 Application and Verification Guide, Chapter 2, p. 13, and Volume 3, Chapter 6, pp. 3-104 and 3-113 through 3-115.

CURRENT POLICY:

Current policy does not explicitly state when a school may certify Stafford annual loan limit changes as a student progresses from an undergraduate to a graduate grade level in a regular or dual-degree program.

REVISED POLICY:

Revised policy reorganizes information about Stafford annual loan limit changes when an undergraduate student's grade level changes within an academic year; delineates the effect on annual loan limits for undergraduate grade level changes vs progression from an undergraduate to a graduate grade level within an academic year; and provides information about loan limit changes as the student progresses from an undergraduate to a graduate grade level in a dual-degree program.

REASON FOR CHANGE:

Information in the Manual has been revised to explicitly state how Stafford annual loan limits change as a student progresses from an undergraduate to a graduate grade level in a regular or dual-degree program.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 6.11.A, page 30, column 1, by inserting the following after paragraph 2, as follows:

Grade Level Changes

A student's annual loan limit may change if the student progresses to a higher grade level or chooses to drop back to a lower grade level to pursue additional studies. The information below outlines the impact of such changes.

Undergraduate Changes in the Same Academic Year

In a credit-hour program that uses standard terms or nonstandard terms that are substantially equal and at least nine weeks of instructional time in length (SE9W), a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level. To provide an increased Stafford loan amount to a student who becomes eligible for the higher Stafford annual loan limits due to a grade level change, a school may do one of the following:

- Request an increase in the amount of the current Stafford loan (see Section 6.20).
- Certify a new loan for a loan period that includes only the term(s) during which the student qualifies for the higher annual loan limit. The new Stafford loan amount must not exceed the higher grade level's annual loan limit, minus the amount of the first Stafford loan for the same academic year.

- Cancel an undelivered Stafford loan disbursement(s) from the first loan that is intended for a term(s) in which the student qualifies for the higher Stafford annual loan limit. The school must determine eligibility for this one term loan using the cost of attendance (COA) minus the expected family contribution (EFC) minus estimated financial aid (EFA). The amount of the new Stafford loan certified for the term(s) during which the student qualifies for the higher annual loan limit must not exceed the amount of the canceled disbursement(s) plus the additional amount for which the student is eligible due to the grade level change.

A school may not certify the higher annual loan limit associated with the next grade level until the student completes both the minimum number of weeks of instructional time and the minimum number of credit or clock hours in the program's defined academic year if the student is enrolled in any one of the following programs:

- A clock-hour program.
- A non-term-based credit-hour program.
- A credit-hour program with nonstandard terms that are *not* SE9W, i.e., the terms are not substantially equal in length, or each term is not at least nine weeks of instructional time in length.
- A credit-hour program with a combination of standard terms and nonstandard terms that does not qualify to use an SAY.

[09-10 FSA Handbook, Volume 3, Chapter 6, pp. 3-113 through 3-114]

Undergraduate and Graduate Grade Levels in the Same Academic Year

A student who progresses from an undergraduate to a graduate status in a single academic year is eligible for the increased graduate Stafford loan limit. A school may request an increase in the amount of the current Stafford loan (see Section 6.20). Alternatively, a school may certify a new loan for a loan period that includes only the term(s) during which the student qualifies for the higher annual loan limit. The new Stafford loan amount must not exceed the higher graduate level annual loan limit, minus the amount of the undergraduate Stafford loan certified for the same academic year. The school may not certify more than the graduate annual loan limit for the entire academic year.

[09-10 FSA Handbook, Volume 3, Chapter 6, p. 3-113]

If a student transfers from a graduate program to an undergraduate program within an academic year, then the undergraduate loan limit for the student's grade level applies. But amounts previously borrowed at the graduate level within the same academic year do not count against the undergraduate annual loan limit. The total amount awarded for the academic year may not exceed the higher (graduate or professional) annual loan limit.

[09-10 FSA Handbook, Volume 3, Chapter 6, p. 3-104]

Grade Level Changes upon Transfer *Grade Level Changes upon Transfer*

If the student's grade level decreases as a result of a transfer between schools or between programs at the same school and an academic year overlap exists, the new school must not certify a Stafford loan for more than the Stafford annual loan limit for the student's decreased grade level at the new school *minus* the outstanding loan amount the student received during the final academic year at the prior school or in the prior program at the same school. The exception to this rule is a transfer from a graduate program to an undergraduate program within an academic year. (See the preceding discussion of changes between undergraduate and graduate levels.) ~~In this case, the undergraduate loan limit for the student's grade level applies, but amounts previously borrowed at the graduate level within the same academic year do not count against the undergraduate annual loan limit. The total amount awarded for the academic year may not exceed the higher (graduate/professional) annual loan limit.~~

[09-10 FSA Handbook, Volume 3, Chapter 6, p. 3-115]

Grade Level Changes in a Dual-Degree Program

A student who is enrolled in a program in which the student completes both a bachelor's degree and either a graduate or professional degree within the same program is considered to be enrolled in a dual-degree program. For the purpose of Stafford annual loan limits, the school must consider such a student to be an undergraduate for at least the first three years of the program. The school determines at what point after three years the student ceases to be an undergraduate and becomes eligible for the increased loan limits available to a graduate student.

[\$668.2(b)]

Revise Subsection 6.11.A, page 33, column 2, paragraph 1, as follows:

Grade Level Increases within the Same Academic Year

~~In a credit-hour program that uses standard terms or nonstandard terms that are substantially equal and at least nine weeks of instructional time in length (SE9W), a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level. To provide an increased Stafford loan amount to a student who becomes eligible for the higher Stafford annual loan limits due to a grade level change, a school may request an increase in the amount of the current Stafford loan (see Section 6.20). Alternately, a school may certify a new loan for a loan period that includes only the term(s) during which the student qualifies for the higher annual loan limits. The new Stafford loan amount must not exceed the higher grade level annual loan limits, minus the amount of the first Stafford loan. A school may choose instead to cancel an undelivered Stafford loan disbursement(s) from the first loan that is intended for a term(s) in which the student qualifies for the higher Stafford annual loan limits. In that case, the new Stafford loan amount must not exceed the amount of the canceled disbursement(s) plus the additional amount for which the student is eligible due to the grade level change.~~

~~A school may not certify the higher annual loan limits associated with the next grade level until the student completes both the minimum number of weeks of instructional time and the minimum number of credit or clock hours in the program's defined academic year if the student is enrolled in any one of the following programs:~~

~~•A clock-hour program.~~

~~•A non-term-based credit-hour program.~~

~~•A credit-hour program with nonstandard terms that are *not* SE9W, i.e., the terms are not substantially equal in length, or each term is not at least nine weeks of instructional time in length.~~

~~•A credit-hour program with a combination of standard terms and nonstandard terms that does not qualify to use an SAY.~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Loan Limits and Progressing from Undergraduate to Graduate Grade Levels

The *Common Manual* has been revised to consolidate into a single subsection with applicable subheadings, the Stafford annual loan limit changes that are allowed as a student progresses from an undergraduate to a graduate grade level in a regular or dual-degree program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will receive applicable changes in Stafford annual loan limits as he or she progresses from an undergraduate to a graduate grade level in a regular or dual-degree program.

School:

A school may certify Stafford loan amounts that are applicable for a student who progresses from an undergraduate to a graduate grade level in a regular or dual-degree program.

Lender/Service:

None.

Guarantor:

A guarantor may need to update program review materials.

U.S. Department of Education:

The Department may need to update its program review materials.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

August 28, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 10, 2011

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board

Comments Received from:

AES/PHEAA, ASA, Great Lakes, HESC (NY), MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, TSAC, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Others provided wordsmithing suggestions which were incorporated without comment. We appreciate the review of all commenters and their careful consideration of this policy.

COMMENT:

One commenter suggested revising the Revised Policy statement to note that the majority of the proposal is reorganization and clarification of existing text and the only new element is the explicit explanation of grade levels in a dual-degree program.

Response:

The Committee agrees.

Change:

The Revised Policy statement has been re-crafted as suggested by the commenter.

COMMENT:

One commenter stated that the first paragraph of the proposed language implies that there is always a change on Stafford annual loan limit if a student progresses to a higher grade level or chooses to drop back to a lower grade level to pursue additional studies and that is not always the case.

Response:

The Committee agrees.

Change:

The first paragraph of the proposed language has been revised to state that the annual loan limit may change.

COMMENT:

One commenter stated that in the proposed language, the new “Grade Level Changes” sub-subsection being added on page 30 is partially duplicative of the fourth bullet on page 28 listing “additional parameters” for determining loan limits for undergraduates. The commenter recommends deletion of the language on page 28.

Response:

The Committee believes that all of the information currently in bullet 4 on page 28 is pertinent.

Change:

None.

COMMENT:

Two commenters noted that all of the current language in *Grade Level Changes upon Transfer* doesn't seem to be included in the policy proposal.

Response:

The Committee appreciates the commenters' notation.

Change:

The last two sentences of the current text were inserted into the paragraph, and then stricken, as the text was moved to the preceding paragraph.

COMMENT:

One commenter suggested that the Committee may want to add language to information in *Undergraduate Changes in the Same Academic Year*. Currently the text states that “A school may choose instead to cancel an undelivered Stafford loan disbursement(s) from the first loan that is intended for a term(s) in which the student qualifies for the higher Stafford annual loan limits. In that case, the amount of the new Stafford loan certified for the term(s) during which the student qualifies for the higher annual loan limit must not exceed the amount of the canceled disbursement(s) plus the additional amount for which the student is eligible due to the grade level change.” The commenter suggested the Committee may want to state that school must determine eligibility for this one term loan using COA-EFC-EFA for only the term in question.

The commenter also suggested reformatting the entire paragraph into a bulleted format to make it easier to follow.

Response:

The Committee agrees.

Change:

The paragraph has been revised with the commenter's suggestion, as follows:

Undergraduate Changes in the Same Academic Year

In a credit-hour program that uses standard terms or nonstandard terms that are substantially equal *and* at least nine weeks of instructional time in length (SE9W), a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level. To provide an increased Stafford loan amount to a student who becomes eligible for the higher Stafford annual loan limits due to a grade level change, a school may do one of the following:

- ~~r~~Request an increase in the amount of the current Stafford loan (see Section 6.20).
- ~~Alternately, a school may e~~Certify a new loan for a loan period that includes only the term(s) during which the student qualifies for the higher annual loan limits. The new Stafford loan amount must not exceed the higher grade level annual loan limits, minus the amount of the first Stafford loan for the same academic year.
- ~~A school may choose instead to e~~Cancel an undelivered Stafford loan disbursement(s) from the first loan that is intended for a term(s) in which the student qualifies for the higher Stafford annual loan limits. The school must determine eligibility for this one term loan

using the cost of attendance minus the expected family contribution minus expected financial aid. In that case, †The amount of the new Stafford loan certified for the term(s) during which the student qualifies for the higher annual loan limit must not exceed the amount of the canceled disbursement(s) plus the additional amount for which the student is eligible due to the grade level change.

ma/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: March 17, 2011

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With no changes	Mar 17

SUBJECT: **Withdrawal Dates at a School That Is Required to Record Attendance**

AFFECTED SECTIONS: **9.4 Withdrawal Dates**

POLICY INFORMATION: **1235/Batch 175**

EFFECTIVE DATE/TRIGGER EVENT: Students who withdraw on or after July 1, 2011.

BASIS:

§668.22(b)(3); *Federal Register* dated October 29, 2010, p. 66897.

CURRENT POLICY:

Current policy states that a school is required to record attendance, and use its attendance records to determine the withdrawal date for a student, if an outside entity requires the school to record attendance for some or all of its students.

REVISED POLICY:

Revised policy states that a school is required to record attendance if any of the following conditions exist:

- An outside entity requires that the school record attendance.
- The school itself has a requirement that its instructors take attendance.
- The school or an outside entity has a requirement that can only be met by recording attendance or a comparable process.

REASON FOR CHANGE:

This change is necessary to update the Manual with final rules published in the *Federal Register* dated October 29, 2010.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 9.4, page 7, column 2, paragraph 5, as follows:

Withdrawal Dates at Schools Required to Record Attendance

~~Some accrediting agencies, state regulatory agencies, and other outside entities require schools to record attendance for some or all of their students.—~~For a school that is required to record attendance, the withdrawal date is the student's last recorded date of academic attendance, as determined by the school from its attendance records. If a student does not resume attendance by the end of an approved leave of absence at the school, or takes a leave of absence that is not an approved leave of absence, the withdrawal date is the student's last recorded date of academic attendance.

[§668.22(b)(1); DCL GEN-98-28]

A school is considered to be required to record attendance if any of the following conditions exist:

- An outside entity (e.g., an accrediting agency or state regulatory agency) requires the school to record attendance. If an outside entity requires a student to self-certify attendance directly to that entity, the school is considered one that must record attendance for the student—and the school must use the student's attendance record to determine the student's withdrawal date—only if the school must verify the student's self-certification.
[§668.22(b)(3)(i)(A); *Federal Register* dated October 29, 2010, p. 66897]
- The school requires its instructors to take attendance. A school that requires its

faculty to take attendance at the program, department, or school level must use those attendance records to determine the date of a student's withdrawal. However, if a faculty member chooses to take attendance, but the school does not require the faculty member to do so, the school is not required to use the faculty member's voluntary attendance records to establish the student's withdrawal date.
[§668.22(b)(3)(i)(B); *Federal Register* dated October 29, 2010, p. 66897]

- The school or an outside entity has a requirement that can only be met by recording attendance or using a comparable process. This includes, but is not limited to, requiring that students in a program demonstrate attendance in the classes of that program or a portion of the program.
[§668.22(b)(3)(i)(C)]

~~If either the A-school requires its instructors or an outside entity requires the school that is required to record attendance for a limited period of time, the school must document the student's attendance through that period use its attendance records to determine the withdrawal date for a student who ceases attendance during that limited period. If the school determines that the student is not in attendance at the end of that period, the student's withdrawal date is determined according to the requirements for a school that is required to record attendance. If the school can document the student's attendance through the period of time during which the school is required to records attendance but the student subsequently withdraws ceases attendance, the student's withdrawal date is determined school must determine the student's withdrawal date according to the requirements for a school that is not required to record attendance (see below).~~
[§668.22(b)(3)(iii)]

~~If either the school requires its instructors or A-school that is required by an outside entity (e.g., a state workforce development agency), requires the school to record attendance for a specific group of students, the school must use the its attendance records to determine the withdrawal date for only that specific group of students under that outside entity's jurisdiction to determine the student's withdrawal date.~~
[§668.22(b)(3)(ii) DCL GEN-00-24]

~~A school is not required to record attendance based on the requirement of an outside entity for a single event (e.g., a one-day census activity). If either the school requires its instructors or an outside entity requires the school to take attendance on only one specified day to meet a census reporting requirement, the school is not considered one that is required to record attendance.~~
[§668.22(b)(3)(iv) 09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-73]

Withdrawal Dates at Schools Not Required to Record Attendance

...

PROPOSED LANGUAGE - COMMON BULLETIN:

Withdrawal Dates at a School That Is Required to Record Attendance

The *Common Manual* has been updated to include final rules published in the October 29, 2010, *Federal Register*. For a school that is required to record attendance, the withdrawal date is the student's last recorded date of academic attendance as determined by the school from its attendance records. A school is considered to be required to record attendance if any of the following conditions exist:

- An outside entity (e.g., an accrediting agency or state regulatory agency) requires the school to record attendance. If an outside entity requires a student to self-certify attendance directly to that entity, the school is considered one that must record attendance for the student—and the school must use the student's attendance record to determine the student's withdrawal date—*only* if the school must verify the student's self-certification.
- The school requires its instructors to take attendance. A school that requires its faculty to take attendance at the program, department, or school level must use those attendance records to determine the date of a student's withdrawal. However, if a faculty member chooses to take attendance but the school does not require the faculty member to do so, the school is not required to

use the faculty member's voluntary attendance records to establish the student's withdrawal date.

- The school or an outside entity has a requirement that can only be met by recording attendance or using a comparable process. This includes, but is not limited to, requiring that students in a program demonstrate attendance in the classes of that program or a portion of the program.

If either the school requires its instructors or an outside entity requires the school to record attendance for a limited period of time, the school must use its attendance records to determine the withdrawal date for a student who ceases attendance during that limited period. If the school can document the student's attendance through the period of time during which the school records attendance but the student subsequently ceases attendance, the school must determine the student's withdrawal date according to the requirements for a school that is not required to record attendance.

If either the school requires its instructors or an outside entity, (e.g., a state workforce development agency), requires the school to record attendance for a specific group of students, the school must use its attendance records to determine the withdrawal date for only that specific group of students.

If either the school requires its instructors or an outside entity requires a school to take attendance on only one specified day to meet a census reporting requirement, the school is not considered one that is required to record attendance.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A student may experience a more accurate determination of the amount of aid earned based on attendance records at a school that requires its faculty to take attendance for some or all of its students.

School:

A school may be required to modify its internal return of Title IV funds and enrollment reporting procedures.

Lender/Service:

None.

Guarantor:

A guarantor may find it necessary to modify its compliance and training tools for schools.

U.S. Department of Education:

The Department may be required to modify 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 14, 2010

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

March 10, 2011

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

Responses to Comments

Many commenters supported this proposal as written. Others provided wordsmithing suggestions which were incorporated without comment. We appreciate the review of all commenters and their careful consideration of this policy.

COMMENT:

One commenter noted that citations provided for proposed language included references to a specific page number in a *Federal Register*. The commenter indicated that it was not conventional to include *Federal Register* page numbers in citations and recommended, for consistency, that they be deleted.

Response:

While not normal practice, the Committee has in the past included references to specific *Federal Register* page numbers in citations to support text derived from preamble guidance or clarification that is not found in regulatory language. A search of the 2010 *Electronic Common Manual* produced 16 such references. The *Federal Register* page number cited in this proposal supports useful proposed text about this rule's non-applicability in a case when a faculty member chooses to take attendance but the school does not require the faculty member to do so.

Change:

None.

COMMENT:

One commenter recommended a revision to the proposed changes in Section 9.4, page 7, column 2, paragraph 5, new bullet 1, as follows:

A school is considered to be required to record attendance if any of the following conditions exist:

- An outside entity (e.g., an accrediting agency or state regulatory agency) requires the school to record attendance. If a student ~~self-certifies is required to self-certify~~ attendance directly to an outside entity, the school ~~must use the student's attendance record to determine the date of the student's withdrawal is considered to be required to record attendance for the student~~ only if the school must verify the student's self-certification.
- ...

The commenter opined that, as originally written, the proposed text seems to be pointing out how a school may "get around" the new rule. The commenter suggested revisions that align closer to the Department's explanation of this change in the final rule preamble.

Response:

The Committee believes that the commenter's suggestion is valuable to clarify that, in a case when a school must verify a student's self-certification of attendance, the school is considered one that is required to record attendance for that student. However, the Committee believes it is equally valuable to explicitly state that, in such a case, the withdrawal date that the school establishes for the student must be based on the student's attendance record.

Change:

Section 9.4, page 7, column 2, paragraph 5, new bullet 1 has been revised as follows:

A school is considered to be required to record attendance if any of the following conditions exist:

- An outside entity (e.g., an accrediting agency or state regulatory agency) requires the school to record attendance. If an outside entity requires a student ~~self-certifies to self-certify~~ attendance directly to ~~an outside-that~~ entity, the school is considered one that must record attendance for the student—and the school must use the student's attendance record to determine the student's withdrawal date—of the student's withdrawal only if the school must verify the student's self-certification.

- ...

COMMENT:

One commenter requested some additional text in Section 9.4, page 7, column 2, paragraph 5, new bullet 2. The commenter requested that the proposed text clarify that the rules for schools that are required to attendance apply whether the institution requires its faculty to take attendance at the program, department, or institutional level.

Response:

The Committee agrees. The Department provides this clarification in the final rule preamble, on p. 66897 of the *Federal Register* dated October 29, 2010.

Change:

Section 9.4, page 7, column 2, paragraph 5, new bullet 2 has been revised as follows:

- The school requires its instructors to take attendance. A school that requires its faculty to take attendance at the program, department, or school level must use those attendance records to determine the date of a student's withdrawal. However, if a faculty member chooses to take attendance, but the school does not require the faculty member to do so, the school is not required to use the faculty member's voluntary attendance records to establish the student's withdrawal date.

jcs/edited-kk