

Batch 150: Proposal 1041

The nation's guarantors provide the following summaries to inform schools, lenders, and servicers of the latest *Common Manual* policy changes. These changes will appear in the manual's next annual update. These changes will also be incorporated into the *Integrated Common Manual*. The *Integrated Common Manual* is available on several guarantor websites, and it is also available on *Common Manual's* website at www.commonmanual.org. Please carefully note the effective date of each policy change.

Failure to Begin Attendance and Return of Ineligible FFELP Funds

The July 2008 update of the *Common Manual* has been revised to clarify that if FFELP loan funds were delivered to, or on behalf of, a student who did not begin attendance in a loan period, or payment period within the loan period, the borrower is ineligible for those funds. A student does not begin attendance if the school is unable to document the student's attendance in any class during a loan period, or during a payment period within the loan period.

Revised policy clarifies that a borrower is ineligible for loan funds due to school error if a school knew, or should have known, before the school delivered loan proceeds to, or on behalf of, a student that the student would not begin attendance during a loan period or a payment period for which the loan funds were intended (e.g., the student notified the school that he or she would not attend or the school expelled the student). The school must repay those funds to the lender as soon as possible, but no later than 30 days after the date that the school becomes aware that the student will not, or did not begin attendance.

A borrower is considered ineligible for FFELP loan funds due to borrower error if any of the following occur:

- The school delivered loan funds to, or on behalf of, an otherwise eligible student as early as 10 days prior to the beginning of a loan period, and the school later learned that the student did not begin attendance in the loan period.
- The school delivered loan funds to, or on behalf of, an otherwise eligible student as early as 10 days prior to a second or subsequent payment period in the loan period, and the school later learned that the student did not begin attendance in the second or subsequent payment period.
- The lender directly disbursed funds to a study-abroad or foreign school student and the student did not begin attendance in the loan period or payment period.

If the ineligible funds were the result of the borrower's error, the school must return to the lender all loan funds credited to the student's account at the school for the loan period or payment period, as applicable, that the student did not attend. The school must also return to the lender the amount of payments made directly by, or on behalf of, the student to the school for the loan period or payment period that the student did not attend, up to the total amount of the loan funds disbursed to the school. A school must return to the lender those funds for which it is responsible as soon as possible, but no later than 30 days after the date that the school becomes aware that the student will not, or did not begin attendance.

The school is not responsible for returning funds that the school delivered directly to a borrower who received loan funds due to borrower error. Similarly, the school is not responsible for returning loan funds that a lender disbursed directly to a student enrolled in a foreign school or study-abroad program. In either case, upon learning that a student will not or did not begin attendance, the school must immediately notify the lender of the borrower's receipt of funds for which he or she was ineligible. A school should include in its notice to the lender the student's withdrawal date, if applicable.

The school's return of FFELP loan funds for which it is responsible is considered timely if the school does one of the following as soon as possible, but no later than 30 days after the date the school becomes aware that the student will not or has not begun attendance:

- Deposits or transfers the amount of funds to be returned into an account that the school maintains for federal funds.
- Initiates an electronic funds transfer (EFT) for the amount of returned funds.
- Initiates an electronic transaction that informs the lender to adjust the borrower's loan account for the amount of returned funds.
- Issues a check for the returned funds. In this case, the school's records must show that the lender's bank endorsed the check within 45 days after the date the school becomes aware that the student will not or has not begun attendance.

Affected Sections: 5.16 Ineligible Borrowers
5.16.A Ineligibility Based on Borrower Error
5.16.B Ineligibility Based on School Error
8.9.B Return of Ineligible Borrower Loan Funds

Effective Date: School determinations that a student did not begin attendance on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

Basis: §668.21; §682.604(d)(3)(i); preamble to the *Federal Register* dated November 1, 2007, pp. 62017-62018.

Policy Information: 1041/Batch 150

Guarantor Comments: None.