

## Summary of Changes Approved October 2006 through April 2007

This summary lists changes made since the 2006 Annual Update of the *Common Manual* was printed.

Change bars denote the latest policy changes, which were approved April 19, 2007.

Changes made before the 2006 Annual Update was printed are shown in appendix H of the manual.

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
<b>Chapter 3: Lender Participation</b>			
3.2 Schools Acting as Lenders and Eligible Lender Trustee Relationships	Revised policy adds a new subheading and text that addresses new and existing eligible lender trust (ELT) relationships with a school lender or an organization affiliated with the school.	Requirements regarding an eligible lender making or holding a FFELP loan as a trustee for a school or for an organization affiliated with a school are effective September 30, 2006.  For loans disbursed on or after January 1, 2007, the lender, school, and school-affiliated organization involved in an existing Eligible Lender Trustee relationship must meet applicable school-as-lender requirements.	951/141
3.2 Schools Acting as Lenders and Eligible Lender Trustee Relationships 3.8.A Annual Compliance Audits	Revised policy clarifies that a school lender makes loans only to students enrolled at that school; that the proceeds used for need-based grants exclude reimbursement of reasonable and direct administrative expenses which do not include costs associated with securing financing, offering reduced origination fees, reduced interest rates to borrowers, or reduced default fees; and that the annual lender compliance audit is required for any fiscal year beginning on or after July 1, 2006.	In order for a school to participate as a lender, the school must have met eligibility criteria as of February 7, 2006, and must have made a FFELP loan(s) on or before April 1, 2006.  On or after July 1, 2006, existing school lenders must meet specific requirements.	950/141
<b>Chapter 4: School Participation</b>			
4.1.A Establishing Eligibility 4.1.C Maintaining Eligibility	Clarifies that, in order to establish or maintain eligibility, schools must submit requests for approval to participate in the Title IV programs and report changes to its current participation agreement to the Department electronically, using the Application for Approval to Participate in Federal Student Financial Aid Programs (E-App).	Applications for recertification, reinstatement, or changes in ownership submitted by the school on or after the publication date of the 1998-1999 <i>Federal Student Aid Handbook</i> . Applications for reporting changes to a current approval submitted by the school on or after the publication date of the 1999-2000 <i>Federal Student Aid Handbook</i> . Applications for initial certification submitted by the school on or after the publication date of the 2000-2001 <i>Federal Student Aid Handbook</i> .	903/134

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4.2.B Financial Aid Administrator Training	This policy adds information about the FSA administration training requirement for schools. To participate in any Title IV program, a school is required to send at least two representatives to the Department of Education's Fundamentals of Title IV Administration Training workshop. Also, if a school changes ownership, structure, or governance, the school representatives must attend the training.	Retroactive to the implementation of the <i>Common Manual</i> .	919/137
4.3.A General School Financial Responsibility Requirements	Revised policy includes information about the Department's requirement that schools use the eZ-Audit, for the submission of financial statements and compliance audits, and copies of the A -133 reports.	Audited financial statements and compliance audits submitted by a school on or after June 16, 2003.	920/137
4.4.C Exit Counseling	Revised policy states that exit counseling must include "the average anticipated monthly repayment amount based on the student's indebtedness" or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.	Exit counseling conducted by or on behalf of the school on or after July 1, 2000.	948/140
<b>Chapter 5: Borrower Eligibility</b>			
5.2.D Prior Overpayment	Revised policy clarifies that if the return of Title IV funds calculation for a withdrawn student shows that the student owes an original grant overpayment amount of \$50 or less, the student remains eligible to receive Title IV, HEA program assistance. Revised policy also clarifies that this \$50 "de minimus" amount is applied on a program-by-program basis.  Finally, the ACG, SMART Grant, and Grad PLUS programs are included in the order in which unearned funds must be returned to Title IV programs.	Withdrawals that occur on or after July 1, 2006.	929/139
5.2.E Prior Default 5.5 Effect of Exceeding Loan Limits on Eligibility	Revised policy clarifies that, in addition to paper documentation, a school can rely upon information accessed directly from a loan holder's database as documentation that satisfactory repayment arrangements have been made on a defaulted loan, that a loan is no longer in default, or that eligibility problems created by excessive borrowing have been resolved.	Title IV eligibility determinations made by a school on or after June 22, 2006.	924/138
5.12.A Telecommunications Program of Study	Revised policy provides information regarding an exception to the accreditation requirements for certain distance education programs, clarifies the use of telecommunications technologies in a foreign school program for the purposes of Title IV eligibility, and modifies the definition of "telecommunications course."	Loans disbursed on or after September 8, 2006.	952/141
5.16.A Ineligibility Based on Borrower Error	Revised policy states that a borrower may not consolidate a loan(s) for which he or she is wholly or partially ineligible but clarifies that the borrower is allowed to consolidate any eligible loans he or she may have.	Consolidation loan applications received on or after December 1, 2006, unless implemented earlier by the lender on or after July 1, 2000.	939/140

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<b>Chapter 6: School Certification</b>			
6.1 Defining an Academic Year Figure 6-1 Statutory Definition of an Academic Year	<p>Revised policy reduces the minimum academic year requirement for clock-hour programs from 30 weeks to 26 weeks in figure 6-1 and in the appendix G definitions of Academic Year and One-Academic-Year Training Program.</p> <p>Revised policy removes language that states that an academic year begins on the first day of classes and ends on the last day of classes or examinations. It adds language that says, for purposes of defining the academic year, a week of instructional time is any consecutive 7-day period in which the school provides at least one day of regularly scheduled classes or examination, or after the last scheduled day of classes for a term or payment period, at least one day of study for final examinations. Instructional time does not include periods of orientation, counseling, vacation, or homework.</p>	The reduction in the minimum number of weeks in an academic year for a clock-hour program is effective for periods of enrollment beginning on or after July 1, 2006. The deletion of the phrase “begins on the first day of classes and ends on the last day of classes or examinations” from the definition of “academic year” is effective September 8, 2006.	925/138
6.1 Defining an Academic Year	Revised policy states that only <i>standard</i> term-based, credit-hour programs may use a scheduled academic year to determine the frequency of annual loan limits, and clarifies the effect of grade level progression in the middle of the academic year.	Publication date of the 2005-2006 <i>Federal Student Financial Aid Handbook</i> , unless implemented earlier by the school.	953/141
6.1 Defining an Academic Year	Revised policy clarifies the annual loan limit calculation for students who transfer to a non-term or nonstandard term-based credit hour program or clock-hour program, and for students who transfer to a standard term-based program.	Publication date of the 2005-2006 <i>Federal Student Financial Aid Handbook</i> , unless implemented earlier by the school.	954/141
Figure 6-2 Frequency of Stafford Annual Loan Limits	Revised policy states that only <i>standard</i> term-based, credit-hour programs may use a scheduled academic year to determine the frequency of annual loan limits, and clarifies the effect of grade level progression in the middle of the academic year.	Publication date of the 2005-2006 <i>Federal Student Financial Aid Handbook</i> , unless implemented earlier by the school.	953/141
6.7 Determining the Amount of Estimated Financial Assistance (EFA)	Revised policy adds to the list of aid that is part of EFA and specifies other aid types that are excluded from the EFA. Revised policy also changes “resources” to “EFA” in figure 8-3, and clarifies the definition of “overaward” in the glossary.	Loans certified by the school on or after September 8, 2006.	940/140
6.11.A Stafford Annual Loan Limits	Revised policy states that only <i>standard</i> term-based, credit-hour programs may use a scheduled academic year to determine the frequency of annual loan limits, and clarifies the effect of grade level progression in the middle of the academic year.	Publication date of the 2005-2006 <i>Federal Student Financial Aid Handbook</i> , unless implemented earlier by the school.	953/141
6.11.A Stafford Annual Loan Limits	Revised policy clarifies the annual loan limit calculation for students who transfer to a non-term or nonstandard term-based credit hour program or clock-hour program, and for students who transfer to a standard term-based program.	Publication date of the 2005-2006 <i>Federal Student Financial Aid Handbook</i> , unless implemented earlier by the school.	954/141
6.11.A Stafford Annual Loan Limits Figure 6-4 Stafford Undergraduate Annual and Aggregate Loan Limits	Revised policy updates the manual with the annual Stafford loan limits that become effective for loans first disbursed on or after July 1, 2007.	Stafford loans first disbursed on or after July 1, 2007.	955/141

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Figure 6-4 Stafford Undergraduate Annual and Aggregate Loan Limits	Revised policy clarifies the content of Figure 6-4 by changing the title to "Stafford Undergraduate Annual and Aggregate Loan Limits," and corrects the numerator of the loan proration formula for a program of study that is less than one academic year in length, to read "number of weeks enrolled in program."	Retroactive to the implementation of the <i>Common Manual</i> .	916/136
6.11.G Effects of a Consolidation Loan on New Stafford Loan Eligibility	The unallocated amount of a Consolidation loan is no longer included in the NSLDS calculation of a student borrower's aggregate outstanding principal balances, and the FAA is no longer required to investigate whether an unallocated amount might impact a student's eligibility for additional Stafford loans. However, if the FAA has conflicting information indicating that the unallocated amount would cause the student to exceed the aggregate limit, the conflict must be resolved and the information derived from that resolution must be used in determining the student's remaining Stafford eligibility.	January 2006.	908/135
6.11.G Effects of a Consolidation Loan on New Stafford Loan Eligibility	Revised policy removes from the third bullet in subsection 6.11.G the requirement for the FAA to investigate whether the unallocated amount of a Consolidation loan reported by NSLDS might impact a student's eligibility for additional Stafford loans.	January 2006.	928/138
6.15.C PLUS Loan Certification	Revised policy adds that if the school participates in both FFEL and Direct Loan Programs, the school must determine the student's maximum Stafford loan eligibility under the program in which the school is participating for Stafford loan purposes.	Loans certified by the school on or after December 1, 2006.	930/139
<b>Chapter 7: Loan Origination</b>			
7.7 Disbursing the Loan	Revised policy requires a lender that disburses loan proceeds through an escrow agent to make funds available to the escrow agent no earlier than 10 days prior to the date of the scheduled disbursement.	Loan proceeds paid by a lender to an escrow agent on or after July 1, 2006.	913/136
7.7.E Disbursement for Students in Study-Aboard Programs or Foreign Schools	This policy clarifies the enrollment verification activities that a guarantor or lender must perform before Stafford loan funds may be disbursed directly to a student attending a foreign school or a student attending a study-abroad program. In addition, revised policy incorporates requirements for a lender to notify a foreign school or, as applicable, the home school in the case of a study-abroad student, when funds are directly disbursed to the student, and requirements for the school to notify the lender if such a student is no longer eligible to receive the loan funds. Finally, revised policy specifies that PLUS loan funds may not be directly disbursed to a borrower or student under any circumstances.	<p><b>Retroactive to the implementation of the <i>Common Manual</i>:</b></p> <p>The lender must notify the foreign school upon disbursing loan funds directly to a student attending the foreign school.</p> <p><b>For loans first disbursed directly to the student on or after July 1, 2006:</b></p> <p>The guarantor must verify that the school is certified to participate in the Title IV programs prior to the lender's direct disbursement of loan funds to a student enrolled in a foreign school.</p> <p><i>[continued on following page]</i></p>	941/140

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		<p><b>For loans first disbursed directly to the student on or after September 8, 2006:</b></p> <p>Any required verification for a study-abroad or foreign school student:</p> <ul style="list-style-type: none"> <li>• Must be completed before each disbursement.</li> <li>• May be made by telephone or e-mail.</li> <li>• For a new student, must confirm that the student has been admitted.</li> <li>• For a continuing student, must confirm that the student is still enrolled.</li> <li>• Must be documented by the lender or guarantor.</li> </ul> <p>The lender must notify the home institution upon disbursing loan funds directly to a study-abroad student. Upon receipt of the notification, the school must notify the lender if the student is no longer eligible for the disbursement.</p> <p>A PLUS loan for a student enrolled in a foreign school may be disbursed by EFT or master check to an account maintained by the school, or by a paper check made co-payable to the borrower and the school, and mailed directly to the school.</p> <p><b>For loans first disbursed directly to the student on or after December 1, 2006:</b></p> <p>Any required verification:</p> <ul style="list-style-type: none"> <li>• Must be made by telephone, e-mail, or facsimile.</li> <li>• Must confirm that the student is enrolled at least half time.</li> <li>• For a student enrolled in a study-abroad program, must be provided by the home institution.</li> <li>• For a student enrolled at a foreign school, must be provided by an official authorized by the foreign school to act on the school's behalf in administering the FFELP.</li> </ul> <p>A lender may make a direct disbursement to a student attending a foreign institution only upon the request of an official authorized by the foreign school to act on the school's behalf in administering the FFELP.</p>	

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<b>Chapter 8: Loan Delivery</b>			
8.2 Required Notices	Revised policy clarifies that a school may provide required notifications via electronic media, provided the borrower or student, as applicable, affirmatively and voluntarily consents to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information.	Borrower disclosures and required notices sent in electronic format on or after May 2001.	942/140
8.2.B School Notice of Credit to Student Account	Revised policy provides additional information about a school's time frame for providing a post-withdrawal disbursement confirmation notice to a student or parent borrower, the content of that notice, the time frame for the borrower's timely response to the notice, and the actions a school must take based on the borrower's timely or untimely response.	For post-withdrawal disbursement confirmations, withdrawals that occur on or after September 8, 2006.  For aid types to be included in the return of Title IV funds calculation, withdrawals that occur on or after July 1, 2006.	931/139
8.6 Managing Overawards	Revised policy states that an overaward occurs when a student receives additional financial assistance or the student's expected family contribution increases, resulting in a reduction of the student's eligibility for a previously certified Stafford or Grad PLUS loan.	For the removal of the foreign school exemption from the overaward provisions, effective September 8, 2006.  For the inclusion of Grad PLUS loans in the overaward provisions, effective December 1, 2006.	943/140
8.7.E Late Delivery	Revised policy clarifies that a school <i>must</i> offer a late delivery of Stafford or PLUS loan funds the student or parent borrower was eligible to receive while the student was still enrolled during a payment period or period of enrollment that the student successfully completed, but <i>may</i> offer a late delivery of Stafford or PLUS loan funds to the student or parent borrower if the student drops to less than half-time enrollment but does not withdraw.  Revised policy also deletes the requirement for the school to contact the borrower, obtain confirmation that the borrower still requires the loan funds, and explain the borrower's obligation to repay any loan funds that the school delivers late.	Late delivery of FFELP loan proceeds by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may have implemented these provisions no earlier than November 1, 2002.	935/139
Figure 8-3 School Requirements before Delivering a FFELP Loan	Revised policy adds to the list of aid that is part of EFA and specifies other aid types that are excluded from the EFA. Revised policy also changes "resources" to "EFA" in figure 8-3, and clarifies the definition of "overaward" in the glossary.	Loans certified by the school on or after September 8, 2006.	940/140
<b>Chapter 9: School Reporting Responsibilities and the Return of Title IV Funds</b>			
9.2 Student Enrollment Status Reporting 9.2.B Reporting Student Enrollment Status Changes to the Lender or Guarantor Ad Hoc Reporting 9.2.C Information Sharing with the Department, a Lender, or a Guarantor	Revised policy states that in addition to submitting regular reports to the NSLDS, a school may be required to report a change in the student's enrollment status that affects the grace period, repayment responsibility, or deferment privileges of a borrower through an ad hoc report. An ad hoc report must be submitted within 30 days unless the school expects to submit a Submittal File within the next 60 days. Revised policy also provides ad hoc reporting methods a school may use. In addition, subsection 9.2.B has been renamed "Ad Hoc Reporting" and a new subsection 9.2.C "Information Sharing with the Department, a Lender, or a Guarantor" has been added.	Enrollment status changes reported by the school on or after March 1, 1997.	909/135

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9.2.B Reporting Student Enrollment Status Changes to the Lender or Guarantor Ad Hoc Reporting	This policy clarifies the enrollment verification activities that a guarantor or lender must perform before Stafford loan funds may be disbursed directly to a student attending a foreign school or a student attending a study-abroad program. In addition, revised policy incorporates requirements for a lender to notify a foreign school or, as applicable, the home school in the case of a study-abroad student, when funds are directly disbursed to the student, and requirements for the school to notify the lender if such a student is no longer eligible to receive the loan funds. Finally, revised policy specifies that PLUS loan funds may not be directly disbursed to a borrower or student under any circumstances.	<p><b>Retroactive to the implementation of the <i>Common Manual</i>:</b></p> <p>The lender must notify the foreign school upon disbursing loan funds directly to a student attending the foreign school.</p> <p><b>For loans first disbursed directly to the student on or after July 1, 2006:</b></p> <p>The guarantor must verify that the school is certified to participate in the Title IV programs prior to the lender's direct disbursement of loan funds to a student enrolled in a foreign school.</p> <p><b>For loans first disbursed directly to the student on or after September 8, 2006:</b></p> <p>Any required verification for a study-abroad or foreign school student:</p> <ul style="list-style-type: none"> <li>• Must be completed before each disbursement.</li> <li>• May be made by telephone or e-mail.</li> <li>• For a new student, must confirm that the student has been admitted.</li> <li>• For a continuing student, must confirm that the student is still enrolled.</li> <li>• Must be documented by the lender or guarantor.</li> </ul> <p>The lender must notify the home institution upon disbursing loan funds directly to a study-abroad student. Upon receipt of the notification, the school must notify the lender if the student is no longer eligible for the disbursement.</p> <p>A PLUS loan for a student enrolled in a foreign school may be disbursed by EFT or master check to an account maintained by the school, or by a paper check made co-payable to the borrower and the school, and mailed directly to the school.</p> <p><i>[continued on following page]</i></p>	941/140

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		<p>For loans first disbursed directly to the student on or after December 1, 2006:</p> <p>Any required verification:</p> <ul style="list-style-type: none"> <li>• Must be made by telephone, e-mail, or facsimile.</li> <li>• Must confirm that the student is enrolled at least half time.</li> <li>• For a student enrolled in a study-abroad program, must be provided by the home institution.</li> <li>• For a student enrolled at a foreign school, must be provided by an official authorized by the foreign school to act on the school's behalf in administering the FFELP.</li> </ul> <p>A lender may make a direct disbursement to a student attending a foreign institution only upon the request of an official authorized by the foreign school to act on the school's behalf in administering the FFELP.</p>	
9.5.A Return Amounts for Title IV Grant and Loan Programs	Revised policy provides additional information about a school's time frame for providing a post-withdrawal disbursement confirmation notice to a student or parent borrower, the content of that notice, the time frame for the borrower's timely response to the notice, and the actions a school must take based on the borrower's timely or untimely response.	<p>For post-withdrawal disbursement confirmations, withdrawals that occur on or after September 8, 2006.</p> <p>For aid types to be included in the return of Title IV funds calculation, withdrawals that occur on or after July 1, 2006.</p>	931/139
9.5.A Return Amounts for Title IV Grant and Loan Programs 9.5.B Processing Returned Funds	<p>Revised policy clarifies that if the return of Title IV funds calculation for a withdrawn student shows that the student owes an original grant overpayment amount of \$50 or less, the student remains eligible to receive Title IV, HEA program assistance. Revised policy also clarifies that this \$50 "de minimus" amount is applied on a program-by-program basis.</p> <p>Subsection 9.5.B has been updated with the 45-day deadline for a school's timely return of unearned FFELP funds, and clarifies that if funds are returned by check, the check must be endorsed by the lender's bank no more than 60 days after the date the school determined that the student withdrew.</p> <p>Finally, the ACG, SMART Grant, and Grad PLUS programs are included in the order in which unearned funds must be returned to Title IV programs.</p>	Withdrawals that occur on or after July 1, 2006.	929/139
<b>Chapter 10: Loan Servicing</b>			
10.11.E Applying Funds Returned by the School	Clarifies that, if a lender deducted the federal default fee (or guarantee fee), or origination fee from the borrower's loan proceeds, the lender must reduce the fee proportionate to the amount of returned loan funds that a lender receives from a school.	Federal Stafford and PLUS loans guaranteed on or after July 1, 2006.	906/134



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<b>Chapter 11: Deferment and Forbearance</b>			
11.1.A General Deferment Eligibility Criteria	Revised policy describes a comaker, in the context of a Consolidation loan, as one of two married individuals who jointly borrowed a Federal Consolidation loan made from an application received by the consolidating lender prior to July 1, 2006.	Consolidation loan applications received by the lender on or after July 1, 2006.	936/139
11.1.A General Deferment Eligibility Criteria	Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan, when the lender retains the loan and how the loan is serviced until an eligibility determination is final, and how the loan balance may be affected by the comaker's or endorser's final discharge.	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	956/141
Figure 11-1 Deferment Eligibility Chart	Revised policy updates the Deferment Eligibility Chart, Figure 11-1 with the military deferment which is available to cover a borrower's loan(s) that is first disbursed on or after July 1, 2001. In addition, the chart has been revised to indicate that all deferments are borrower-based, except for the military deferment that is loan-based.	Military deferments granted on or after July 1, 2006, for loans for which the first disbursement is made on or after July 1, 2001.	937/139
11.2 ACTION Program Deferment 11.3 Armed Forces Deferment 11.4 Economic Hardship Deferment 11.6 In-School Deferment and Summer Bridge 11.7 Internship/Residency Deferment 11.8 Military Deferment 11.9 National Oceanic and Atmospheric Administration Corps Deferment 11.10 Parental Leave Deferment 11.11 Peace Corps Deferment 11.12 Public Health Service Deferment 11.14 Tax-Exempt Organization Volunteer Deferment 11.15 Teacher Shortage Area or Targeted Teacher Deferment 11.18 Working Mother Deferment	Revised policy states that deferment is <i>available to</i> a borrower who is experiencing conditions that qualify the borrower for the deferment.	Retroactive to the implementation of the <i>Common Manual</i> .	917/136
11.19 Forbearance	Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan, when the lender retains the loan and how the loan is serviced until an eligibility determination is final, and how the loan balance may be affected by the comaker's or endorser's final discharge.	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	956/141
11.19.B Documentation Required for Authorized Forbearance	Revised policy adds the requirement that the lender must send a notice confirming the terms of a forbearance agreement to the borrower within 30 days of when the verbal agreement was made between the lender and the borrower.	Borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may have implemented this provision no earlier than November 1, 2002.	932/139

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11.19.F Forbearance of Delinquent Loans 11.19.G Forbearance of Defaulted Loans 11.19.H Borrower Contact during Forbearance 11.19.I Establishing Repayment after Forbearance Figure 11-2 Forbearance Eligibility Chart	Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan, when the lender retains the loan and how the loan is serviced until an eligibility determination is final, and how the loan balance may be affected by the comaker's or endorser's final discharge.	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	956/141
Figure 11-2 Forbearance Eligibility Chart 11.20.D False Certification Due to Identity Theft	Revised policy defines the term "identity theft", provides loan discharge criteria, lender loan servicing requirements, and claim filing procedures when an individual requests false certification discharge due to the crime of identity theft.	False certification as a result of identity theft loan discharge claims processed by the lender on or after September 8, 2006.	945/140
11.20.P Total and Permanent Disability	Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan, when the lender retains the loan and how the loan is serviced until an eligibility determination is final, and how the loan balance may be affected by the comaker's or endorser's final discharge.	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	956/141
<b>Chapter 12: Due Diligence in Collecting Loans</b>			
Introduction	Revised policy describes a comaker, in the context of a Consolidation loan, as one of two married individuals who jointly borrowed a Federal Consolidation loan made from an application received by the consolidating lender prior to July 1, 2006.	Consolidation loan applications received by the lender on or after July 1, 2006.	936/139
<b>Chapter 13: Claim Filing, Discharge, and Forgiveness</b>			
13.1.A Claim Filing Requirements	Revised policy adds a statement that bankruptcy claims filed by exceptional performers are subject to a review of the lender's compliance with standard bankruptcy policies and requirements. The lender's failure to comply with those requirements may result in the guarantor's return of the bankruptcy claim to the lender, or, if the claim has been purchased, the lender's repurchase of the loan(s).	Bankruptcy notifications received by the lender on or after July 1, 2007, unless implemented earlier by the guarantor.	914/136
13.2 Claim Returns	Revised policy adds that a guarantor may not return a claim due to errors in repayment conversion, due diligence, or timely filing for a lender or lender servicer designated as an exceptional performer. However, if the lender is unable to provide a complete claim or if the loan is otherwise ineligible for claim payment (such as ineligibility for claim payment due to a previous, unresolved loss of loan guarantee) the claim file must be returned despite the lender's or servicer's exceptional performer designation.	Claims filed by exceptional performer lenders and lender servicers on or after March 2004.	912/136
13.3 Claim Purchase or Discharge Payment	Revised policy creates consistency between two pieces of text and inserts text to acknowledge the various ways in which a borrower may be determined eligible for false certification loan discharge.	Retroactive to the implementation of the <i>Common Manual</i> .	915/136

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13.5 Claim Repurchase	Revised policy adds a statement that bankruptcy claims filed by exceptional performers are subject to a review of the lender's compliance with standard bankruptcy policies and requirements. The lender's failure to comply with those requirements may result in the guarantor's return of the bankruptcy claim to the lender, or, if the claim has been purchased, the lender's repurchase of the loan(s).	Bankruptcy notifications received by the lender on or after July 1, 2007, unless implemented earlier by the guarantor.	914/136
13.5 Claim Repurchase	Revised policy relocates a comprehensive definition of repurchase to the glossary, and acknowledges that repurchase scenarios are not confined solely to defaulted loans.	Claims repurchased on or after 18 months from the publication of the Common Account Maintenance claim submittal records (CAM chapter 11), unless implemented earlier by the guarantor.	949/140
13.7 Rehabilitation of Defaulted FFELP Loans	Revised policy removes references to a borrower first making satisfactory repayment arrangements in order to rehabilitate a defaulted loan. Also, revised policy acknowledges that a borrower who has been convicted of, or has pled <i>nolo contendere</i> or guilty to a crime involving fraud in obtaining a Title IV, HEA program assistance loan may not rehabilitate that loan. Further, revised policy changes the manual's glossary definition of the term "satisfactory repayment arrangements" to delete the reference to loan rehabilitation.	Regarding the disconnection between satisfactory repayment arrangements and loan rehabilitation: Loan rehabilitation eligibility determinations made on or after July 1, 2006.  Regarding a borrower who has been convicted of, or has pled <i>nolo contendere</i> or guilty to, a crime involving fraud in obtaining Title IV funds: Loan rehabilitation eligibility determinations made on or after September 8, 2006.	926/138
13.8 Discharge	Revised policy requires that the lender of a Consolidation loan submit to the guarantor of the Consolidation loan a request for partial discharge of the portion of the Consolidation loan that represents any underlying loans that are eligible for discharge.	Partial discharge requests filed by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	957/141
13.8 Discharge	Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan, when the lender retains the loan and how the loan is serviced until an eligibility determination is final, and how the loan balance may be affected by the comaker's or endorser's final discharge.	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	956/141
13.8 Discharge	Revised policy describes a comaker, in the context of a Consolidation loan, as one of two married individuals who jointly borrowed a Federal Consolidation loan made from an application received by the consolidating lender prior to July 1, 2006.	Consolidation loan applications received by the lender on or after July 1, 2006.	936/139
13.8.B Closed School	This policy states that if the student transfers any amount of academic credits or credit hours to another school in order to pursue the same program of study as the one in which the student was enrolled at the closed school, the student or borrower, in the case of a PLUS Loan, is not eligible for closed school loan discharge.	Retroactive to the implementation of the <i>Common Manual</i> .	921/137
13.8.D False Certification by the School	Revised policy creates consistency between two pieces of text and inserts text to acknowledge the various ways in which a borrower may be determined eligible for false certification loan discharge.	Retroactive to the implementation of the <i>Common Manual</i> .	915/136

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
13.8.E False Certification Due to Identity Theft	Revised policy defines the term “identity theft”, provides loan discharge criteria, lender loan servicing requirements, and claim filing procedures when an individual requests false certification discharge due to the crime of identity theft.	False certification as a result of identity theft loan discharge claims processed by the lender on or after September 8, 2006.	945/140
13.8.F Total and Permanent Disability	Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan, when the lender retains the loan and how the loan is serviced until an eligibility determination is final, and how the loan balance may be affected by the comaker's or endorser's final discharge.	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.	956/141
13.8.G Unpaid Refund	Revised policy states that a borrower must complete, certify, and submit to his or her lender or guarantor an unpaid refund loan discharge application <i>which includes</i> a sworn statement of several declarations.	Retroactive to the approval of the common Loan Discharge Application: Unpaid Refund.	910/135
13.9.B Teacher Loan Forgiveness Program	Revised policy states that an eligible borrower may combine eligible periods of teaching service at an eligible elementary school with teaching service at an eligible secondary school, and that the aggregate service at the two types of schools may qualify the borrower for loan forgiveness.	Teacher loan forgiveness determinations made by the lender on or after October 30, 2004.	933/139
13.9.B Teacher Loan Forgiveness Program	Revised policy states that a <i>qualifying school</i> also includes all elementary and secondary schools operated by the Bureau of Indian Affairs (BIA) or operated on Indian reservations by Indian tribal groups under contract with the BIA.	Teacher Loan Forgiveness determinations made by the lender on or after September 8, 2006. Lenders may implement this provision on or after July 3, 2006.	927/138
<b>Chapter 15: Federal Consolidation Loans</b>			
15.2 Borrower Eligibility and Underlying Loan Holder Requirements	Revised policy states that a borrower may not consolidate a loan(s) for which he or she is wholly or partially ineligible but clarifies that the borrower is allowed to consolidate any eligible loans he or she may have.	Consolidation loan applications received on or after December 1, 2006, unless implemented earlier by the lender on or after July 1, 2000.	939/140
15.2 Borrower Eligibility and Underlying Loan Holder Requirements	Revised policy clarifies that a borrower who has either a Federal or Direct Consolidation loan may obtain a subsequent Federal or Direct Consolidation loan if the borrower is consolidating an existing Consolidation loan with at least one other eligible loan, including another eligible Consolidation loan.	Consolidation applications received on or after December 1, 2006, unless implemented earlier by the guarantor.	934/139
15.2 Borrower Eligibility and Underlying Loan Holder Requirements	Revised policy allows a borrower to consolidate a single Federal Consolidation loan into a Direct Consolidation loan if the single Federal Consolidation loan is held by the guarantor as a result of a bankruptcy claim and the borrower is seeking an income-contingent repayment schedule.	Direct Consolidation Loan applications submitted by borrowers on or after December 1, 2006.	946/140
15.2 Borrower Eligibility and Underlying Loan Holder Requirements	Revised policy removes text in section 15.2 regarding Consolidation loan interest rates for applications received by the lender between November 13, 1997, and September 30, 1998, inclusive, as it is no longer relevant to current Consolidation loan interest rate policy.	Upon approval by the Governing Board on January 18, 2007.	923/137

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
15.2 Borrower Eligibility and Underlying Loan Holder Requirements 15.3.C Reviewing the Loan Verification Certificate	Revised policy allows a borrower to seek consolidation with any consolidation lender, even if the borrower's loans are held by one holder.	Federal Consolidation loan applications received by the lender on or after June 15, 2006.	904/134
15.5.F Delinquency, Default, and Claim Filing, Loan Forgiveness, and Discharge	Revised policy acknowledges that in certain cases, a portion of a Consolidation loan may be discharged based on the total and permanent disability of one of the coborrowers. Revised policy also provides information and cross-references regarding the circumstances under which a Consolidation loan may be partially discharged or forgiven.	<p>Closed school and false certification provisions retroactive to the implementation of the <i>Common Manual</i>.</p> <p>Teacher loan forgiveness provisions for Consolidation loans that do not include a FFELP or FDLP loan first disbursed before October 1, 1998.</p> <p>Death discharge provisions effective July 1, 2003.</p> <p>Unpaid school refunds granted on or after July 1, 2000, for loans disbursed in whole or in part on or after January 1, 1986.</p> <p>Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.</p>	962/141
<b>Chapter 16: Cohort Default Rates and Appeals</b>			
16.1 Overview of Cohort Default Rates and Terminology	Adds information regarding the electronic process that the Department uses to notify schools of draft and official cohort default rates.	Domestic school's receipt of draft and of official cohort default rate notifications on or after June 1, 2005.	905/134
16.2 Calculation of Cohort Default Rates	Revised policy clarifies that the cohort for a fiscal year consists of all former students who, during that fiscal year, entered repayment on any Federal Stafford loan, Federal SLS loan, or Direct Stafford loan that they received, or on the portion of a loan made under the Federal Consolidation Loan Program or the Federal Direct Consolidation Program that is used to repay those loans.	Retroactive to the implementation of the <i>Common Manual</i> .	938/139
<b>Appendix A: Interest Benefits and Special Allowance</b>			
A.2 Special Allowance and Excess Interest	Revised policy requires lenders to remit excess interest to the Department on any loan, first disbursed on or after April 1, 2006, for any quarter in which the applicable interest rate on the loan exceeds the defined special allowance support level.	Effective for quarterly lender reporting and payment of excess interest on FFELP loans first disbursed on or after April 1, 2006.	958/141
A.2 Special Allowance and Excess Interest	Revised policy states that PLUS loans first disbursed on or after January 1, 2000, for any period prior to April 1, 2006, are only eligible for special allowance if the loan is accruing at the cap and the interest rate calculated prior to applying the cap exceeds the maximum interest rate for the loan.	Special allowance payments made on or after April 1, 2006.	959/141
A.2.A Special Allowance and Excess Interest Rates	Revised policy includes formulas and explanations of the calculation of excess interest to be remitted to the Department by a lender.	Effective for the quarterly calculation of excess interest to be remitted by lenders on FFELP loans first disbursed on or after April 1, 2006.	960/141

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
Figure A-5 LaRS Special Allowance and Interest Rate Reporting for FFELP Loans	Revised policy states that PLUS loans first disbursed on or after January 1, 2000, for any period prior to April 1, 2006, are only eligible for special allowance if the loan is accruing at the cap and the interest rate calculated prior to applying the cap exceeds the maximum interest rate for the loan.	Special allowance payments made on or after April 1, 2006.	959/141
<b>Appendix B: PLUS/SLS Refinancing</b>			
B.2 Option 2: Refinancing to Secure a Variable Interest Rate	Clarifies that neither the guarantor nor the lender may charge a borrower a federal default fee (formerly guarantee fee) for refinancing loans to secure a variable interest rate.	Federal Stafford and PLUS loans guaranteed on or after July 1, 2006.	906/134
B.2 Option 2: Refinancing to Secure a Variable Interest Rate B.3 Option 3: Refinancing by Obtaining a New Loan	Adds the statutory limitations that define which loans may be refinanced for the purpose of changing a fixed-rate PLUS or SLS Loan to a variable-rate loan.	PLUS or SLS loans first disbursed prior to July 1, 1987.	907/134
<b>Appendix G: Glossary</b>			
Academic Year	<p>Revised policy reduces the minimum academic year requirement for clock-hour programs from 30 weeks to 26 weeks in figure 6-1 and in the appendix G definitions of Academic Year and One-Academic-Year Training Program.</p> <p>Revised policy removes language that states that an academic year begins on the first day of classes and ends on the last day of classes or examinations. It adds language that says, for purposes of defining the academic year, a week of instructional time is any consecutive 7-day period in which the school provides at least one day of regularly scheduled classes or examination, or after the last scheduled day of classes for a term or payment period, at least one day of study for final examinations. Instructional time does not include periods of orientation, counseling, vacation, or homework.</p>	The reduction in the minimum number of weeks in an academic year for a clock-hour program is effective for periods of enrollment beginning on or after July 1, 2006. The deletion of the phrase “begins on the first day of classes and ends on the last day of classes or examinations” from the definition of “academic year” is effective September 8, 2006.	925/138
Cohort Default Rate	Revised policy clarifies that the cohort for a fiscal year consists of all former students who, during that fiscal year, entered repayment on any Federal Stafford loan, Federal SLS loan, or Direct Stafford loan that they received, or on the portion of a loan made under the Federal Consolidation Loan Program or the Federal Direct Consolidation Program that is used to repay those loans.	Retroactive to the implementation of the <i>Common Manual</i> .	938/139
Comaker	Revised policy describes a comaker, in the context of a Consolidation loan, as one of two married individuals who jointly borrowed a Federal Consolidation loan made from an application received by the consolidating lender prior to July 1, 2006.	Consolidation loan applications received by the lender on or after July 1, 2006.	936/139
Default	Revised policy removes the reference to 270 “consecutive” days, and defines “default” in the glossary as the failure of a borrower (or endorser or comaker, if any) to make installment payments when due, provided that this failure persists for the most recent period of 270 days for a loan repayable in monthly installments.	Retroactive to the implementation of the <i>Common Manual</i> .	918/136

Common Manual Section	Description of Change	Effective Date/Triggering Event	#
One-Academic-Year Training Program	<p>Revised policy reduces the minimum academic year requirement for clock-hour programs from 30 weeks to 26 weeks in figure 6-1 and in the appendix G definitions of Academic Year and One-Academic-Year Training Program.</p> <p>Revised policy removes language that states that an academic year begins on the first day of classes and ends on the last day of classes or examinations. It adds language that says, for purposes of defining the academic year, a week of instructional time is any consecutive 7-day period in which the school provides at least one day of regularly scheduled classes or examination, or after the last scheduled day of classes for a term or payment period, at least one day of study for final examinations. Instructional time does not include periods of orientation, counseling, vacation, or homework.</p>	<p>The reduction in the minimum number of weeks in an academic year for a clock-hour program is effective for periods of enrollment beginning on or after July 1, 2006.</p> <p>The deletion of the phrase “begins on the first day of classes and ends on the last day of classes or examinations” from the definition of “academic year” is effective September 8, 2006.</p>	925/138
Overaward	Revised policy adds to the list of aid that is part of EFA and specifies other aid types that are excluded from the EFA. Revised policy also changes “resources” to “EFA” in figure 8-3, and clarifies the definition of “overaward” in the glossary.	Loans certified by the school on or after September 8, 2006.	940/140
Repurchase (of a Claim)	Revised policy relocates a comprehensive definition of repurchase to the glossary, and acknowledges that repurchase scenarios are not confined solely to defaulted loans.	Claims repurchased on or after 18 months from the publication of the Common Account Maintenance claim submittal records (CAM chapter 11), unless implemented earlier by the guarantor.	949/140
Satisfactory Repayment Arrangement	Revised policy removes references to a borrower first making satisfactory repayment arrangements in order to rehabilitate a defaulted loan. Also, revised policy acknowledges that a borrower who has been convicted of, or has pled <i>nolo contendere</i> or guilty to a crime involving fraud in obtaining a Title IV, HEA program assistance loan may not rehabilitate that loan. Further, revised policy changes the manual's glossary definition of the term “satisfactory repayment arrangements” to delete the reference to loan rehabilitation.	<p>Regarding the disconnection between satisfactory repayment arrangements and loan rehabilitation: Loan rehabilitation eligibility determinations made on or after July 1, 2006.</p> <p>Regarding a borrower who has been convicted of, or has pled <i>nolo contendere</i> or guilty to, a crime involving fraud in obtaining Title IV funds: Loan rehabilitation eligibility determinations made on or after September 8, 2006.</p>	926/138
Telecommunications Course	Revised policy provides information regarding an exception to the accreditation requirements for certain distance education programs, clarifies the use of telecommunications technologies in a foreign school program for the purposes of Title IV eligibility, and modifies the definition of “telecommunications course.”	Loans disbursed on or after September 8, 2006.	952/141



Common Manual Section	Description of Change	Effective Date/Triggering Event	#
<b>Appendix H: History of the FFELP and the <i>Common Manual</i></b>			
H.4 History of Statutory and Regulatory Waivers	Revised policy includes in section H.4 of the <i>Common Manual</i> information on the waiver of the return of Title IV funds requirements for schools affected by Hurricanes Katrina or Rita.	February 23, 2006.	947/140
H.4 History of Statutory and Regulatory Waivers	Revised policy removes references to a borrower first making satisfactory repayment arrangements in order to rehabilitate a defaulted loan. Also, revised policy acknowledges that a borrower who has been convicted of, or has pled <i>nolo contendere</i> or guilty to a crime involving fraud in obtaining a Title IV, HEA program assistance loan may not rehabilitate that loan. Further, revised policy changes the manual's glossary definition of the term "satisfactory repayment arrangements" to delete the reference to loan rehabilitation.	Regarding the disconnection between satisfactory repayment arrangements and loan rehabilitation: Loan rehabilitation eligibility determinations made on or after July 1, 2006.  Regarding a borrower who has been convicted of, or has pled <i>nolo contendere</i> or guilty to, a crime involving fraud in obtaining Title IV funds: Loan rehabilitation eligibility determinations made on or after September 8, 2006.	926/138
H.4 History of Statutory and Regulatory Waivers	Policy in appendix H.4, Statutory and Regulatory Waivers, item #20, is revised by updating the requirements to reflect that a borrower must make nine payments received by the holder within 20 days of the due date during 10 consecutive months.	Loan rehabilitation waivers granted on or after July 1, 2006. A guarantor has the option of considering a borrower to have met the new rehabilitation standard if at least one of the borrower's payments under the rehabilitation agreement is made on or after July 1, 2006.	922/137



- A **guarantor**, for purposes of making loans permitted by the **Higher Education Act, Sections 428(h) and 428(j)**.  
[HEA 435(d)(1)(H)]
- An eligible **school** (see **section 3.2**).  
[HEA 435(d)(1)(E); §682.200(b)]

Any of the preceding entities may be further regulated or defined by state law, as applicable. For example, Texas state law and practice impose certain additional eligibility requirements on some lenders.

## 3.2

### **Schools Acting as Lenders and Eligible Lender Trustee Relationships**

Special rules apply for a school that acts as a lender or for any party in an Eligible Lender Trustee (ELT) relationship.

#### **Schools Acting as Lenders<sup>1</sup>**

An eligible **school** may act as a **lender** under the Federal Stafford Loan Program if it meets all eligibility requirements applicable as of February 7, 2006, and made its first loan under the FFELP on or before April 1, 2006. In addition, in order to continue to participate, the eligible school must meet all of the following criteria:

- The school makes loans only to students enrolled at the school.  
[HEA 435(d)(2)(A)(iii)(II); §682.601(a)(3)(iii)]
- The school makes only subsidized and unsubsidized Stafford loans.  
[HEA 435(d)(2)(A)(iii)(II); §682.601(a)(3)(ii)]
- The school makes loans to only graduate and professional students.  
[HEA 435(d)(2)(A)(iii)(I) and (III); §682.601(a)(3)(i)]
- The school employs at least one person whose full-time responsibilities are limited to the administration of the school's financial aid programs for students attending that school.  
[HEA 435(d)(2)(A)(i); §682.601(a)(1)]
- The school offers an origination fees and/or interest rates, or both, that are is less lower than the statutory maximums for those fees or rates.  
[HEA 435(d)(2)(A)(v); §682.601(a)(5)]

- The school uses the proceeds from its **interest benefits** and **special allowance** payments from the Department and from interest payments from its borrowers, as well as the proceeds from the sale or other disposition of its loans, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loans, and the cost of charging origination fees and/or interest rates that are lower than the statutory maximum for those fees or rates) for need-based grant programs, except for reimbursement of reasonable and direct administrative expenses. Administrative expenses do not include costs associated with securing financing or offering reduced origination fees, interest rates, or federal default fees to the school's borrowers. The school must ~~ensure~~ demonstrate that funds for need-based grant ~~programs~~ are used to supplement, rather than replace, the non-federal funds the school would otherwise use for need-based grants programs.  
[HEA 435(d)(2)(A)(viii); HEA 435(d)(2)(B) and (C); §682.601(a)(78), (b), and (c)]

- The school is not a home-study school.  
[HEA 435(d)(2)(A)(ii); §682.601(a)(2)]
- The school ~~does has not had have a cohort default rates that exceeds 10% for each of the two most recent fiscal years unless it has received a waiver on this restriction from the Department.~~  
[HEA 435(d)(2)(A)(vi); §682.601(a)(6)]
- The school awards any contract for financing, servicing, or administration of its FFELP loans on a competitive basis.  
[HEA 435(d)(2)(A)(iv); §682.601(a)(4)]
- The school submits to the Department an annual lender compliance audit for ~~any each~~ each fiscal year beginning on or after July 1, 2006, in which the school engages in activities as an eligible lender. This requirement applies regardless of the size of the school's loan portfolio or annual loan volume. (See subsection 3.8.A for more information regarding the annual compliance audit.)  
[HEA 435(d)(2)(A)(vii); §682.601(a)(7)]<sup>2</sup>

<sup>1</sup> Policy 951 (Batch 141), approved April 19, 2007

<sup>2</sup> Policy 950 (Batch 141), approved April 19, 2007

**Eligible Lender Trustee (ELT) Relationships**

Effective September 30, 2006, a school may not enter into a new relationship with an eligible lender to make and/or hold a FFELP loan as a trustee for the school or for an organization affiliated with the school, also known as an Eligible Lender Trustee relationship. ELT relationships established prior to September 30, 2006, may continue, and may be renewed, as long as the relationship remains in effect after September 30, 2006, and the ELT held at least one loan in trust on behalf of the school or organization as of that date.

Effective January 1, 2007, all parties involved in an ELT relationship must meet the following eligibility requirements:

- A school directly involved in, or affiliated with an organization directly involved in an ELT relationship:
  - = Must employ at least one person whose full-time responsibilities are limited to the administration of the school's financial aid programs for students attending that school.
  - = Must not be a home study school.
  - = Must have a [cohort default rate](#) of 10% or less.
  - = May lend only to its own students.
  - = May make only Stafford loans to graduate and professional students.
  - = Must offer an [origination fee](#) and/or interest rate that is lower than the statutory maximum for that fee or rate.
  - = Must use the proceeds from interest payments from borrowers, interest subsidy and [special allowance](#) payments on the loans made and held in trust, and proceeds from the sale or other disposition of the loans, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loan, and the cost of charging an origination fee and/or interest rate that is lower than the statutory maximum for that fee or rate), for need-based grants if the school receives these proceeds directly or indirectly.
  - = Must ensure that ELT loans are included in the school's annual compliance audit.
- An "organization affiliated with the school" is defined as any organization that is directly or indirectly connected to the school, including, but not limited to, an alumni association, athletics organization, or social, academic, or professional organizations. An organization affiliated with the school and involved in an ELT relationship:
  - = May lend only to students attending the school with which it is affiliated.
  - = May make only Stafford loans to graduate and professional students.
  - = Must offer an origination fee and/or interest rate that is lower than the statutory maximum for that rate or fee.
  - = Must use the proceeds from interest payments from borrowers, interest subsidy and special allowance payments on the loans made and held in trust, and proceeds from the sale or other disposition of the loans, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loan, and the cost of charging an origination fee and/or interest rate that is lower than the statutory maximum for that fee or rate), for need-based grants if the school receives these proceeds directly or indirectly.
  - = Must ensure that ELT loans are included in the annual lender compliance audit.
- An eligible lender acting as trustee:
  - = May lend only to students attending the school for which it is a trustee.
  - = May make only Stafford loans to graduate or professional students on behalf of that school.
  - = Must offer an origination fee and/or interest rate that is lower than the statutory maximum for that rate or fee.
  - = Must ensure that ELT loans are included in the annual lender compliance audit.

[\[DCL GEN-06-21\]](#)<sup>1</sup>

<sup>1</sup>. Policy 951 (Batch 141), approved April 19, 2007

## 3.8 Independent Audits

Lenders, secondary markets, and third-party servicers must undergo independent compliance audits to continue eligibility to participate in the FFELP. These audits, which are required by federal law and regulation, are described in this section.

[HEA 428(b)(1)(U); §682.305(c)]

### 3.8.A Annual Compliance Audits

Except as provided below, a lender that makes or holds FFELP loans is subject to a compliance audit at least once a year. The audit must be conducted on a fiscal-year basis by a qualified independent organization or person, in accordance with standards established for the audit of governmental organizations and programs by the U.S. Comptroller General. The audit must cover the period since the most recent audit.

[§682.305(c)(1)]

The audit must examine the lender's compliance with the Act and applicable regulations and must examine the lender's financial management of its FFELP activities. If the lender is required to submit the audit report to the Department, the report must be submitted no later than 6 months after the close of the audit period.

[§682.305(c)(2)(i) through (iv)]

A lender is required to submit the compliance audit report to the Department if, during the fiscal year being audited, it made or held more than \$5 million in FFELP loans. Generally, a lender is exempt from the annual audit requirement for any fiscal year subject to audit in which the lender made or held \$5 million or less in FFELP loans.

[§682.305(c)(1)]

For each fiscal year beginning on or after July 1, 2006, a school lender must submit an annual compliance audit that includes its FFELP lending activities regardless of the size of the school's loan portfolio or annual loan volume. A school lender subject to the Single Audit Act is required to include its FFELP lending activities in the annual audit and to include information on those activities in the audit report, whether or not the lending activities or the student financial aid programs are considered a "major program" under the Single Audit Act. Other school lenders must arrange for a separate audit of their lending activities using the Lender Audit Guide.

[HEA 435(d)(2)(A)(vii); §682.601(a)(7)]<sup>1</sup>

An eligible lender that is a bank as defined in section 3(a)(1) of the Federal Deposit Insurance Act, is a wholly owned subsidiary of a tax-exempt nonprofit foundation [as described in §501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under §501(c)(1) of the Code], makes FFELP loans only to undergraduate students who are age 22 or younger, and has a FFELP portfolio of \$5 million or less, *must submit the results of an audit annually*. [HEA 428(b)(1)(U); HEA 435(d)(1)(A)(ii)(III)]

#### Audit Requirements for Lenders That Do Not Make or Purchase Loans with Tax-Exempt Obligations

If a lender does not make or purchase FFELP loans with tax-exempt obligations, its annual compliance audit must be conducted in accordance with the *Government Auditing Standards* issued by the U.S. General Accounting Office (GAO).

If the lender is a governmental entity, the audit must be conducted in accordance with 31 U.S.C. 7502 and 34 CFR Part 80.26.

[§682.305(c)(2)(v)]

If the lender is a nonprofit organization, the audit must be conducted in accordance with OMB Circular A-133, *Audit of Institutions of Higher Education and Other Nonprofit Institutions*, as incorporated in 34 CFR 74.26. If a nonprofit lender qualifies for and chooses the option of a program-specific audit as provided for in Circular A-133, the program-specific audit must be an independent annual compliance audit conducted by a qualified independent organization or person.

[§682.305(c)(2)(vi)]

If a lender already has been audited in accordance with 31 U.S.C. 7502 for other purposes, the Department may determine that the lender has met the independent compliance audit requirements if the lender submits the results of the audit to the Department for review.

[§682.305(c)(2)(vii)]

Specific audit procedures are contained in the audit guide developed and published annually by the Department. For information on how to obtain an audit guide, see subsection 2.3.B.

#### Audit Requirements for Authorities That Make or Purchase Loans with Proceeds of Tax-Exempt Obligations

An audit for a governmental entity that makes or purchases FFELP loans with tax-exempt obligations must be conducted in accordance with 31 U.S.C. 7502 and 34 CFR Part 80, Appendix G.

[§682.305(c)(2)(v)]

<sup>1</sup> Policy 950 (Batch 141), approved April 19, 2007

The school must ensure the information on the following subjects is provided to the student borrower during exit counseling:

- ~~Sample~~ The average anticipated monthly repayment amounts based on ~~a range of levels of the student's indebtedness~~ or based on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.<sup>1</sup>  
[§682.604(g)(2)(i)]
- Available repayment options including standard, graduated, extended, and income-sensitive repayment plans and loan consolidation.  
[§682.604(g)(2)(ii)]
- Debt-management strategies that would facilitate repayment.  
[§682.604(g)(2)(iii)]
- The conditions under which the student borrower may defer or forbear repayment or obtain a full or partial discharge of the loan.  
[§682.604(g)(2)(v)]
- The seriousness and importance of the repayment obligation that the student has assumed.  
[§682.604(g)(2)(iv)]
- The likely consequences of default, including adverse credit reports, federal offset, and litigation.  
[§682.604(g)(2)(iv)]
- The availability of the Student Loan Ombudsman's Office.  
[§682.604(g)(2)(vii)]
- The use of the Federal Stafford Loan Master Promissory Note (Stafford MPN).  
[§682.604(g)(2)(iv)]
- The obligation to repay the full amount of the loan—even if the student borrower has not completed the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services the student purchased from the school. (The school or the school designee must provide this information to all of the school's student borrowers except those who receive a loan made or originated by the school).  
[§682.604(g)(2)(iv)]

- The availability of Title IV loan information in the National Student Loan Data System (NSLDS).

A school that conducts exit counseling by interactive electronic means must take reasonable steps to ensure that each student receives the counseling materials, and participates in and completes the counseling. Schools are required to maintain a record to substantiate the school's compliance with exit counseling requirements for each student.

[§682.604(g)(3)]

Additional information that the Department recommends including in exit counseling can be found in the 2006-2007 *Federal Student Aid Handbook, Volume 2, Chapter 6*, pp. 2-103 to 2-105.

## 4.5 Recordkeeping Requirements

Federal regulations mandate that a school retain complete and accurate records in a systematically organized manner. Records must be readily available for review by the Department or the Department's authorized representative at an institutional location designated by the Department or the Department's authorized representative.

[§668.24(d)(1) and (2)]

A discussion of the key records a school is required to maintain for the FFELP follows. Additional information on school recordkeeping requirements for all Title IV programs—including a comprehensive listing of required records—can be found in the 2006-2007 *Federal Student Aid Handbook, Volume 2, Chapter 9*, pp. 2-147 to 2-166. Schools must maintain any program record that documents compliance with Title IV program requirements.

Schools should consult state recordkeeping requirements to determine whether state requirements supersede these federal requirements.

### Program Records

A school must maintain any application for FFELP funds and up-to-date records that document:

- The school's eligibility to participate in the FFELP.  
[§668.24(a)(1)]
- The eligibility of the school's educational programs for FFELP funds.  
[§668.24(a)(2)]

<sup>1</sup>. Policy 948 (Batch 140), approved April 19, 2007

The school must develop a process to identify the student as pursuing teacher certification or recertification (e.g., collect a written statement from the student or have a special classification assigned by the school), and must document that the courses are required by the state for teacher certification or recertification. A student who is enrolled in a teacher-certification or recertification program is considered a fifth-year [undergraduate student](#) (see [section 6.11](#) for applicable loan limits).

[[HEA 484\(b\)\(4\)](#); [§668.32\(a\)\(1\)\(iii\)](#); [§682.215\(b\)](#); [2006-2007 Federal Student Aid Handbook, Volume 1, Chapter 1, pp. 1-4 to 1-5](#)]

## 5.12 Use of Telecommunications and Correspondence in Programs of Study

A student's enrollment in [telecommunications](#) or [correspondence](#) courses can affect his or her eligibility for Stafford loans and [Grad PLUS loans](#), and a parent's eligibility for [parent PLUS loans](#).

### 5.12.A Telecommunications Program of Study

An otherwise eligible student enrolled in a program of study offered in whole or in part through [telecommunications](#) is eligible for Title IV ~~aid program assistance~~ if each of the following applies:

- The program leads to a recognized certificate, or to an associate, bachelor's, or graduate degree.  
[[HEA 484\(l\)\(1\)](#); ~~[§668.38\(b\)\(1\)\(i\)](#)~~; [DCL GEN-06-05](#)]
- The ~~student's school providing the program~~ has been evaluated by an accrediting agency recognized by the Department as having the evaluation of distance education programs within its scope of recognition. ~~and The accrediting agency must determined to have that the school has the capability to effectively deliver distance education programs.~~ ~~by an accrediting agency that is recognized by the Department and has the evaluation of distance education programs within its scope of recognition.~~ Beginning July 1, 2006, the Department provides an 18-month waiver of the distance education evaluation component. The waiver applies to certain distance education programs that were offered as of July 1, 2006, but for which the Department did not recognize the accrediting agency as having the evaluation of distance education

programs within its scope of recognition.

[[HEA 481\(b\)\(3\)](#); [§668.8\(m\)](#); [DCL GEN-06-05](#); [GEN-06-17](#)]

If a foreign school offers a program of study that includes even a single telecommunications course, that program of study is ineligible for Title IV ~~aid funds~~.

Telecommunications technologies may be used in the foreign school classroom to supplement and support instruction offered as part of an otherwise eligible program, as long as the student and instructor are physically present in the classroom.

[[§600.51\(d\)\(4\)](#); [§668.8\(m\)](#); [DCL GEN-06-11](#)]<sup>1</sup>

### 5.12.B Correspondence Program of Study

An otherwise eligible student enrolled in a [correspondence](#) course is eligible to receive Title IV program assistance only if the student is enrolled in a program of study that leads to an associate, bachelor's, or graduate degree.

[[§668.38\(b\)\(1\)\(I\)](#)]

A school is not eligible to participate in the Title IV programs if, during its most recently completed award year, either of the following conditions applies:

- More than 50% of the school's courses were correspondence courses. This limitation does not apply to a school that mainly provides vocational adult education or job training defined under section 521(4)(C) of the [Carl D. Perkins Vocational and Applied Technology Education Act](#).
- 50% or more of the school's regularly enrolled students were enrolled in correspondence courses.  
[[2006-2007 Federal Student Aid Handbook, Volume 2, Chapter 1, p. 2-12](#)]

## 5.13 Foreign Schools and Study-Abroad Programs

Students who participate in programs of study at foreign schools or in study-abroad programs sponsored by a home school that is in the United States are eligible for FFELP loan funds in certain cases.

<sup>1</sup>. Policy 952 (Batch 141), approved April 19, 2007



When a lender discovers or is notified by a school or guarantor at any time that a borrower was ineligible for any portion of a loan, the lender, in conjunction with the school and/or guarantor must determine which party was responsible for the error: the borrower, the school, or the lender.

## 5.16.A Ineligibility Based on Borrower Error

In some situations, a **borrower** is considered ineligible for a loan due solely to his or her own error. The key factor in determining whether the borrower is solely responsible for his or her ineligibility is whether the borrower provided false or incorrect information in the loan process or acted in a way that caused the borrower to be ineligible for the loan.

Examples of situations in which a borrower is considered solely responsible for his or her ineligibility include, but are not limited to:

- **Funds** are delivered to a student or parent during the 10-day period prior to the first day of the first **payment period** in a **loan period**, but the student never attends classes, or withdraws, or is expelled prior to the first day of the first payment period and fails to pay those funds to the school or repay the funds to the lender.
- A borrower misrepresents his or her eligibility for a loan. Examples of such misrepresentation are the misreporting of family size, income, or student or borrower **default** status.

If a **school** delivers loan funds to or on behalf of an otherwise eligible borrower during the 10-day period prior to the first day of a second or subsequent payment period, and the student does not attend any classes in the second or subsequent payment period, or withdraws, or is expelled prior to the first day of the second or subsequent payment period, the school must determine whether the borrower was eligible to receive the funds. If the school determines that the borrower was ineligible for the loan funds, the school must notify the lender of the borrower's receipt of ineligible funds (see **subsection 12.4.F** for lender servicing requirements for ineligible loans). If the borrower was eligible for the funds, the school must adhere to the applicable requirements for the **return of Title IV funds** (see **section 9.5**). The school will not be assessed any liability for delivering loan funds in this instance unless the school knew or should have known that the borrower was ineligible to receive the funds at the time they were delivered.

When a borrower is solely responsible for his or her ineligibility, the borrower is not eligible for **interest benefits**, an in-school or **grace period**, or **deferment** on these ineligible **funds loan(s)**. Additionally, the borrower may not ~~obtain a Consolidation loan~~ **consolidate** or rehabilitate **an** ineligible loan ~~funds~~, and may not have his or her **Title IV** eligibility reinstated by making **satisfactory repayment arrangements** on an ineligible amount. The borrower must fully repay the ineligible **funds loan** to regain Title IV eligibility. However, a borrower with an ineligible loan(s) may consolidate another eligible loan(s). [§682.201(d)(1)(i)(D); §682.201(d)(2)]<sup>1</sup>

If it is determined that the borrower is *solely* responsible for the ineligibility of the funds, the lender must immediately mail the borrower a final demand letter and follow the ineligible borrower due diligence requirements outlined in **subsection 12.4.F**.  
[§682.208(f)]

## 5.16.B Ineligibility Based on School Error

In some cases, a **borrower** may receive loan **funds** for which he or she is ineligible due to a **school** error. These errors may include, but are not limited to:

- The school delivers funds to a borrower who has not maintained eligibility.
- The school certifies and delivers loan funds in excess of the borrower's eligibility.
- The school certifies and delivers loan funds to an ineligible borrower (for example, a borrower in **default** on another Title IV loan).
- The student fails to enroll in a course leading to a degree or certificate, and the course in which the student enrolls is not required for teacher recertification in the **state** in which the school is located.

If the **lender** discovers that a borrower received a loan, or portion of a loan, for which the borrower is ineligible because of a school error, the lender should contact the **guarantor**. The lender must continue to service the loan in accordance with regulatory requirements. The guarantor will investigate the case and, if necessary, require the school

<sup>1</sup>. Policy 939 (Batch 140), approved April 19, 2007

Typically, there are two categories of academic year:

- A **scheduled academic year (SAY)** is a “fixed” academic period as published in a school’s printed materials that generally begins and ends at about the same time each year according to an established schedule. ~~The year begins on the first day of classes and ends on the last day of classes or examinations.~~<sup>1</sup>
- A **borrower-based academic year (BBAY)** is an academic year that begins with a student’s start date and tracks the student’s progress until the required number of weeks and credit or clock hours have been completed.

Both the SAY and BBAY must meet the statutory requirements of an academic year as defined by the Department. ~~Schools with For clock-hour programs and nonstandard term-based and non-term-based credit-hour programs, a school must use a BBAY. Schools with For standard term-based; credit-hour programs, a school may use either a SAY or a BBAY.~~ [2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pp. 3-66 to 3-71]

### Standard Term-Based, Credit-Hour Programs

A school with standard term-based; credit-hour programs using a **SAY** must designate the summer term as either a “**leader**” (precedes the **academic year**) or a “**trailer**” (follows the **academic year**). The school has the following options:

- The school may consistently designate the summer term as either a leader or a trailer with no exceptions.
- The school may consistently designate the summer term as either a leader or a trailer with some exceptions that are determined by the school on a case-by-case basis.
- The school may make all decisions regarding the use of the summer term as a leader or a trailer on a case-by-case basis.

If a **BBAY** is used, the school must include the same number of terms in the BBAY as it includes in its SAY. Mini-sessions (summer or otherwise) must be combined and treated as a single term. The borrower is not required to attend the entire BBAY but the **loan period** must coincide with the student’s attendance. The BBAY must begin with a term in which the student actually is enrolled but may include a term in which the student is not enrolled.

A school may use a BBAY for all students, for students enrolled in certain programs, or on a student-by-student basis. The school may also alternate between a BBAY and a SAY for the same student. However the school must ensure that it does not establish overlapping academic years for a student.

[2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, p. 3-67]

### Clock-Hour Programs and Nonstandard Term-Based and Non-Term-Based Credit-Hour Programs

~~At a school with For clock-hour programs and nonstandard term-based and or non-term-based credit-hour programs,~~ the BBAY begins when the student enrolls and does not end until the student completes both the required number of weeks and the required number of clock or credit hours in the academic year. A student who does not attend on a full-time basis will take longer to complete the academic year than a full-time student.<sup>2</sup>

These types of programs frequently allow a student to complete the program at his or her own pace. As a result, one student may complete 900 **clock hours** in 28 weeks while another may complete 900 clock hours in 32 weeks. If the average student completes the program in 30 weeks, the school is not required to prorate the loan amount for the occasional student who completes the program in less than 30 weeks.

[2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, p. 3-69]

<sup>1</sup>. Policy 925 (Batch 138), approved February 15, 2007

<sup>2</sup>. Policy 953 (Batch 141), approved April 19, 2007

## Transfer Students

If a student borrows Stafford loan funds to attend one school and then transfers to a new school, the new school is not permitted to certify a Stafford loan until it determines whether the student's new loan period academic year will overlap with the loan period final academic year at the prior school. This requires the new school to determine the student's academic year at the prior school. The new school may use either of the following methods to make this determination.

- Obtain documentation from the prior school about its academic year.
- Make assumptions about the prior school's academic year based on information obtained from the [National Student Loan Data System \(NSLDS\)](#). Schools that use this method must determine that the academic year at the prior school ended on the *later* of the following:
  - 30 weeks after the first day of the most recent loan period listed.
  - The end date of the loan period for all loans made in the academic year.

If the final academic year of the prior school does not overlap with the academic year of the new school, the new school may certify a loan not to exceed the amount of the student's current annual loan limit.

[Dear Guaranty Agency Director Letter March 16, 1994]

If the ~~loan periods~~ final academic year of the prior school does overlap with the initial academic year of the new school, the new school must not certify a Stafford loan for more than ~~subtract the gross amount of the loan (less any refunds or cancellations for that loan period)~~ that the student received at the prior school from the student's current annual loan limit minus the loan amount the student received at the prior school for the prior school's final academic year to determine the amount that the student is eligible to borrow. If the student's grade level decreases as a result of the transfer, the new school must not certify a Stafford loan for more than the annual loan limit applicable to the student's current (i.e., decreased) grade level *minus* the outstanding loan amount the student received at the prior school during the prior school's final academic year.

### **Example: Transfer to a Standard Term-Based Program**

A student received a base Stafford loan in the amount of \$2,000 as a grade level 3 student at School A for the loan period August 21, 2006, to December 20, 2006. The student then enrolled in School B, where he was

classified as grade level 1 in a standard term-based credit-hour program. School B wishes to certify a loan from his start date, January 5, 2007, through the end of that term, May 11, 2007.

School B opts to use the "assumption" method of determining the academic year at School A. The most recent loan period at School A began August 21, 2006; the end date of the minimum 30-week academic year, based on that date, would be March 18, 2007. When compared to the end date of School A's loan period, the later of these two dates is March 18, 2007; therefore, the assumed end date of School A's final academic year is March 18, 2007.

Because School B's academic year begins prior to the assumed end date of the final academic year at School A, School B may certify a base Stafford loan of no more than \$625 (the student's base Stafford annual loan limit as a grade level 1 student at School B, \$2,625, minus the \$2,000 received at School A).

For a subsequent term that begins after the end of School A's final academic year, but within School B's initial academic year, School B may certify a base Stafford loan of no more than \$2,000 (the student's base Stafford annual loan limit as a grade level 1 student at School B, \$2,625, minus the \$625 already received at School B for its initial academic year).

### **Example: Transfer to a Clock-Hour-, Non-term-, or Nonstandard Term-Based Program**

A student received a base Stafford loan in the amount of \$2,000 as a grade level 3 student at School A for the loan period August 21, 2006, to December 20, 2006. The student then enrolled in School B, where he was classified as grade level 1 in a clock-hour, non-term-based credit-hour, or nonstandard term-based credit hour program. School B wishes to certify a loan from his start date, January 5, 2007, through the end of his initial academic year in the new program of study, August 20, 2007.

School B contacts School A and determines that the final academic year at School A ends May 11, 2007. Because School B's initial academic year begins prior to the end date of the final academic year at School A, School B may certify a base Stafford loan of no more than \$625 (the student's base Stafford annual loan limit as a grade level 1 student at School B, \$2,625, minus the \$2,000 received at School A) until the completion of the initial academic year at the new school.<sup>1</sup>

<sup>1</sup>. Policy 954 (Batch 141), approved April 19, 2007



~~If the loan periods do not overlap, the new school may process a loan up to the amount of the student's current annual loan limit.~~  
~~[Dear Guaranty Agency Director Letter March 16, 1994; NCHELP Q&A Frequency of Annual Loan Limits June 15, 1994]~~

These same principles apply when a student transfers from one program of study to another program of study within the same school.  
[Dear Guaranty Agency Director Letter March 16, 1994; 2006-2007 Federal Student Aid Handbook, Volume 3, Chapter 4, pp. 3-75 to 3-77]<sup>1</sup>

<sup>1</sup>. Policy 954 (Batch 141), approved April 19, 2007

**Statutory Definition of an Academic Year** **Figure 6-1**

Method used to measure academic progress	Number of hours a student enrolled full time is expected to complete in a full academic year	Minimum Instructional Time Requirement
Semester hours	24 semester hours	30 weeks
Trimester hours	24 trimester hours	30 weeks
Quarter hours	36 quarter hours	30 weeks
Clock hours	900 clock hours	<del>30-26</del> weeks <sup>1</sup>

Adapted from: *Trainee Guide: 1995-96 Delivery System Training Workshop*, U.S. Department of Education, December 22, 1994, page TG2-23.

<sup>1</sup>. Policy 925 (Batch 138), approved February 15, 2007

## Frequency of Stafford Annual Loan Limits

**Figure 6-2**

	Scheduled Academic Year (SAY)	Borrower-Based Academic Year (BBAY)
<b><u>Standard Term-Based Credit-Hour Programs</u></b>	<p>Academic year begins at approximately the same time each calendar year</p> <p>School must use a SAY that meets the statutory requirements of an academic year</p> <p>Loan period may not always include all terms in SAY</p> <p>Borrower always regains eligibility at beginning of SAY</p> <p>All loans borrowed during SAY must be within annual limit for student's grade level</p> <p>After original loan, additional loans are permissible if</p> <ul style="list-style-type: none"> <li>• Student has remaining eligibility, or</li> <li>• Student progresses to the next grade level</li> </ul> <p>Summer term may be "leader" or "trailer" to the SAY, per</p> <ul style="list-style-type: none"> <li>• Strict policy</li> <li>• By program</li> <li>• Case by case</li> </ul> <p>Mini sessions may be treated as a single term or individual terms assigned to different SAYs</p>	<p>Academic year floats with student's enrollment</p> <p>School may use if SAY is at least 30 weeks</p> <p>All loans borrowed during BBAY must be within annual loan limit for the student's grade level</p> <p>After original loan, additional loans are permissible if:</p> <ul style="list-style-type: none"> <li>• Student has remaining eligibility, or</li> <li>• Student progresses to a grade level with a higher annual loan limit</li> </ul> <p>Length of BBAY must equal number of terms in SAY, not including summer trailer or leader</p> <ul style="list-style-type: none"> <li>• Number of hours/weeks in BBAY need not meet 30-week minimum if BBAY includes a summer term</li> <li>• BBAY begins with term in which student actually enrolls</li> <li>• BBAY may include terms student does not attend, if student could have enrolled at least half time</li> </ul> <p>School may use BBAY for</p> <ul style="list-style-type: none"> <li>• All students</li> <li>• Certain programs</li> <li>• Certain students</li> </ul> <p>Mini-sessions must be treated as a single term and student need not enroll in all mini-sessions, but must have been given the opportunity by the school to enroll in all at least half time</p> <p>May alternate SAY and BBAY for a student if no overlap of academic years</p>
<b><u>Nonstandard Term-Based and Non-Term-Based Credit-Hour Programs, and Clock-Hour Programs*</u></b>	Not applicable	<p>BBAY must meet the minimum statutory requirements or equivalent</p> <p>Student may not borrow additional loan for progress to next grade level until the student completes both the minimum number of weeks and credit/clock hours in an academic year</p>

Adapted from: *Trainee Guide: 1997-98 Title IV Training Workshop*, U.S. Department of Education, January 21, 1997, pages TG 8-42.

\* Policy 953 (Batch 141), approved April 19, 2007

borrower's loan eligibility. No tolerance is permitted on a FFELP loan when determining whether a loan should be decreased. The school is responsible for eliminating any [overaward](#) resulting from corrections necessitated by the verification process (see [section 8.6](#)).  
[§668.59(c)(1)]

## 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.

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; DCL GEN-92-21; 2006-2007 *Federal Student Aid Handbook*, Application and Verification Guide, Chapter 2, p. AVG-24]

See [section H.4](#) for information about a statutory or regulatory waiver authorized by the [HEROES Act](#) that may impact these requirements.

## 6.7 Determining the Amount of Estimated Financial Assistance (EFA)

As part of the loan certification process, the school must determine the [estimated financial assistance](#) (EFA) the student may receive from other sources. To determine the amount and type of FFELP loan funds for which a borrower is eligible, the [school](#) must deduct from the student's [cost of attendance](#) (COA) any other types of financial assistance the student has received, or will receive, during the [loan period](#).  
[HEA 471]

A student's EFA includes all aid the student—or a parent on behalf of a [dependent](#) student—will receive for the loan period from federal, [state](#), institutional, or other sources. Examples of aid that must be included in the EFA are scholarships, grants, [financial need](#)-based employment income, and loans—including, but not limited to:

- Veterans' educational benefits, including educational benefits paid under [Chapters 30 \(Montgomery GI Bill-Active Duty\)](#), [31 \(Vocational Rehabilitation and Employment Program\)](#), [32 \(Veterans' Educational Assistance Program\)](#), and [35 \(Dependents' Educational Assistance Program\)](#) of [Title 38 of the U.S. Code](#) and educational benefits paid under [Chapters 31 \(National Call to Service\)](#), [1606 \(Montgomery GI Bill-Selected Reserve\)](#) and [1607 \(Reserve Educational Assistance Program\)](#) of [Title 10 of the U.S. Code](#). When determining eligibility for a subsidized Stafford loan, benefits paid under [Chapter 30 of Title 38 of the U.S. Code](#) are excluded from the EFA, as noted later in the section.  
[§682.200(b)(1)(i) and (ii)]
- National service education awards or postservice benefits paid under [Title I of the National and Community Service Act of 1990 \(AmeriCorps\)](#). When determining eligibility for a subsidized Stafford loan, these benefits are excluded from the EFA, as noted later in the section.  
[§682.200(b)(1)(i)]
- Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under [Chapter 2 of Title 10](#) and Chapter 2 of [Title 37 of the U. S. Code](#).  
[§682.200(b)(1)(iii)]
- Benefits paid under P.L. 96-342, section 903, ~~the Selected Reserve Educational Assistance Program, Restored Entitlement Program for Survivors, or~~ Educational Assistance Pilot Programs.  
[§682.200(b)(1)(iv)]
- Educational benefits paid because of enrollment in a postsecondary education institution, or to cover postsecondary education expenses.  
[§682.200(b)(1)(v)]
- Fellowships or assistantships, except non-need-based employment portions of such awards.  
[§682.200(b)(1)(vi)]<sup>1</sup>

<sup>1</sup>. Policy 940 (Batch 140), approved April 19, 2007

- Insurance programs for the student's education.  
[§682.200(b)(1)(vii)]
- The estimated amount of other federal student financial aid—including, but not limited to, Federal Pell Grant, Academic Competitiveness Grant, National SMART Grant, and campus-based aid. The gross amount (including fees) of any subsidized Stafford, unsubsidized Stafford, or PLUS loan is also included, except as noted below.  
[HEA 480(j); §682.200(b)(1)(viii)]

A student's EFA does not include:

- Amounts used to replace the expected family contribution (EFC), including unsubsidized Stafford loan amounts, PLUS loan amounts, ~~or~~ and non-federal non-need-based loans, including private, ~~or~~ state-sponsored, and institutional loan funds. However, if the sum of the loan amounts received that are being used to replace the student's EFC exceeds the EFC, the excess amount is treated as EFA.  
[§682.200(b)(2)(i)]
- For a *subsidized* Stafford loan, veterans' educational benefits paid under Chapter 30 of Title 38 of the U.S. Code (Montgomery GI Bill—Active Duty) and national service education awards or postservice benefits paid under Title I of the National and Community Service Act of 1990 (AmeriCorps).  
[§682.200(b)(2)(iii)]
- Qualified education benefits, including qualified tuition programs (e.g., 529 prepaid tuition plans and savings plans), prepaid tuition plans offered by a state, and Coverdell education savings accounts.  
[HEA 480(f)(3) and (4); DCL GEN-06-05; DCL GEN-06-10]
- Federal Perkins loans and Federal Work-Study (FWS) funds the school determines the student has declined for any reason.  
[HEA 480(j); §682.200(b)(2)(ii)]
- Any portion of EFA previously described that is included in the calculation of the student's EFC.  
[§682.200(b)(2)(iv)]
- Non-need-based employment income.  
[§682.200(b)(2)(v)]

- Non-Title IV state assistance, if that state specifies that the funds must be used to pay a specific component of the student's COA. If the state assistance is excluded from the EFA, then the costs paid by those state funds must also be excluded from the student's COA.  
[HEA 480(j)(3); §682.200(b)(2)(vi); DCL GEN-06-05]<sup>1</sup>

## 6.8 Determining the Student's Dependency Status

A student's dependency status is determined from information provided on the [Free Application for Federal Student Aid \(FAFSA\)](#). A student's dependency status affects the expected family contribution (EFC) and the types and amounts of aid that the student may be eligible to receive.

For purposes of Title IV aid, a student is considered independent if he or she meets one or more of the following criteria:

- The student is at least 24 years old by December 31 of the [award year](#).
- The student is an orphan or ward/dependent of the court, or was a ward/dependent of the court until he or she reached age 18.
- The student is a veteran of the U.S. Armed Forces. For the purposes of determining dependency status, a student is considered to be a veteran if he or she will meet both of the following criteria prior to the end of the award year for which the FAFSA is filed.
  - The student engaged in active duty in the U.S. Armed Forces; is a National Guard or Reserves enlistee, who was called to active duty for purposes other than training; or was a cadet or midshipman at a service academy (even if the student withdrew before graduation).
  - He or she was released under a condition other than dishonorable.  
[DCL GEN-95-54]
- The student is currently serving on active duty in the U.S. Armed Forces or is a National Guard or Reserves enlistee and is called to active duty for purposes other

<sup>1</sup>. Policy 940 (Batch 140), approved April 19, 2007

The borrower, school, and lender are encouraged to work with the guarantor to provide information about the borrower's unpaid principal balance, if documentation is necessary prior to approving the borrower's loan.

### Undergraduate Students

The Stafford annual and aggregate loan limits for undergraduate students are detailed in [Figure 6-4](#).

If a student is ineligible for subsidized Stafford loan funds, the student may borrow the entire Stafford annual and aggregate undergraduate loan limits in unsubsidized Stafford loan funds.

Exception: Increased annual and aggregate unsubsidized Stafford loan limits are authorized for some students in 5-year Bachelor of Pharmacology Programs (see [subsection 6.11.D](#)).

In determining the appropriate Stafford annual loan limit for an [undergraduate student](#), including a transfer student or a student who has completed a program of study at the same school or a different school, [schools](#) and [lenders](#) must adhere to the following additional parameters:

- A student who is enrolled in a program that is more than one academic year in length and has not successfully completed the first year of that program is eligible for Stafford loan funds not to exceed the annual loan limits applicable to first-year undergraduate students, regardless of the actual length of time it takes the student to complete the first academic year of the program.  
[§682.204(a)(1), (a)(9)(i), (d)(1) and (8)(i)]
- A student who is enrolled in an undergraduate program that is one academic year or less in length is eligible for Stafford loan funds not to exceed the annual loan limits applicable to first-year undergraduate students, regardless of the actual length of time it takes the student to complete the program.  
[§682.204(a)(1), (a)(8), (d)(1) and (7)]
- A student who is enrolled in an undergraduate program that is more than one academic year in length and has successfully completed the first year in that program but has not successfully completed the second year of the program is eligible for Stafford loan funds not to exceed the annual loan limits applicable to second-year undergraduate students, regardless of the actual length of time it takes the student to complete the second academic year of the program.  
[§682.204(a)(2), (a)(9)(ii), (d)(2) and (8)(ii)]

- A student who has an associate degree or bachelor's degree that is required for admission into a program and who is not a graduate or professional student is eligible for Stafford loan funds not to exceed the annual loan limits applicable to third-, fourth-, and fifth-year undergraduate students. In this case, in order to determine the student's [grade level](#) and the applicable annual loan limit, the school may consider the number of years the student completed in the required degree program.  
[§682.204(a)(3), (a)(4), and (d)(4)]

- In a standard term-based program, 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, minus any loan funds already received for that academic year. In a nonstandard term-based or non-term-based credit-hour program, or clock-hour program, the school may not certify the higher loan limit associated with the next grade level until the student completes both the minimum number of weeks and the minimum number of credit or clock hours in the program's defined academic year.<sup>1</sup>

- A student who transfers from one program of study to another at the same school or a different school is eligible for Stafford loan funds not to exceed the annual loan limits applicable to the student's grade level in the student's new program of study (even if that student is at a lower grade level in the new program or has previously obtained an undergraduate degree in a different program), as determined by the school, minus any outstanding loan funds received in the prior program for the prior academic year—even if that student previously obtained an undergraduate degree in a different program. For a student who transfers to a standard term-based credit-hour program, the student's Stafford loan eligibility for a subsequent term(s) that begins within the initial academic year of the new program, but after the end of the final academic year in the prior program, is the annual loan limit applicable to the student's current grade level minus the outstanding loan amount the student has already received in that academic year in the new program. See [section 6.1](#) for detailed information about defining an academic year and calculating Stafford annual loan amounts for a student who transfers. See [section 6.10](#) for information about determining a student's grade level.  
[2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pp. 3-75 to 3-77]<sup>2</sup>

1. Policy 953 (Batch 141), approved April 19, 2007

2. Policy 954 (Batch 141), approved April 19, 2007

- A dependent student who has a bachelor's degree and is enrolled or accepted for enrollment in coursework necessary for a professional credential or certification from a state that is required for employment as a teacher in an elementary or secondary school in that state is eligible to borrow the base Stafford annual loan limit of \$5,500 for Stafford loan funds not to exceed the annual loan limits applicable to fifth-year undergraduate students. An independent student, or a dependent student whose parent is not eligible for a PLUS loan, is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to \$12,500. Of the total amount borrowed for the year, no more than \$5,500 may consist of subsidized Stafford loan funds (see figure 6-4). The loan limits for this category of student are not prorated if the program is less than an academic year. [[§682.204\(a\)\(7\) and \(d\)\(6\)\(iii\)](#)]
- A student who is taking preparatory coursework that the school has determined and documented to be necessary for the student to enroll in an undergraduate program is eligible for Stafford loan funds not to exceed the annual loan limits applicable to first-year undergraduate students. A student is eligible for loans for one period of 12 consecutive months beginning on the first day of the [loan period](#) for which the student is enrolled. The loan limits for this category of student are not prorated if the coursework is less than an academic year. [[§682.204\(a\)\(6\)\(i\) and \(d\)\(6\)\(i\)](#)]
- A dependent student who is taking preparatory coursework that the school has determined and documented to be necessary for the student to enroll in a graduate or professional program is eligible to borrow the base Stafford annual loan limit of \$5,500 for Stafford loan funds not to exceed the annual loan limits applicable to fifth-year undergraduate students. An independent student, or a dependent student whose parent is not eligible for a PLUS loan, is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to \$12,500. Of the total amount borrowed for the year, no more than \$5,500 may consist of subsidized Stafford loan funds (see figure 6-4). Preparatory coursework required for admission into a graduate or professional program may be taken at a school that is not generally permitted to certify loans at the fifth-year undergraduate loan level. A student is eligible for loans for one period of 12 consecutive months beginning on the first day of the loan period for which the student is enrolled. The loan

limits for this category of student are not prorated ~~if the program is less than an academic year.~~

[[§682.204\(a\)\(6\)\(ii\) and \(d\)\(6\)\(ii\)](#); [DCL GEN-98-2](#)]

A school may not link separate, stand-alone programs of study to allow a student to qualify for higher annual loan limits than the student would otherwise be eligible to receive based on the length of the program.

[[§682.204\(a\) through \(d\)](#); [DCL GEN-98-2](#); [2006-2007 Federal Student Aid Handbook, Volume 3, Chapter 4, p. 3-78](#)]

### Graduate and Professional Students

A student [enrolled](#) in a graduate or professional program of study is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to ~~\$18,500-\$20,500~~ for each [academic year](#). Of the total amount borrowed for the year, no more than \$8,500 may consist of subsidized Stafford loan funds. Subsidized Stafford loans may comprise no more than \$8,500 of the total amount borrowed for the year. If a student is ineligible for subsidized Stafford loan funds, the student may borrow the entire ~~\$18,500-\$20,500~~ Stafford annual loan limit in unsubsidized Stafford loan funds.<sup>1</sup>

[[§682.204\(a\)\(5\) and \(d\)\(5\)](#)]

Exception: Increased unsubsidized Stafford annual loan limits are authorized for certain health profession students (see [subsection 6.11.D](#)).

<sup>1</sup>. Policy 955 (Batch 141), approved April 19, 2007



**Stafford Undergraduate Annual and Aggregate Loan Limits****Figure 6-4**

Length of Program or Final Period of Enrollment			
	Program of study of at least a full academic year in length	One-year program of study with less than a full academic year remaining	Program of study of less than one academic year
Preparatory Coursework for Undergraduate Program			
Base Stafford eligibility (subsidized and unsubsidized)	\$2,625	N/A	N/A
First-Year Undergraduates			
Base Stafford eligibility (subsidized and unsubsidized)	<del>\$2,625</del> \$3,500	Proportional Proration Calculation #1	Proportional Proration Calculation #2
Additional unsubsidized Stafford eligibility	\$4,000	Proportional Proration Calculation #1	Proportional Proration Calculation #2
Length of Program or Final Period of Enrollment			
	Program of study of at least a full academic year in length	Program of study with less than a full academic year remaining	
Second-Year Undergraduates			
Base Stafford eligibility (subsidized and unsubsidized)	<del>\$2,500</del> \$4,500	Proportional Proration Calculation #1	
Additional unsubsidized Stafford eligibility	\$4,000	Proportional Proration Calculation #1	
Third-, Fourth-, and Fifth-Year Undergraduates			
Base Stafford eligibility (subsidized and unsubsidized)	\$5,500	Proportional Proration Calculation #1	
Additional unsubsidized Stafford eligibility	\$5,000	Proportional Proration Calculation #1	
Teacher Certification or Preparatory Coursework for Graduate or Professional Program			
Base Stafford eligibility (subsidized and unsubsidized)	\$5,500	N/A	
Additional unsubsidized Stafford eligibility	\$7,000	N/A	

**Proportional Proration Calculation #1**

Multiply the following ratio by the applicable annual loan limit for a full academic year:

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

[§682.204(a)(ii) and (d)(ii)]

**Proportional Proration Calculation #2**

Multiply the lesser of the following ratios by ~~\$2,625~~\$3,500 for base annual Stafford annual loan limit and by \$4,000 for additional annual unsubsidized Stafford annual loan limit:<sup>1</sup>

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled in program}^2}{\text{Number of weeks in academic year}}$$

[§682.204(a)(iii) and (d)(iii)]

**Dependent Undergraduate Students**

The total amount of subsidized and unsubsidized Stafford loans made to a dependent undergraduate student for any academic year may not exceed the “base Stafford eligibility” specified above for that student’s grade level. A dependent undergraduate student’s unpaid principal amount of subsidized and unsubsidized Stafford loans (including all Direct Stafford loans received or any portion of an outstanding Consolidation loan that paid in full a Stafford or Direct Stafford loan) may not exceed \$23,000.

[§682.204(b)(1) and (c)(1)]

If a dependent undergraduate student’s parent is unable to obtain a PLUS loan (because the parent has adverse credit or other exceptional circumstances exist that are documented by the FAA), the total amount of subsidized and unsubsidized Stafford loans for any academic year may not exceed the “base Stafford eligibility” plus the “additional unsubsidized Stafford eligibility” specified above for that student’s grade level. Only one parent need be unable to obtain a PLUS loan for the student to be eligible for the additional loan funds. See [subsection 6.15.D](#) for more information.

[§682.204(d)]

The student’s aggregate unpaid principal amount of all Stafford loans (including all SLS loans and Direct Stafford loans received or any portion of any outstanding Consolidation loan that paid in full a Stafford, SLS, or Direct Stafford loan) may not exceed \$46,000 for undergraduate study, with subsidized Stafford loans comprising no more than \$23,000 of the total limit. See [section 6.11](#) for more information.

[§682.204(b)(1) and (e)(1)]

**Independent Undergraduate Students**

The total amount of subsidized and unsubsidized Stafford loans for any academic year may not exceed the “base Stafford eligibility” plus the “additional unsubsidized Stafford eligibility” specified above for that student’s grade level. An independent undergraduate student’s unpaid principal amount of all Stafford loans (including all SLS and Direct Stafford loans received or any portion of an outstanding Consolidation loan that paid in full a Stafford, SLS, or Direct Stafford loan) may not exceed \$46,000 for undergraduate study, with subsidized Stafford loans comprising no more than \$23,000 of the total limit. See [section 6.11](#) for more information.

[§682.204(b)(1) and (e)(1)]

<sup>1</sup>. Policy 955 (Batch 141), approved April 19, 2007

<sup>2</sup>. Policy 916 (Batch 136), approved December 21, 2006

If the school and lender agree, the lender may disburse loan proceeds by master check from the lender to an account maintained by the school as trustee for the lender.

[§682.207(b)(1)(ii)(C)]

For proceeds disbursed by EFT or master check, the lender must provide the school with a roster (transmittal) listing each borrower's name, Social Security number, the gross amount of the disbursement, and the net amount of the disbursement after the [guarantee](#) and [origination fees](#) are deducted. For [parent PLUS loans](#), the roster also must include the name and Social Security number of the student for whom the parent is borrowing. This information may be provided to the school electronically or by fax, overnight mail, or courier.

[§682.207(b)(1)(v)]

Proceeds to be disbursed by EFT or master check may not be transferred to the school's account earlier than the [disbursement date](#) provided by the school.

Participation in EFT or master check may require an agreement between the school, lender, or guarantor.

[§682.207(b)(1)(ii)(B) and (C); §682.207(b)(1)(v)(B)(1)]

- ▲ Lenders may contact individual guarantors for more information on disbursement by EFT or master check. See [section 1.5](#) for contact information.

## 7.7.E

### Disbursement for Students in Study-Abroad Programs or Foreign Schools

If a student is enrolled in a study-abroad program or a foreign school, special disbursement rules apply. Stafford loan funds may be disbursed directly to the student under some circumstances; however, under no circumstances may PLUS loan funds be disbursed directly to the borrower or dependent student. The lender must disburse PLUS loan funds for a student attending a study-abroad program or a foreign school in the same manner as it disburses PLUS loan funds for a student attending a domestic school (see [section 7.7](#)).

[§682.207(b)(1)(v)(B)]

Some guarantors have additional or alternate requirements. These requirements are noted in [appendix C](#).

#### Student Enrolled in a Study-Abroad Program

A student [enrolled](#) in a study-abroad program that is approved for credit by the home [institution](#) at which the student is enrolled may request [disbursement](#) of a Stafford loan by ~~any either of the following options~~ alternatives to the normal disbursement process:

- Disbursement directly to the student. The lender may mail an ~~paper individual~~ check to the student or deposit the funds into the student's personal bank account. In either case, prior to ~~each disbursement-disbursing the funds~~, the lender or guarantor must verify the student's enrollment in the study-abroad program by contacting the home institution by telephone, e-mail, or facsimile. For a new student, the lender or guarantor must confirm the student's admission to the program. For a continuing student, the lender or guarantor must confirm that the student continues to be enrolled at least half time.  
[[HEA 428\(b\)\(1\)\(N\)\(ii\)](#); [§682.207\(b\)\(1\)\(v\)\(C\)\(1\)](#); [§682.207\(b\)\(2\)\(i\)\(B\)](#); [DCL GEN-06-02](#)]
- Disbursement to the student's home institution, if the [borrower](#) provides power of attorney to a person not affiliated with the [school](#) to endorse the [check](#) or complete an [electronic funds transfer \(EFT\)](#) authorization.  
[[§668.165\(b\)\(1\)](#); [§682.207\(b\)\(1\)\(v\)\(C\)\(2\)](#)]

The lender is required to comply with the student's request.

#### Student Enrolled in a Foreign School

At the ~~school's~~ request of an official authorized by the foreign school to act on behalf of the school in administering the FFELP, the lender must disburse Stafford loan proceeds directly to a student enrolled at an eligible foreign school. The request from the authorized official may be a blanket request for all students, or a request for each individual student. Prior to each direct disbursement to the borrower by the lender, the guarantor must verify in the Department's Postsecondary Education Participant's System (PEPS) that the foreign school is certified to participate in the FFELP. In addition, ~~e~~Either the lender or guarantor must contact an authorized official of the foreign school by telephone, e-mail, or facsimile and verify ~~the student's enrollment~~ that the student is enrolled at least half time ~~at the school prior to the lender disbursing the funds~~. For a new student, the lender or guarantor must confirm the student's admission to the program. For a continuing student, the lender or guarantor must confirm that the student continues to be enrolled at least half time.<sup>1</sup>

<sup>1</sup> Policy 941 (Batch 140), approved April 19, 2007



Guarantors and lenders must coordinate their activities to ensure that these requirements are met prior to any direct disbursement of Stafford loan funds.

[HEA 428(b)(1)(N); §682.207(b)(2)(i)(A); §682.207(b)(2)(iii)]

A PLUS loan for a student enrolled in an eligible foreign school must be disbursed by an individual check that is made copayable to the borrower and the school. The check must be sent directly to either the borrower or the school.  
[§682.207(b)(1)(v)(B)(3)]

### **Documentation of Enrollment Verification**

The lender or guarantor that is verifying enrollment for a student enrolled in a study-abroad program or a foreign school must maintain documentation of all of the following:

- The name and telephone number of the school representative contacted.
- The date of the contact.
- The enrollment period.
- Verification of at least half-time enrollment.
- Any other pertinent information received from the school.

[§682.207(b)(2)(ii)]

### **Notification of Direct Disbursement**

At the time of the lender's direct disbursement to a student enrolled in a study-abroad program or a foreign school, the lender must notify the home institution, for a student enrolled in a study-abroad program, or the foreign school, for a student enrolled in a foreign school, of all of the following:

- The name and Social Security number of the student.
- The type of loan.
- The amount of the disbursement, including the amount of any fees assessed the borrower.
- The date of the disbursement.

- The name, address, telephone and facsimile number or e-mail address of the lender, servicer, or guarantor to which any inquiries should be addressed.

[§682.207(b)(2)(iv)]<sup>1</sup>

## **7.7.F Reissuing Disbursements**

Servicing requirements for reissuing loan disbursements differ based on whether the original disbursement was made during regular disbursement periods or made as a late disbursement.

In all reissue situations, the lender must clearly document the reason for the reissue.

### **Reissues on Regular Disbursements**

A school may request that a lender reissue **loan proceeds** for a variety of reasons, which may include, but are not limited to:

- The **check** is lost.
- The school returns the disbursement and requests that the disbursement amount be decreased and the disbursement reissued.
- The school returns the disbursement and requests that the disbursement be reissued to restart the time clock for delivery restrictions.
- The school returns the disbursement and requests that the lender reissue the disbursement to coincide with the date of the student's scheduled return from an approved **leave of absence**.

When a school determines that a loan disbursement needs to be reissued, the school must submit the request to the lender so the lender may reissue the disbursement no later than 120 days after the earlier of the last day of the period of enrollment for which the loan is intended or the student's last date of at least half-time enrollment.

A lender may reissue a loan disbursement if the original disbursement was made according to the school's disbursement schedule, the loan was canceled or not consummated, and the school subsequently determines that the student should have received the disbursement.

<sup>1</sup> Policy 941 (Batch 140), approved April 19, 2007

## 8.2 Required Notices

The school is required to provide certain notices to the student and/or parent borrower, or in the case of a parent PLUS loan, to the borrower and the dependent student, regarding certain aspects of the loan process and characteristics of the loans themselves. The timing of these notices is generally prescribed in regulation to coincide with specific events related to loan delivery.

These required school notices may be made in hard copy or electronically. However, if the notices are made electronically, or if a school directs the student and/or parent borrower to a secure Web site that contains the required notices, the individual must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The consent must be voluntary and based on accurate information about the transactions to be completed. These electronic processes must be made in accordance with the [Electronic Signatures in Global and National Commerce Act \(Public Law 106-229\)](#). [\[DCLs GEN-01-06 and GEN-05-16\]](#)<sup>1</sup>

### 8.2.A Initial Notice of Funds

Prior to delivering any [Title IV funds](#) to the student or [parent borrower](#), the [school](#) is required to send a notice to the student providing information about the amount of funds that the student or his or her parent can expect to receive under each Title IV program. Regulations require this notice (i.e., award letter) to be sent only to the student. The notice must include:

- The amount of proceeds the student or his or her parent can expect to receive for each loan type. For Stafford loans made using a [Master Promissory Note \(MPN\)](#), the school's award letter may include proposed loan amounts and loan types. It may also include instructions to the borrower either to accept the aid offered by responding to the school or to take action only if requesting a cancellation or reduction of the loan amount offered (see [subsection 8.2.D](#) for Notification and Confirmation requirements).
- When the proceeds will be delivered and by what method.

- Which proceeds are from subsidized and unsubsidized Stafford loans, PLUS loans, and other Title IV programs.  
[\[§668.165\(a\)\(1\); DCL GEN-98-25; DCL GEN-99-9\]](#)

### 8.2.B School Notice of Credit to Student Account

Except in the case of a post-withdrawal disbursement made as a result of the return of Title IV funds calculation, (see [subsection 9.5.A](#)), the school must notify the student or parent borrower if the school credits a student's school account with Stafford or PLUS loan proceeds to outstanding school charges. This notice must be issued no earlier than 30 days before and no later than 30 days after the school credits the student's account. The notice may be written or electronically transmitted and must include: [\[§668.165\(a\)\(2\)\]](#)<sup>2</sup>

- The date and amount of the [disbursement](#).  
[\[§668.165\(a\)\(2\)\(i\)\]](#)
- For proceeds disbursed by [EFT](#) or [master check](#), a statement explaining the student or parent borrower's right to cancel all or a portion of the loan or loan disbursement and have the proceeds returned to the [lender](#).  
[\[§668.165\(a\)\(2\)\(ii\)\]](#)
- The method and date by which the student or parent borrower must notify the school that he or she wishes to cancel all or a portion of the loan or loan disbursement.  
[\[§668.165\(a\)\(2\)\(iii\)\]](#)

### 8.2.C Borrower Notice to Cancel Loan

A student or parent borrower must inform the school if he or she wishes to cancel all or a portion of a loan or loan disbursement. The school must return the loan proceeds, cancel all or a portion of the loan or loan disbursement as applicable, or do both if the school receives a [cancellation](#) request in either of the following time frames:  
[\[§668.165\(a\)\(4\)\]](#)

- Within 14 days after the date the school sends the notification advising the student or parent borrower the school has credited the student's account at the school.  
[\[§668.165\(a\)\(4\)\(ii\)\(A\)\]](#)

<sup>1</sup> Policy 942 (Batch 140), approved April 19, 2007

<sup>2</sup> Policy 931 (Batch 139), approved March 15, 2007

## 8.4 Assessing Satisfactory Academic Progress

Federal regulations require that a [school](#) measure a student's [satisfactory academic progress \(SAP\)](#) in accordance with the school's published SAP policy before delivering the [loan proceeds](#). At some schools, SAP verification is performed before the delivery of each [disbursement](#), while at others, SAP may be assessed at specific times during the [academic year](#), such as at the beginning of each term.

[§668.32(f)]

A school's SAP standards must be applied consistently, and must include both a qualitative and a quantitative measure. A maximum time frame for program completion and a minimum quality standard, such as grade point average, must be established. A student's quantitative progress must be assessed each academic year, at a minimum. Federal regulations permit a school to establish its own maximum time frame for program completion, provided the school's time frame for an undergraduate program does not exceed 150% of the published program length.

[§668.16(e); §668.34]

In measuring SAP for subsequent disbursements, the school is not required to develop a system that is separate from the system the school already has established for verifying progress for subsequent disbursements of other [Title IV](#) Programs. However, the progress standards for Title IV aid recipients must be at least as restrictive as those used for students not receiving aid.

[§668.16(e)(1)]

See [section H.4](#) for information about a statutory or regulatory waiver authorized by the [HEROES Act](#) that may impact these requirements.

## 8.5 Completing Verification

The school may not deliver loan proceeds before the [verification](#) process is complete, if verification is required (see [subsection 6.6.A](#)). If the school does not receive the required financial aid information, or if the student does not complete the verification process within 45 days from the date the school receives the 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. If, during the 10-business-day return period, all financial aid information is received or 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.

[§668.58(c); §668.60(b)(1)(D) and (b)(3)]

See [section H.4](#) for information about a statutory or regulatory waiver authorized by the [HEROES Act](#) that may impact these requirements.

## 8.6 Managing Overawards

~~Overawards are applicable only to Stafford loans; they do not apply to PLUS loans or to loans made to students enrolled in eligible foreign schools.~~

~~[§682.604(h)]~~

An [overaward](#) occurs when a student receives additional financial assistance or the student's [expected family contribution \(EFC\)](#) increases, which results in a [change in reduction of the student's borrower's eligibility for any previously certified Stafford or Grad PLUS loan](#). Up to \$300 of Federal Work-Study earnings are excluded from the determination of an overaward.

~~[§682.604(h)]~~<sup>1</sup>

The school must reduce or eliminate an overaward using one of the following options:

- Use the student's unsubsidized Stafford, PLUS, [state-sponsored](#), or private loan to cover the EFC, if not already done.  
[§682.604(h)(1)]
- Return the entire undelivered disbursement to the [lender](#) or [escrow agent](#) and provide the lender with a written statement describing the reason for the return of proceeds and the student's revised [financial need](#).

<sup>1</sup>. Policy 943 (Batch 140), approved April 19, 2007

## School Requirements before Delivering a FFELP Loan

**Figure 8-3**

Requirements	Comments
Confirm student is enrolled at least half time.	A temporary cessation of half-time enrollment is permitted if the school performs the following activities: <ul style="list-style-type: none"> <li>Recalculates the student's cost of attendance (COA) (and the borrower still qualifies for full amount of the loan).</li> <li>Documents the student's enrollment status, revised COA, and continued eligibility. [§682.604(b)(1)(iv)]</li> </ul>
Confirm student has returned from an approved leave of absence.	See <a href="#">section 9.3</a> for more information on leave of absence. [§682.604(c)(4)]
Confirm student is maintaining satisfactory academic progress (SAP).	Assessment of SAP is not required at the time the loan is received or delivered, unless required by the school's policy. [§668.16(e)]
Verify student data, if required.	See <a href="#">subsection 6.6.A</a> for more information on verification. [§668, Subpart E]
Obtain all required financial aid information.	See <a href="#">subsection 5.14.A.</a> for more information on FATs. [§668.19]
Perform entrance counseling, if required.	Entrance counseling is required only for first-time student borrowers. <ul style="list-style-type: none"> <li>For loans first disbursed before 07/01/95, "first-time" means first-time attendance at the school regardless of whether student borrowed a Direct loan or a FFELP loan at another school.</li> <li>For loans first disbursed on or after 07/01/95, a "first-time" borrower is a student who has not previously borrowed a Direct loan or a FFELP loan. [§682.604(f)]</li> </ul>
Confirm that no overaward exists.	The sum of an installment and the student's <del>other resources</del> <u>EFA</u> may not exceed the student's need. <sup>1</sup> <ul style="list-style-type: none"> <li>All or a portion of any unsubsidized Stafford or PLUS loan (made under the FFELP or FDLP) may be used to replace EFC.</li> <li>The determination of whether an overaward exists excludes a \$300 FWS tolerance for students with FWS awards.</li> <li>To eliminate the amount in excess of need, the school must return excess amount and/or adjust the amount of a subsequent disbursement. [§682.604(h)]</li> </ul>
Adhere to delayed delivery requirement, if applicable.	The delayed delivery requirement applies only to the first disbursement of a Stafford loan made to a first-time borrower in the first year of an undergraduate program. <ul style="list-style-type: none"> <li>The disbursement may not be delivered until the student completes the first 30 days of his or her program of study.</li> <li>Not applicable if student borrowed a FFELP or FDLP loan at another school.</li> <li>The school may not request an EFT or master check disbursement earlier than the 28th day of the student's first payment period.</li> <li>The school may not request an individual check disbursement earlier than the 1st day of the student's first payment period. [§668.167(b)(1)(iii); §682.604(c)(2)(i)]</li> </ul>

Adapted from: *Trainee Guide: 1995-96 Delivery System Training Workshop*, U.S. Department of Education, December 22, 1994, page 5-36.

<sup>1</sup> Policy 940 (Batch 140), approved April 19, 2007

An authorized [official](#) from the school should review the enrollment data provided on the Submittal File for accuracy and completeness before transmitting the report to the NSLDS.

Questions on the proper completion and submission of enrollment data to the NSLDS should be directed to the NSLDS Customer Service Center. See [appendix D](#) for contact information.

[DCL GEN-96-17/96-L-189/96-G-291; DCL GEN-97-11; DCL G-00-329/L-00-223; *NSLDS Enrollment Reporting Guide*; *The Blue Book*, Chapter 6, section 6.4; *NSLDS Newsletter*, Number 2, January 2002]

## 9.2.B Reporting Student Enrollment Status Changes to the Lender or Guarantor Ad Hoc Reporting

In addition to being required to submit regular reports to the [National Student Loan Data System \(NSLDS\)](#), a school may be required to report changes in the student's enrollment status that affect the [grace period](#), repayment responsibility, or deferment privileges of a borrower through an ad hoc report. ~~requiring the timely completion of student enrollment reporting, federal regulations specify conditions under which a school is to report changes in the student's enrollment status directly to the applicable lender or guarantor.~~

Unless the school expects to submit a Submittal File within the next 60 days, the school (or its third-party servicer) must ~~report to the lender or guarantor~~ submit an ad hoc report to the NSLDS within 30 days of discovering that a student for whom a [FFELP](#) loan was made:

- Has dropped to less-than-half-time enrollment.
- Has failed to enroll on at least a half-time basis.
- Has ceased to be [enrolled](#) on a full-time basis.  
[§682.610(c)(2)]

Ad hoc reporting to the NSLDS can be done by one of the following methods:

- Submitting an unscheduled Submittal File containing detail for enrollment status changes (created on a PC or mainframe).
- Updating the student records online using the Enrollment Update functions on the NSLDS Website under the ENROLL tab.

- Updating and returning an unscheduled Enrollment Reporting roster file requested from the NSLDS. It may be updated and returned as a Submittal File through the Student Aid Internet Gateway (SAIG) or updated online.

~~A school should notify the lender and/or guarantor of an enrollment status change by any means acceptable to the guarantor (such as an individual letter on school letterhead, a computer-generated report, or a specific form provided by the guarantor).~~

By providing notice of a change in student status as outlined in this subsection, participating schools help the lender promptly establish repayment terms with the [borrower](#). This will help prevent FFELP loan [defaults](#) and assist in controlling the school's [cohort](#) default rate. [[October 2005 NSLDS Enrollment Reporting Guide, Chapter 3, Section 3.3](#)]<sup>1</sup>

### Notification of a Student's Loss of Eligibility

Upon notification by a lender that loan funds have been disbursed directly to a student enrolled in a study-abroad program or a foreign school, the school must immediately notify the lender if the student is no longer eligible to receive the disbursement.

[§682.604(b)(1)(ii)]<sup>2</sup>

### Information Sharing with the Department, a Lender, or a Guarantor

## 9.2.C Information Sharing with the Department, a Lender, or a Guarantor

A school (or its designated [servicer](#)) is required—upon request by the [Department](#), a lender, or a guarantor—to promptly provide any information the school has regarding the last known address, full name, telephone number, enrollment information, employer, and employer address of a ~~borrower~~ student who attends or has attended the school. The school should respond to such a request within 30 days. [[§668.24\(f\)\(4\)](#)]<sup>3</sup>

In addition, a school (or its designated servicer) must respond to all requests for borrower information from guarantors and lenders, including information needed to locate the borrower, to determine the borrower's eligibility for deferment, or to establish the borrower's repayment

1. Policy 909 (Batch 135), approved December 21, 2006

2. Policy 941 (Batch 140), approved April 19, 2007

3. Policy 909 (Batch 135), approved December 21, 2006

If a PLUS loan is made to two parents as comakers or a Consolidation loan is made to spouses as comakers, and if the disabled comaker is in a conditional discharge status, the lender must defer the entire loan based solely on the non-disabled comaker's deferment eligibility. The deferment period for the non-disabled comaker may not begin prior to the date the lender receives the disabled comaker's loan discharge application, or the notification from the guarantor that a loan discharge application was submitted to the guarantor, whichever is earlier. The deferment ends on the date that the non-disabled comaker's deferment eligibility ends, or the date on which the lender receives notice of the final discharge determination for the disabled comaker, whichever is earlier.<sup>1</sup>

- **Endorsers** are not entitled to deferment. If an endorser is repaying the loan and has temporary difficulty in continuing repayment, he or she may request a **forbearance**.  
[§682.210(a)(11)]
- In most cases, the borrower must request a deferment, either verbally or in writing, and provide the lender with documentation necessary to support the borrower's eligibility for the deferment. However, if at any time during the collection efforts the lender becomes aware of circumstances indicating that the borrower may qualify for a deferment, the lender must explain the deferment criteria and make the deferment option available to the borrower. Deferment eligibility criteria and documentation are outlined under each deferment type in **sections 11.2 to 11.18**.  
[§682.210(a)(4)]
- A delinquent borrower whose loan is not in **default** must be granted a deferment if the borrower is eligible for the deferment. See **subsection 11.1.F** for more information on deferments and delinquent loans.  
[§682.210(a)(7)]
- A borrower whose loan is in default must be granted a deferment if the borrower's deferment eligibility began *before* the date of default. A borrower is not eligible for deferment of a loan that is in default if his or her **deferment** eligibility begins *after* the date of default, unless the borrower makes payment arrangements acceptable to the **lender** to resolve the default prior to the payment of a default **claim** by a **guarantor**. See

**subsection 11.1.G** for more information about deferment of defaulted loans.  
[§682.210(a)(8)]

### Borrower-Specific Deferments

The Department has indicated that deferments generally are borrower-specific—not loan-specific. This means that time limits should generally be enforced for each borrower, rather than for a borrower's individual loans or groups of loans (see *Example 1* below). However, if all of the borrower's loans are paid in full (except through consolidation) and the borrower subsequently obtains a new loan, the borrower is eligible for all deferments applicable to that loan, despite any previous periods of deferment (see *Example 2* below).

#### *Example 1*

A borrower has used 36 months of unemployment deferment on loans A and B, then obtains additional loans before paying loans A and B in full. The borrower is not eligible for an unemployment deferment on the additional loans, even if loans A and B are subsequently paid in full.

#### *Example 2*

A borrower has used 36 months of unemployment deferment on loans A and B, then pays both loans in full. After both loans are paid in full, the borrower obtains new loans. The borrower is eligible for an additional 36 months of unemployment deferment on the new loans.  
[§682.210(a)(1)(ii)]

### "New Borrower" Categories

In some cases, a borrower must be a "**new borrower**" to be eligible for certain types of deferments. The **Department** has established two "new borrower" categories that determine a borrower's eligibility for certain types of deferments. Each of these categories of borrowers is eligible for a distinct set of deferments.

- "**New Borrower**" *July 1, 1987, to June 30, 1993*  
A borrower:
  - Whose first FFELP loan was made on or after July 1, 1987, and before July 1, 1993, or who had an outstanding balance on a loan obtained on or after July 1, 1987, and before July 1, 1993, when he or she obtained a loan on or after July 1, 1993.

<sup>1</sup> Policy 956 (Batch 141), approved April 19, 2007



## 11.19 Forbearance

Forbearance is a tool lenders can use to assist borrowers in meeting their loan repayment obligations. By granting [forbearance](#), a lender permits a temporary cessation of payments, allows an extension of time for making payments, or temporarily accepts smaller payments than were previously scheduled. A lender is encouraged to grant a forbearance to prevent the borrower or [endorser](#) from [defaulting](#) on the repayment obligation or to permit the borrower or endorser to resume honoring the loan obligation after default. The lender may grant forbearance to borrowers or endorsers only if the lender reasonably believes, and documents in the borrower's file, that the borrower or endorser intends to repay the loans, but due to poor health or other acceptable reasons, is currently unable to make payments. The lender also may grant forbearance if the principal payments have been deferred, but the [Department](#) does not pay [interest benefits](#) on the borrower's behalf.

The terms of a forbearance agreement between a lender and borrower or endorser may require the borrower or endorser to make reduced payments during the forbearance. For more information on reduced-payment forbearance, see [subsection 11.21.A](#).

If two individuals are jointly liable for repayment of a PLUS loan or Consolidation loan, a lender may grant forbearance on repayment of the loan only if the ability of each individual to make scheduled payments has been impaired based on the same or differing conditions—except in cases when one comaker has applied for a total and permanent disability loan discharge (see [subsection 11.19.F](#), Forbearance of a Loan for a Comaker during the TPD Conditional Period).<sup>1</sup>  
[§682.210(a)(3)]

If a lender denies a borrower's request for forbearance, the lender must document the reason for denial in the borrower's file or the servicing history of the loan (see [subsection 3.4.A](#)).

A lender may not charge an administrative or other fee in connection with granting forbearance on a loan. A lender also is prohibited from reporting to credit bureaus any adverse information regarding the repayment status of a loan solely as a result of granting forbearance to the borrower.  
[§682.211]

A [lender](#) should use [forbearance](#) as a tool to bring a delinquent or [defaulted](#) loan current. The lender should not grant any discretionary forbearance that will result in the [borrower](#) remaining delinquent. However, this restriction does not apply if, for example, the loan exits the forbearance with a delinquent status due to a nonsufficient funds (NSF) payment that was made before the forbearance was granted. For more information on granting a forbearance on a delinquent or defaulted loan, see [subsections 11.19.G and 11.19.H](#).  
[HEA 428(c)]

### 11.19.A Forbearance Types

There are four types of forbearance available to borrowers and, in some cases, endorsers:

- [Administrative forbearance](#) (see [section 11.20](#)).
- Discretionary forbearance (see [section 11.21](#)).
- Mandatory administrative forbearance (see [section 11.22](#)).
- Mandatory forbearance (see [section 11.23](#)).

[Figure 11-2](#), the Forbearance Eligibility Chart, may help schools and lenders identify general information about discretionary, administrative, mandatory, and mandatory administrative forbearances, including situations in which these forbearance types may be used by a borrower and an endorser, if applicable. The chart also provides information about the length of the forbearance and general information about required documentation. For detailed information about each forbearance, see the applicable section.

<sup>1</sup> Policy 956 (Batch 141), approved April 19, 2007

## **11.19.F**

### **Forbearance of a Loan for a Comaker during the TPD Conditional Period**

When one comaker of a joint Consolidation loan or a comade PLUS loan applies for a total and permanent disability (TPD) loan discharge, the forbearance eligibility requirements apply only to the non-disabled [comaker](#) during the conditional discharge period. The lender must ensure that the delinquency on a comade loan, if any, at the time the conditional discharge period begins does not worsen.

A lender may grant discretionary forbearance on the repayment of the entire loan if the ability of the non-disabled comaker to make payments is impaired during the conditional discharge period for the disabled comaker.

The lender must explore with the non-disabled comaker any other available options such as alternative repayment agreements, deferments, discretionary forbearance, or reduced payment forbearance. As a last resort, the lender may apply an [administrative forbearance](#) to ensure that the loan does not become delinquent or that an existing delinquency does not increase during the conditional discharge period. (See [subsection 10.6.C](#) for repayment options; [sections 11.2](#) to [11.18](#) for deferment information; [section 11.21](#) for information on discretionary forbearance; and [subsection 11.21.A](#) for information on reduced-payment forbearance.)

## **11.19.F**

### **Forbearance of Delinquent Loans**

## **11.19.G**

### **Forbearance of Delinquent Loans**

A lender must not administratively forbear a delinquent borrower in cases where the borrower is delinquent before a mandatory forbearance or certain mandatory administrative forbearances. A lender should resolve any delinquencies that exist before these types of forbearance by working with the borrower to grant a discretionary forbearance. This requirement to resolve existing delinquency using a discretionary forbearance does not apply to mandatory administrative forbearances granted for military mobilization, local or national emergencies, or a designated disaster area (see [subsection 11.22.B](#) for more information).

## **11.19.G**

### **Forbearance of Defaulted Loans**

## **11.19.H**

### **Forbearance of Defaulted Loans**

A lender may grant a discretionary forbearance to a borrower or endorser to resolve a delinquency and permit the resumption of payments after the date of default only if the forbearance is granted prior to the lender's receipt of the claim payment. In order to grant a forbearance after the date of default, the lender must obtain a verbal or written agreement regarding the terms of the discretionary forbearance and a new signed agreement to repay the debt. At the lender's discretion, the signed agreement to repay the debt may be included in the context of a written forbearance agreement or may be separate. If the lender grants a discretionary forbearance based on a verbal agreement, the lender must record the forbearance terms in the borrower's file and send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement. (See [section 11.21](#) for more information about granting a discretionary forbearance.) The lender is not required to obtain a new signed agreement to repay the debt if an [administrative forbearance](#) is granted in conjunction with an authorized deferment that begins prior to the 270th day of delinquency. [[§682.211\(b\)](#) and (d)]

## **11.19.H**

### **Borrower Contact during Forbearance**

## **11.19.I**

### **Borrower Contact during Forbearance<sup>1</sup>**

If the lender and borrower or endorser agree verbally to a discretionary forbearance, the lender must record the forbearance terms in the borrower's file and send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement.

Whenever granting forbearance involves postponing all payments, the lender must contact the borrower or endorser at least once every 6 months during the forbearance period. The lender must inform the borrower or endorser of all the following information in each such contact:

- The obligation to repay the loan.
- The outstanding balance of principal and interest on the loan.

<sup>1</sup>. Policy 956 (Batch 141), approved April 19, 2007



- That interest will accrue on the loan for the entire forbearance period.
- That the borrower or endorser may opt to discontinue the forbearance at any time.

This notification requirement does not apply to the postponement of [interest](#) payments during a [deferment](#) period, a period of forbearance for an internship or residency, or a period of mandatory administrative forbearance. (See [subsection 11.23.B](#) for information regarding required notification for internship and residency forbearance. See [section 11.21](#) for information regarding required notification for mandatory administrative forbearance.)

[§682.211(e)]

### 11.19.I

## Establishing Repayment after Forbearance

### 11.19.J

## Establishing Repayment after Forbearance<sup>1</sup>

A [borrower](#)'s first payment due date after an authorized forbearance generally must be no later than 60 days after the date that the forbearance expires. For a Stafford loan, federal regulations permit the lender to extend the first due date an additional 30 days beyond the standard 60-day limit, if the extension is necessary to permit the lender to comply with requirements that the repayment disclosure be sent to the borrower no less than 30 days before the first payment on the loan is due.

A borrower must be notified of any [interest](#) capitalized due to the forbearance. The notice should include the new [principal balance](#) and any other repayment term changes (such as a new monthly payment amount) resulting from the interest being capitalized. The lender may develop its own format for disclosing such information or may use a [repayment schedule](#) and disclosure form provided by a guarantor. For more information on disclosure of repayment terms, see [section 10.7](#).

[§682.205(c); §682.209(a)(3)(ii)(B)]

<sup>1</sup> Policy 956 (Batch 141), approved April 19, 2007

## Forbearance Eligibility Chart

Figure 11-2

TYPE	LENGTH
<b>Discretionary</b>	
Financial difficulties due to personal problems when the borrower is unable to make regularly scheduled payments <sup>1</sup>	The period established in the terms of the forbearance agreement (not to exceed 12-month increments); no maximum
Reduced-Payment Forbearance <sup>1</sup>	
<b>Mandatory</b>	
Medical or Dental Internship/Residency <sup>2, 3</sup>	12-month increments (or a lesser period equal to actual period during which the borrower is eligible); no maximum
Department of Defense Student Loan Repayment Programs <sup>3</sup>	
National Service <sup>2, 3</sup>	
Child Care Provider Loan Forgiveness <sup>2, 9</sup> — <i>Note: Contingent upon funding by Congress.</i>	Period while borrower maintains forgiveness eligibility. 12-month increments
Debt Exceeds Monthly Income <sup>4, 5</sup>	12-month increments; 3 years maximum
Teacher Loan Forgiveness <sup>2, 3</sup>	Period while borrower maintains forgiveness eligibility. 12-month increments
<b>Mandatory Administrative</b>	
Local or National Emergency <sup>7</sup>	Period specified by the Department or guarantor plus 30 days following the period
Military Mobilization <sup>8</sup>	
Designated Disaster Area <sup>7</sup>	
Repayment Accommodation	3-year maximum for variable interest rate; 5-year maximum for income-sensitive repayment
Death	Date lender receives reliable notification of death to date lender receives death certificate or other acceptable documentation, not to exceed 60 days
Teacher Loan Forgiveness <sup>2, 6</sup>	The period while the lender is awaiting a completed loan forgiveness application, not to exceed 60 days Date lender receives a completed loan forgiveness application to date lender receives either a denial or the loan forgiveness amount from the guarantor

TYPE	LENGTH
<b>Administrative</b>	
Borrower Ineligible for Deferment <sup>6</sup>	Beginning date to ending date of the ineligible deferment
Delinquency before a Deferment or Certain Forbearances <sup>6</sup>	First date of overdue payment to the day before the beginning date of deferment or other forbearance type
Late Notification of Out-of-School Dates <sup>6</sup>	Date borrower should have entered repayment to date first or next payment was established
Bankruptcy Filing <sup>6</sup>	The earlier of the first date of overdue payment or receipt of reliable information that the borrower has filed bankruptcy to date of discharge determination or repurchase
Total and Permanent Disability <sup>6</sup>	Date lender receives reliable information to date lender receives a complete loan discharge application or other form(s) approved by the Department, not to exceed 60 days Date lender receives physician's written request for additional time to date lender receives complete documentation, not to exceed 60 days <u>For a non-disabled comaker, the earlier of the date that the lender receives the loan discharge application or the date the lender receives notice from the guarantor that one comaker is totally and permanently disabled, to the date that the lender receives notice of the final discharge determination.*</u>
Repurchase of a Non-Bankruptcy Claim <sup>6</sup>	The period that the loan was held by the guarantor due to a claim purchase
Death	Date after mandatory administrative forbearance due to reliable notification of death ends to date lender receives death certificate or other acceptable documentation, not to exceed 60 days
Closed School	Period of unofficial closure notice as specified by guarantor
Closed School or False Certification <sup>6</sup>	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination
False Certification — <del>Due to Identity Theft<sup>6</sup></del>	<del>Date eligibility requirements sent to individual to date request and documentation returned, not to exceed 60 days; and from date guarantor receives documentation to date of determination the lender receives reasonably persuasive evidence from the borrower showing that the borrower's loan may have been falsely certified due to identity theft to date the Department's applicable discharge regulations are effective†</del>
Delinquency after Deferment or Mandatory Forbearance <sup>6</sup>	Deferment or mandatory forbearance end date to establishment of next payment due date
Documentation Collection and Processing <sup>6</sup>	Date borrower requests deferment, forbearance, change in repayment plan, or loan consolidation to date supporting documentation is processed by lender, not to exceed 60 days
Unpaid Refund Discharge	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination The period during guarantor review and ending on the date lender receives the guarantor's determination for a borrower who requests a review of a denial determination
Unpaid Refund <sup>6</sup>	End date of initial 60-day mandatory administrative forbearance to receipt of completed discharge request, and during period of determination of discharge eligibility
New Out-of-School Dates after Conversion <sup>6</sup>	Original repayment start date to adjusted start date
Loan Sale or Transfer <sup>6</sup>	First date of delinquency to date loan is sold or transferred, if the loan is less than 60 days delinquent
Ineligible Summer Bridge Extension <sup>6</sup>	Day after expiration of borrower's last in-school deferment to the 30th day after fall classes begin
Cure <sup>6</sup>	Date of earliest unexcused violation to date lender receives a full payment or new signed repayment agreement
Natural Disasters, Local or National Emergency, Military Mobilization <sup>6</sup>	From date borrower affected, not to exceed 3 months for each occurrence
Repayment Alignment-SLS/Stafford <sup>4</sup>	First payment due date to last day of the longest applicable Stafford loan grace period

\* Policy 956 (Batch 141), approved April 19, 2007

† Policy 945 (Batch 140), approved April 19, 2007

Note: For detailed information about each forbearance situation, refer to the applicable subsection.

<sup>1</sup> Lender must document the borrower's request, the reason for the forbearance, and the terms of the forbearance agreement.

<sup>2</sup> For borrowers only.

<sup>3</sup> A request and supporting documentation from the authorized official(s) indicating the beginning and ending dates, and a verbal or written agreement are required.

<sup>4</sup> A request is required.

<sup>5</sup> A request and supporting documentation of monthly income and monthly payments on Title IV education loan obligations, and a verbal or written agreement are required.

<sup>6</sup> Lender must notify the borrower (or individual or endorser, if applicable) and document the beginning and ending dates and reason for the forbearance in borrower history record.<sup>1</sup>

<sup>7</sup> Notice from the Department or guarantor is required.

<sup>8</sup> Documentation showing borrower is subject to a military mobilization is required.

<sup>9</sup> A request and a completed FFELP Child Care Provider Loan Forgiveness Forbearance Form are required.

<sup>1</sup> Policy 945 (Batch 140), approved April 19, 2007

**11.20.D****False Certification Due to as a Result of the Crime of Identity Theft**

~~If a lender receives reasonably persuasive evidence from a borrower showing that the borrower's loan(s) may have been falsely certified due to a crime of identity theft, the lender may grant an administrative forbearance on the borrower's potentially eligible loan(s). The administrative forbearance may be granted until the date that the Department's applicable discharge regulations are effective.~~

~~[HEA 437(e)(1); DCL GEN 06-02]~~

If a guarantor or the Department notifies a lender, or the lender receives reliable information from another source (such as a telephone call or letter from the individual named as the borrower) that an individual may be eligible for a false certification loan discharge as a result of the crime of identity theft, the lender must grant an [administrative forbearance](#) on any potentially eligible loan for a period not to exceed 60 days, beginning no earlier than the date that the loan discharge eligibility requirements are sent to the individual. If the individual fails to return the discharge documentation within the required time frame, the lender must end the administrative forbearance and the loan's delinquency resumes at the point at which collection activity was suspended.

[§682.211(f)(7); §682.402(e)(12)]

In addition, the lender may grant an administrative forbearance for periods needed by the Department or the guarantor to determine the individual's eligibility for discharge because of false certification as a result of identity theft (see [subsection 13.8.E](#) for information regarding false certification loan discharge as a result of identity theft). If the discharge is denied, the lender must resume collection activity on the loan within 30 days of the lender's receipt of the denial notice from the guarantor. The lender may capitalize interest accrued during the forbearance period and the loan's delinquency resumes at the point at which collection activity was suspended.

[§682.402(e)(7)(ii)]

The lender must clearly indicate in the servicing history that an administrative forbearance was granted due to the borrower's potential eligibility for loan discharge for false certification as a result of ~~false certification due to the crime of identity theft~~.<sup>1</sup>

**11.20.E****Cures**

The lender may grant an administrative forbearance from the date of the earliest unexcused violation to the date the lender receives a full payment or new repayment [agreement](#) that is signed by the borrower to reinstate the [guarantee](#) on the loan.

**11.20.F****Death**

If a lender receives reliable but unofficial notification of a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or a Consolidation loan that paid in full a PLUS loan, the lender must suspend collection activity on the loan for a period of up to 60 days, until the lender receives documentation of the death. If the lender needs time in addition to the initial 60-day mandatory administrative forbearance period to obtain documentation of the death, the lender may grant an administrative forbearance on the loan for up to an additional 60 days, for a total suspension of collection activity of up to 120 days. This forbearance does not require a written request but the lender must send a notice to the borrower's or endorser's address stating that such a forbearance was granted.

See [subsection 11.22.A](#) for mandatory administrative forbearance requirements regarding death discharges. See [subsection 13.8.C](#) for information on claim filing procedures for loans that are eligible for discharge or partial discharge due to a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or a Consolidation loan that paid in full a PLUS loan.

[§682.211(f)(6); §682.402(b)(3)]

**11.20.G****Delinquency before a Deferment or Certain Forbearances**

A lender may process an administrative forbearance to resolve an outstanding delinquency that precedes any of the events listed below. The forbearance may be granted from the date on which the borrower's delinquency began and may be extended through the day before the first date on which the borrower is eligible for:

- A deferment.

<sup>1</sup>. Policy 945 (Batch 140), approved April 19, 2007

If a [comaker](#) of a joint Consolidation loan or PLUS loan applies for a total and permanent disability loan discharge, the lender must continue servicing the loan for the non-disabled comaker. The lender must protect the status of the loan during the conditional discharge period so that the loan does not become delinquent or more delinquent. The lender may apply an [administrative forbearance](#) on the entire loan if the non-disabled comaker is not eligible for or does not choose another repayment option, deferment, discretionary forbearance, or reduced-payment forbearance. The administrative forbearance may not begin prior to the date the lender receives the disabled comaker's loan discharge application, or the date the lender receives the notification from the guarantor that one comaker is totally and permanently disabled, whichever is earlier. The forbearance ends on the date that the lender receives notice of the disabled comaker's final discharge determination.<sup>1</sup>

## 11.20.Q Unpaid Refund Discharge

If a guarantor or the Department notifies a lender, or the lender receives reliable information from another source (such as a telephone call or letter from the borrower) that a borrower may be eligible for an unpaid refund loan discharge, the lender must grant an [administrative forbearance](#) on any affected loan. If an unpaid refund loan discharge may be applicable to any underlying loan(s) of a Consolidation loan, the lender must suspend collection activity and grant this forbearance on the entire Consolidation loan. A lender must forbear payments of principal and interest that are delinquent or that would be due during all of the following periods.

- The period beginning on the date the lender or guarantor sends the borrower an unpaid refund loan discharge application and ending on either of the following:
  - The date that the lender receives the guarantor's determination, if the borrower returns the discharge application within 60 days from the date the lender or guarantor sent the application.
  - The 60th day, if the borrower does not return the discharge application within 60 days from the date the lender or guarantor sent the application. See below for more information about forbearance a lender may grant when the lender receives a completed discharge application after this initial 60-day period.

- The period beginning on the date the lender receives notification from the guarantor of the borrower's request for a review of a denial determination and ending on the date that the lender receives the guarantor's determination.

If the lender receives the borrower's unpaid refund discharge application more than 60 days from the date on which the lender or guarantor sent the discharge application to the borrower, the lender may grant an additional administrative forbearance on any affected loan. This forbearance may cover the period from the end of the initial 60-day administrative forbearance to the receipt of the completed discharge application.

In addition, after the lender receives the discharge application, the lender may grant another administrative forbearance to cover the period needed by the guarantor to determine the borrower's eligibility for an unpaid refund discharge.

The lender must notify the borrower or endorser that a forbearance was granted for any of the above periods. See [subsection 13.8.G](#) for more information on unpaid refund discharges.  
[§682.402(l)]

## 11.21 Discretionary Forbearance

A lender is encouraged to grant a discretionary forbearance to assist a borrower or [endorser](#) in fulfilling the repayment obligations on the loan and to help prevent default. The lender may grant forbearance based on either a written or verbal agreement with the borrower. (See [subsection 11.19.B](#) for more information about a lender's responsibilities when a forbearance is based on a verbal agreement.) Situations in which the lender may choose to grant forbearance include, but are not limited to:

- The borrower has personal problems (such as [economic hardship](#)) are temporarily affecting the borrower's or endorser's ability to make scheduled payments.
- The borrower is unemployed but has already received the maximum unemployment [deferment](#).
- The borrower has had poor health or a prolonged illness or [disability](#) but does not meet applicable disability deferment criteria.

<sup>1</sup> Policy 956 (Batch 141), approved April 19, 2007

## 13.5 Claim Repurchase

If a lender discovers that a loan was declared to be in **default** due to circumstances beyond the control of the lender and **borrower** (rather than the borrower's action or inaction), guarantors strongly recommend that the lender **repurchase** the **claim**. Repurchases may be subject to guarantor approval.

A lender may be required to repurchase a claim if the guarantor becomes aware that the claim was inadvertently purchased due to circumstances such as the following:

- The lender incurred a servicing error (such as posting the borrower's payments to the wrong loan) or regulatory violation resulting in a loss of guarantee on the loan.
- New information is obtained demonstrating that the borrower currently should not be delinquent or in default.
- The **school** failed to verify the student's enrollment status.
- A delay occurred in the processing of a **deferment** that begins prior to the date of default.
- The loan is found to be legally unenforceable.
- Other reasons as determined by the guarantor.

Any lender, including a lender designated as an exceptional performer, is required to repurchase a loan that was paid as a **bankruptcy** claim if the bankruptcy is subsequently dismissed by the court or, as a result of the **hearing**, the loan is considered nondischargeable and the borrower is responsible for repayment of the loan.

[§682.402(f)(4)]

If the guarantor purchases a default claim and later receives documentation that the date of the bankruptcy petition preceded the date of default (the 270th day of delinquency for most claims), the lender will be required to repurchase the loan unless the loan is determined by the court to be dischargeable in the bankruptcy action. The repurchase requirement does not apply in the case of a loan that is filed as a default claim and the date of default precedes the petition date.<sup>1</sup>

[§682.402(j)]

If a claim is paid by the guarantor and the loan is later ruled by a court to be unenforceable against the borrower solely due to the lack of evidence of a **Confirmation** or **Notification** process or processes, the lender must repurchase the claim from the guarantor and refund to the Department any **interest benefits** and **special allowance** payments collected by the lender on the loan.  
[§682.406(c)]

A guarantor will notify the lender in writing of the guarantor's recommendation or requirement to repurchase a claim. If the lender disagrees with any aspect of the recommendation or requirement to repurchase, the lender should notify the guarantor and submit any new pertinent information on the loan. In the absence of a valid appeal, a guarantor-initiated repurchase must be finalized by the lender within 60 days of the lender's receipt of the request.

A **lender** may choose to initiate a **repurchase** at any time by contacting the **guarantor**. After the guarantor receives the lender's repurchase request and any supporting **documentation**, the guarantor will contact the lender to advise whether the request has been approved or denied. If the request is approved, the lender will be quoted the repurchase amount due. The guarantor may elect to waive some or all of the accrued **interest** and collection costs during the post claim period.

The lender may capitalize outstanding interest according to provisions in **section 10.10** and **subsection 11.20.O**.

If a lender chooses to **recall** a claim but the guarantor is unable to stop the claim payment, the lender may recall the claim by remitting an amount equal to the claim payment to the guarantor within 30 days of receiving the claim payment. If a claim is later filed, the lender must provide a complete history from the **out-of-school date** reported on the Claim Form. (Refer to **subsection 13.1.D** for documentation requirements.)

### Repurchase of Defaulted Loans

Upon receiving a lender's payment for the quoted repurchase amount, the guarantor will process the **repurchase** and provide the lender with appropriate file documentation and the original **promissory note**. Any payments received from the borrower that affect the repurchase quote will be applied as adjustments to the purchase amount or will be refunded to the lender.

*Note: The definition of repurchase (of a claim) is when a lender purchases from the guarantor a loan on which a claim was filed and paid if that purchase occurs more than 30 days after the lender receives the claim payment.<sup>2</sup>*

<sup>1</sup>. Policy 914 (Batch 136), approved December 21, 2006

<sup>2</sup>. Policy 949 (Batch 140), approved April 19, 2007



## 13.8 Discharge

A loan discharge is a release of a borrower's or any comaker's obligation to repay his or her loan, either in whole or in part. There are several circumstances under which a borrower's or comaker's loan may be discharged. Each of these circumstances and its corresponding borrower eligibility criteria are outlined in this section. In certain circumstances, a lender that discharges all or a portion of an eligible borrower's loan may be reimbursed by the guarantor by filing a claim. For information about claim filing procedures, see [section 13.1](#).

### Partial Discharge of a Consolidation Loan

The lender of a Consolidation loan must submit to the guarantor of the Consolidation loan a request for partial discharge of the portion of the Consolidation loan that represents any underlying loans that are eligible for discharge due to disability (only for comade Consolidation loans), closed school, death, false certification, unpaid refund, or another discharge type. Upon approval of the discharge, the guarantor will process a payment for the discharged principal and interest portion of the Consolidation loan and forward the payment to the Consolidation loan lender.

▲ Lenders may contact the guarantor of the Consolidation loan for information on how to file the request for partial discharge.

In certain circumstances, a lender that discharges all or a portion of an eligible borrower's loan may be reimbursed by the guarantor by filing a claim. For information about claim filing procedures, see [section 13.1](#).<sup>1</sup>

### Comakers and Endorsers<sup>2</sup>

If a PLUS loan was obtained by two [parents](#) as [comakers](#) (as applicable to PLUS loans made prior to April 16, 1999), or a Consolidation loan was obtained by ~~a married couple~~ two spouses as comakers (as applicable to a Consolidation loan made from an application received by the consolidating lender prior to July 1, 2006),<sup>3</sup> and one of the borrowers is eligible for [discharge](#), one or both comakers ~~the other borrower~~ remains obligated to repay the loan.<sup>4</sup> However, if each comaker on a loan meets the eligibility criteria for a discharge—under the same type or a different discharge

type—the loan holder may grant a discharge ~~can be granted~~ on the loan.

[§682.402(a)(2) and (3)]<sup>5</sup>

If a comaker on a joint Consolidation loan is determined to be totally and permanently disabled, the disabled comaker's underlying loans are discharged but the disabled comaker and the non-disabled comaker both remain jointly and severally liable for the repayment of the balance of the loan. For a comade PLUS loan, if one comaker is determined to be totally and permanently disabled, that comaker's obligation on the loan is discharged and the non-disabled comaker assumes responsibility for repayment of the entire loan balance.

If the lender has begun collection activities with respect to the endorser's obligation on a PLUS loan, and if the endorser is determined to be totally and permanently disabled, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance.<sup>6</sup>

### Credit Bureau Reporting

As required under [subsection 3.5.C](#), the lender must report to at least one [national credit bureau](#) the date a borrower's loan is [discharged](#) due to the [disability](#), [bankruptcy](#), or the death of the borrower or [dependent student](#), as applicable. For closed [school](#) and false [certification](#) claims, the current loan [holder](#) must, within 30 days of the date the lender is notified that a loan is [discharged](#), notify all credit reporting agencies to which any adverse credit has been reported that the loan obligation has been discharged and that the adverse credit information must be corrected.

[§682.208(b)]

Some guarantors have additional or alternate discharge documentation requirements. These requirements are noted in [appendix C](#).

1. Policy 957 (Batch 141), approved April 19, 2007

2. Policy 956 (Batch 141), approved April 19, 2007

3. Policy 936 (Batch 139), approved March 15, 2007

4. Policy 956 (Batch 141), approved April 19, 2007

5. Policy 936 (Batch 139), approved March 15, 2007

6. Policy 956 (Batch 141), approved April 19, 2007



## 13.8.E

### **False Certification Due to as a Result of the Crime of Identity Theft**

An ~~borrower~~ individual may obtain a false certification loan discharge on a loan(s) disbursed on or after January 1, 1986, if the individual's eligibility to receive the loan ~~that was~~ falsely certified ~~due to~~ as a result of a crime of identity theft. For the purposes of false certification loan discharge, the term "individual" includes all endorser(s) on a loan.- However, until the date that the Department's applicable discharge regulations are effective, if a lender receives reasonably persuasive evidence from a borrower showing that the borrower's loan(s) may have been falsely certified due to a crime of identity theft, the lender may grant an administrative forbearance on the borrower's potentially eligible loan(s). See subsection 11.20.D for information about applying an administrative forbearance in the case of false certification due to identity theft.  
~~[HEA 437(e)(1); DCL GEN 06 02]~~[\[§682.402\(e\)\(1\)\(i\)\]](#)

If the guarantor determines that an individual is eligible for a loan discharge, the discharge cancels the obligation of the individual to repay the applicable outstanding principal, accrued interest, **collection costs**, and late fees. It also qualifies the individual for reimbursement of any amounts paid voluntarily or through forced collection on the amount discharged. The lender and guarantor must ensure that the discharge is reported to credit bureaus such that any adverse credit history associated with the amount discharged is removed.  
[\[§682.402\(e\)\(2\)\]](#)

An individual may initiate the discharge process based on false certification as a result of the crime of identity theft by requesting the discharge and providing the lender or guarantor with all of the required documentation.

If the lender receives preliminary notification that the loan was falsely certified, the lender must send information explaining the loan discharge eligibility requirements to the individual. If the guarantor receives the preliminary notification that the loan was falsely certified, the guarantor may send the information explaining the loan discharge eligibility requirements to the lender to forward to the individual. In other cases, the guarantor may send the information explaining the loan discharge eligibility requirements directly to a potentially eligible individual and notify the lender of the potential discharge. In such cases, the guarantor also may request that the individual return the required documentation to the guarantor for a determination of eligibility. The guarantor will notify the lender of the individual's eligibility for the loan discharge.  
[\[§682.402\(e\)\(12\)\]](#)

### **Suspending Collection Activity**

If a guarantor notifies a lender, or the lender receives reliable information from another source (such as a telephone call or written correspondence from the individual) that an individual may be eligible for a false certification loan discharge, the lender must immediately suspend all collection activity and must grant an **administrative forbearance** on any affected loan.  
[\[§682.402\(e\)\(12\)\(i\)\]](#)

The lender must grant an administrative forbearance on all loans that are potentially eligible for discharge. The forbearance may begin no earlier than the date that information explaining the loan discharge eligibility requirements is sent to the individual. The lender must resume collection activities if the individual fails to return a discharge request and the required documentation within 60 days after the date the information is sent to the individual. The lender must resume collection activities within 30 days from receiving notification that the loan is ineligible for false certification loan discharge. The lender may capitalize the interest accrued during the administrative forbearance period.  
[\[§682.402\(e\)\(12\)\(i\)\]](#)

### **Notifying the Individual**

Within 30 days of the date the lender receives information that the individual may be eligible for a false certification loan discharge, the lender must send information to the individual regarding how to request the loan discharge. The lender must provide the following information to potentially eligible individuals:

- Eligibility requirements for false certification loan discharge as a result of the crime of identity theft.
- Appropriate instructions for sending a signed request for loan discharge and all required documentation to the lender, including instructions that the documentation must be submitted to the lender within 60 days.
- An explanation of the administrative forbearance applied to each potentially eligible loan(s) and the effect of the **capitalization** of interest accrued during the forbearance period.

[\[§682.402\(e\)\(12\)\(i\)\]](#)<sup>1</sup>

<sup>1</sup> Policy 945 (Batch 140), approved April 19, 2007

**Eligibility Criteria**

An individual qualifies for loan [discharge](#) if the individual does all of the following:

- Certifies that he or she did not sign the [promissory note](#), or that any other means of identification used to obtain the loan were used without the authorization of the individual.
- Certifies that he or she did not knowingly receive or benefit from the proceeds of the loan that had been made without the individual's authorization.
- Provides to the lender a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft.

[\[§682.402\(e\)\(3\)\(v\)\]](#)

If the judicial determination of the crime does not expressly state that the loan was obtained as a result of the crime, the individual must provide all of the following:

- Five different samples of his or her signature, two of which must be no more than one year before or one year after the date of the contested signature, or other means of identification of the individual, as applicable, corresponding to the means of identification used falsely to obtain the loan.
- A statement of facts that demonstrates that eligibility for the student loan in question was falsely certified.

[\[§682.402\(e\)\(3\)\(v\)\]](#)

For the purposes of this subsection, identity theft is considered to be the unauthorized use of the identifying information of another individual that is punishable under [18 U.S.C. 1028](#), [1029](#), or [1030](#), or substantially comparable state or local law. Identifying information includes, but is not limited to, any of the following elements:

- Demographic data such as name, SSN, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number.
- Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation.

- Unique electronic identification number, address, or routing code.
- Telecommunication identifying information or access device [as defined in [18 U.S.C. 1029\(e\)](#)].

[\[§682.402\(e\)\(14\)\(i\)and \(ii\)\]](#)

**Processing the Discharge**

If an individual returns to the lender a request for loan discharge and all of the required documentation, the lender must file a claim with the guarantor. If an individual returns to the guarantor a loan discharge request and all of the required documentation, the guarantor will review the documentation and determine the individual's eligibility for false certification loan discharge. The guarantor will notify the lender that either the individual qualifies for the loan discharge and the lender must file a false certification loan discharge claim, or the individual does not qualify for loan discharge and the lender must resume applicable collection activity.

[\[§682.402\(e\)\(7\)\(i\) and \(ii\); §682.402\(e\)\(12\)\(iii\)\]](#)

If an individual submits incomplete documentation, the lender or guarantor must send the individual an explanation of why the documentation is incomplete. If the individual's signature is missing, the lender or guarantor must return the request to the individual. The lender or guarantor must document the loan history accordingly. In either situation, the [administrative forbearance](#) period described previously in this subsection must not exceed a total of 60 days from the date on which the loan discharge information was originally sent to the individual.

If an individual fails to submit complete loan discharge documentation within 60 days of being notified of that option, the lender must resume collection activity of the affected loan(s). The lender is deemed to have exercised forbearance on the loan(s) beginning on the date on which the lender suspended collection activity. The lender may capitalize unpaid interest that accrues during the forbearance period.

[\[§682.402\(e\)\(12\)\(ii\)\]](#)

An individual's request for loan discharge cannot be denied solely due to the individual's failure to return the request and required documentation within 60 days. If the lender receives complete documentation from the individual at a later date, the lender must process the loan discharge request and if the individual appears to qualify for the loan discharge, file a claim with the guarantor.

[\[§682.402\(e\)\(6\)\(v\)\]<sup>1</sup>](#)

<sup>1</sup>. Policy 945 (Batch 140), approved April 19, 2007

**Claim Filing Requirements**

A lender must file a false certification loan discharge claim within 60 days of receiving complete loan discharge documentation from the individual or, if the guarantor has obtained the discharge documentation directly from the individual, within 60 days from the date of the guarantor's notification to file a false certification loan discharge claim. Failure to meet this timely filing deadline may result in an interest penalty.

[§682.402(e)(12)(iii)]

A lender facilitates the timely and accurate processing of a false certification loan discharge claim by ensuring that complete loan discharge documentation from the individual is submitted with each claim.

The lender must forward to the guarantor within 30 days of receipt any payments it receives after the claim has been filed.

[§682.402(e)(12)(iii)]

**Claim Filing Documentation**

The lender must submit all of the following documentation to the guarantor:

- The Claim Form, completed according to the instructions that accompany that form.
- The individual's signed request for loan discharge and all required documentation provided by the individual, unless the individual submitted this information directly to the guarantor.
- The loan application, if a separate loan application was provided to the lender, and the promissory note (or a true and exact copy of the promissory note), assigned to the guarantor. If the original or copy of the loan application or promissory note cannot be located, the guarantor and the lender must examine their records and any documentation submitted by the individual to determine whether the individual qualifies for a discharge. If the MPN is signed by a third party with power of attorney (POA) for the individual, the lender must also submit a copy of the applicable POA document.
- The total amount of payments made by the individual or on behalf of the individual. This total should be provided on the Claim Form. If the total amount of payments made by or on behalf of the individual is not available, the lender must clearly explain why this information is not provided on the Claim Form.

- The total of any payments the lender is aware of having received from a third-party source. These amounts must be included in the total amount of principal repaid on the Claim Form and must not be included in the total amount of payments made by or on behalf of the individual.
- Supporting documentation not required for claim submission must be retained by the lender in accordance with federal record retention requirements. (See subsection 3.4.A for information on lender record retention requirements.)

[§682.402(e)(12)(iv)]

**Processing an Approved Discharge**

If the guarantor determines that a loan is eligible for discharge due to false certification, the guarantor will take the following actions within 30 days of approving the discharge:

- Notify the individual that his or her liability with respect to the amount of the loan has been discharged.
- Instruct all credit reporting agencies to which the guarantor previously reported the status of the loan to delete all adverse credit history associated with the discharged loan.
- Refund to the individual all amounts paid by the individual to the lender or the guarantor with respect to the discharged loan(s), including any late fees or collection costs.
- Notify the lender that the individual's liability has been discharged.
- Pay the applicable amount to the lender.

[§682.402(e)(7)(ii)]

Upon receiving notification of the loan discharge from the guarantor as noted above, the lender must:

- Discontinue any collection efforts against the individual with respect to the discharged loan amount and any charges imposed or costs incurred by the lender related to the discharged loan amount.<sup>1</sup>

<sup>1</sup> Policy 945 (Batch 140), approved April 19, 2007

- Within 30 days, instruct all credit reporting agencies to which the lender previously reported information on the loan to delete all adverse credit history associated with the discharged loan.

#### [§682.402(e)(7)(ii)(C)]

#### Denying the Discharge

If the guarantor determines that a loan is not eligible for discharge due to false certification, the guarantor will ensure that the following actions are performed within 30 days of making the determination:

- Notify the lender that the individual does not qualify for the requested discharge.
- Advise the lender that the false certification loan discharge claim, if one was filed, will be either returned to the lender or paid as a default claim, as applicable, depending on the individual's actions to reaffirm the debt, if necessary.
- Notify the individual that he or she does not qualify for discharge and explain the reasons for that determination.

#### [§682.402(e)(7)(iii)]

In its notification to the individual, the guarantor will advise the individual that he or she remains obligated to repay the loan and warn the individual of the consequences of default. In addition, the guarantor will explain that the individual will be considered to be in default on the loan—unless he or she fulfills either of the following requirements within 30 days:

- Submits a written statement to the guarantor in which the individual acknowledges the debt and, if payments are due, agrees to begin or resume making those payments to the lender. Within 30 days after receiving this statement, the guarantor will return the claim file to the lender and notify the lender to resume collection activity if payments are due.
- Requests that the Department review the guarantor's decision. Within 30 days after receiving this request, the guarantor will forward the claim file and all relevant documentation to the Department for review. Approval of the discharge by the Department will result in the discharge of the loan through claim

payment or discharge by the guarantor. Denial will result in the return of the claim to the holder for continued servicing and collection activity.

#### [§682.402(e)(7)(iii)]

The guarantor will purchase a default claim from the lender within 30 days after a borrower fails to return either the statement acknowledging the debt or the request for review of the guarantor's decision by the Department.

#### [§682.402(e)(7)(vi)]

If the guarantor notifies the lender that the borrower does not qualify for a false certification loan discharge, the lender must resume applicable collection activity on the loan within 30 days of receiving the guarantor's notification. If a forbearance was applied to the loan pending the determination of the borrower's eligibility for false certification loan discharge, the lender may capitalize interest accrued during the forbearance period. The lender must also notify the borrower that the loan discharge was denied and the reason for that denial.

#### [§682.402(e)(7)(vi)]

#### Claim Payment

If a loan was made as a result of the crime of identity theft that was committed by an employee or agent of the lender, or if at the time the loan was made, an employee or agent of the lender knew of the identity theft of the individual named as the borrower or endorser on the loan, the loan is not insured and the holder must refund to the Department any amounts received as interest benefits and special allowance payments with respect to the loan.

The guarantor will pay an eligible claim within 30 days of approving the loan discharge application if the lender files the claim based on false certification as a result of the crime of identity theft.

#### [§682.402(e)(1)(iii)]<sup>1</sup>

<sup>1</sup>. Policy 945 (Batch 140), approved April 19, 2007

## 13.8.F

### Total and Permanent Disability

If any party to a loan claims to be totally and permanently disabled, ~~borrower claims to be totally and permanently disabled~~, the lender must request that ~~the borrower~~ party to provide certification of the disability from a physician. An eligible party includes any one of the following:

- A borrower.
- One of two comakers on a PLUS or Consolidation loan.
- An endorser, if the lender is pursuing collection activities against the endorser.

The lender may request that the borrower's, comaker's, or endorser's representative provide the physician's certification if the borrower, comaker, or endorser is unable to do so. The borrower, comaker, or endorser or his or her ~~the borrower's~~ representative must submit a completed Loan Discharge Application: Total and Permanent Disability or other form(s) approved by the Department. The certification must include the date the borrower, comaker, or endorser became unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death.  
[§682.402(c)(2)]

#### Suspending Collection

If a lender receives reliable information indicating that a borrower or one of two comakers on a PLUS or Consolidation loan has become totally and permanently disabled, the lender may ~~grant the borrower~~ apply an administrative forbearance to the loan, not to exceed 60 days, until the lender receives certification of the ~~borrower's~~ total and permanent disability. If the lender does not grant the ~~borrower an~~ administrative forbearance, the lender must continue collection activities~~xy~~ until it receives the certification—or until it receives a written request from the physician requesting additional time to determine whether the borrower or comaker is totally and permanently disabled. If the lender receives reliable information indicating that an endorser has become totally and permanently disabled, the lender may not apply an administrative forbearance to the PLUS loan pending receipt of the required forms.  
[§682.211(f)(5); §682.402(c)(3)]

If the lender receives a written request from the borrower's or comaker's physician requesting additional time to make a determination, the lender must suspend collection activity on the loan for up to 60 days or until the certification is received, whichever is earlier. If the lender determines that the borrower or comaker does not meet the definition of totally and permanently disabled, or if the lender does not receive the physician's certification of total and permanent disability within 60 days of the receipt of the physician's written request for additional time, the lender must resume collection activity and treat the loan as though forbearance had been granted during this period. A signed forbearance agreement is not required for this administrative forbearance period. The delinquency status, if any, that existed on the loan before the lender suspended its due diligence remains. The lender must resume due diligence immediately at the level of delinquency at which it was suspended. For more information on the use of administrative forbearance in conjunction with the lender's receipt of a physician's written request for additional time, see subsection 11.20.P.  
[§682.402(c)(5)]

For a comade Consolidation loan on which one comaker's loan discharge application will not result in the discharge of the entire loan balance, the lender must continue to service the portion of the loan that is not eligible for loan discharge. The lender must ensure that when the comaker who is claiming to be totally and permanently disabled resumes repayment on the remaining balance of the loan, the loan itself has not become delinquent or more delinquent during the conditional discharge period. The lender may apply an administrative forbearance to the entire Consolidation loan for the conditional discharge period, after first exploring with the non-disabled comaker any other available options, such as alternative repayment agreements, deferment, discretionary forbearance, or reduced-payment forbearance.

For a comade PLUS loan on which one comaker is applying for loan discharge, the lender must continue to collect on the full balance of the loan from the non-disabled comaker. The lender must ensure that the loan status does not deteriorate during the conditional discharge period, and should work with the non-disabled comaker to discuss deferment options or to negotiate forbearance terms. The lender may apply an administrative forbearance to the entire loan balance if the non-disabled comaker is not eligible for other repayment options or does not choose to defer or forbear the loan.<sup>1</sup>

<sup>1</sup>. Policy 956 (Batch 141), approved April 19, 2007



For a PLUS loan on which the endorser is applying for loan discharge, the lender may not collect from the endorser but must continue to collect the entire loan amount from the borrower.

### General Requirements for Total and Permanent Disability Loan Discharge

If a doctor of medicine or osteopathy, legally authorized to practice in a state, certifies that the borrower, the comaker, or the endorser on a PLUS loan is totally and permanently disabled, the borrower's, comaker's or endorser's obligation to repay all or a portion of the loan may be discharged. If a comaker on a joint Consolidation loan is determined to be totally and permanently disabled, the disabled comaker's underlying loans are discharged but the disabled comaker and the non-disabled comaker both remain jointly and severally liable for repayment of the balance of the loan. For a comade PLUS loan, if one comaker is determined to be totally and permanently disabled, that comaker's obligation on the loan is discharged and the non-disabled comaker assumes responsibility for repayment of the entire loan balance. If the lender has begun collection activities with respect to the endorser's obligation on a PLUS loan, and if the endorser is determined to be totally and permanently disabled, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance.  
[§682.402(a)(2) and (3)]

For these purposes, a borrower, comaker, or endorser is considered totally and permanently disabled if he or she is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. A borrower, comaker, or endorser is not considered totally and permanently disabled on the basis of a condition that existed at the time the loan was made, unless that condition has substantially deteriorated to the point of total and permanent disability since the loan was made. In this situation, ~~the borrower should ensure that~~ the physician must clearly notes that the condition became totally and permanently disabling after the date on which the loan was made.  
[§682.402(c)(1)(iii)]

If a borrower, comaker, or endorser receives a new loan under the Perkins, FFEL, or Direct Loan Programs (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status) within 3 years of the date ~~the borrower~~ he or she became unable to work and earn money, the borrower, comaker, or endorser is not eligible for discharge on ~~that the loan on which he or she is a signatory~~ or any loan made prior to that date. This 3-year period, i.e., the conditional discharge period, begins

on the date the borrower, comaker, or endorser became unable to work and earn money, as certified by the physician. The lender must review its records for any new loan(s) made to the borrower, comaker, or endorser on or after the date ~~the borrower~~ he or she became totally and permanently disabled. If the lender's records indicate (or the lender is otherwise aware) that a new loan(s) was made during the 3-year conditional discharge period, the lender must deny the discharge and inform the borrower, comaker, or endorser. For information regarding a borrower's eligibility for a new loan(s) after the conditional period, see [section 5.4](#).

[§682.402(c)(1)(ii)(B)]

For a Consolidation loan made to a single borrower, ~~the~~ borrower must be certified totally and permanently disabled according to FFELP discharge criteria for *all* underlying loans—including any non-FFELP loans. In other words, all of the underlying loans would be eligible for discharge due to total and permanent disability had these loans not been consolidated. A borrower is considered totally and permanently disabled based on a condition that existed at the time the borrower's underlying loans were made only if the borrower's condition substantially deteriorated to the point that the borrower was rendered totally and permanently disabled after the loans were made. If requested, a borrower seeking to discharge a Consolidation loan obligation must provide the lender with the [disbursement](#) dates of the underlying loan(s), if that information is not available in the lender's servicing records.

[§682.402(c)(1)(iv)]

~~If a Consolidation loan is made jointly to a married couple as comakers, and one of the borrowers becomes totally and permanently disabled, the portion of the Consolidation loan attributable to the disabled borrower may be discharged. However, both borrowers remain jointly and severally liable for any remaining balance after the discharge.~~  
[§682.402(a)(2)]

~~If a PLUS loan is made to two borrowers as comakers, the loan is dischargeable due to total and permanent disability only if both borrowers become disabled, or if one borrower becomes disabled and the other has his or her obligation to repay the loan discharged on another basis (such as death or bankruptcy). If only one comaker has his or her obligation discharged, the other comaker is obligated for repayment of the remaining loan balance.~~  
[§682.402(a)(3)]<sup>1</sup>

<sup>1</sup> Policy 956 (Batch 141), approved April 19, 2007



### Discharge When Guarantee Is Lost

If there have been servicing errors on the loan such that the loan has lost its guarantee, and those violations were not cured before the date the lender determined that the borrower was totally and permanently disabled, the lender must discharge the loan—even though the balance will not be reimbursed by the guarantor.

[§682, Appendix D, I.E.2]

### Conditional Discharge Due to Total and Permanent Disability

Total and permanent disability loan discharge determinations made by the lender on or after July 1, 2002, and subsequently paid as a claim by the guarantor, ~~are may~~ be permanently assigned to the Department. The Department then determines if the certification and information provided by the borrower, comaker, or endorser support the conclusion that ~~the borrower~~ he or she meets the criteria for a total and permanent disability loan discharge. If the Department determines that the certification and information provided by the borrower, comaker, or endorser do not support the conclusion that ~~the borrower~~ he or she meets the criteria for a total and permanent disability loan discharge, the Department notifies the borrower, comaker, or endorser that the application for a total and permanent disability loan discharge has been denied and that the loan is due and payable under the terms of the promissory note.

If the Department makes an initial determination that the borrower, comaker, or endorser is totally and permanently disabled, the Department ~~notifies the borrower~~ sends notification to the borrower, comaker, or endorser that the loan—or the comaker's or endorser's obligation on the loan—is conditionally discharged and that the conditional discharge period will last for up to 3 years after the date the borrower became that he or she became totally and permanently disabled, as certified by the physician. The Department's notification specifies that all or part of the 3-year period may predate the Department's initial determination, and identifies the following conditions that apply during the 3-year conditional discharge period:

- The disabled borrower, comaker, or endorser is not required to make any payments on the loan.
- The disabled borrower, comaker, or endorser is not considered delinquent or in default on the loan, unless ~~the borrower~~ he or she was delinquent or in default at the time the conditional discharge was granted.
- The disabled borrower, comaker, or endorser must promptly notify the Department of any changes in address or phone number.

- The disabled borrower, comaker, or endorser must notify the Department if his or her annual earnings from employment exceed 100 percent of the poverty line for a family of two.
- The disabled borrower, comaker, or endorser must provide the Department, upon request, with additional documentation or information related to ~~the borrower's~~ his or her eligibility for a total and permanent disability loan discharge.  
[§682.402(c)(14)]
- The disabled borrower, comaker, or endorser must not receive a new loan under the Perkins, FFEL, or Direct Loan Programs, except for a FFELP or Direct Consolidation loan that does not include any loans that are in a conditional discharge status.  
[§682.402(c)(1)(ii)(B)]

The Department also notifies the disabled borrower, comaker, or endorser, for those loans assigned to the Department, that, if at any time during the 3-year conditional discharge period ~~the borrower~~ he or she does not continue to meet the eligibility requirements for a total and permanent disability discharge, the Department or the loan holder, as applicable, will resume collection activity on the loan but will not require the borrower to pay any interest that accrued on the loan from the date of the initial determination of total and permanent disability through the end of the conditional discharge period.  
[§682.402(c)(16)]

### NSLDS Reporting during the Conditional Period for Comade Loans

In cases where a comaker of a joint Consolidation or PLUS loan has applied for a total and permanent disability loan discharge, the lender must ensure accurate reporting to the guarantor for NSLDS purposes. The lender must report the correct status of the non-dischargeable portion to the guarantor for subsequent reporting to the NSLDS in a timely manner. The NSLDS currently reports joint Consolidation loans and comade PLUS loans under one primary borrower only. However, to ensure proper reporting during the conditional discharge period, the lender should report the non-dischargeable portion under the non-disabled borrower's name and Social Security number (SSN) to the guarantor. If the borrower on record with the guarantor and the NSLDS is the disabled borrower, the guarantor's records and the NSLDS must be updated to reflect the non-disabled borrower as the borrower of record. If the discharge is denied, the lender may resume reporting the full balance of the loan under the borrower currently being reported.<sup>1</sup> If a final discharge is granted, the lender

<sup>1</sup> Policy 956 (Batch 141), approved April 19, 2007

continues to report the non-discharged portion of the Consolidation loan under the non-disabled borrower's name and SSN.

### **Total and Permanent Disability Loan Discharge Payment**

Federal regulations require a guarantor to determine if the borrower, comaker, or endorser meets the eligibility criteria for a total and permanent disability (TPD) discharge. If the guarantor determines that the borrower, comaker, or endorser meets the criteria, the guarantor will take the following action, as appropriate:

- For a loan made solely to the borrower, or a PLUS loan with an endorser where the borrower is the party applying for the loan discharge, the guarantor will pay the lender the remaining balance on the loan and assign the loan to the Department.
- For a comade (spousal) Consolidation loan, the guarantor will pay the lender the amount that represents the disabled comaker's portion of the Consolidation loan. The guarantor will forward the disability documentation to the Department for determination of the final discharge eligibility.
- For a comade PLUS loan or a PLUS loan with an endorser where the endorser is the party applying for the loan discharge, the guarantor will forward the documentation to the Department for a determination of final discharge eligibility. The guarantor will not remit a claim payment to the lender.

### **Timely Filing Deadline for Total and Permanent Disability Claims**

A lender must file a disability claim within 60 days of receiving a complete loan discharge application or other form(s) approved by the Department. If a disability claim is not filed by the 60th day, the guarantor will still purchase the claim—unless prior servicing violations were not cured appropriately. However, the claim will be subject to an interest penalty, and the lender will be required to repay all interest benefits and special allowance payments for amounts received or otherwise payable after the expiration of the 60-day deadline.

[§682.402(g)(2)(i)]

Some guarantors have additional or alternative requirements. These requirements are noted in appendix C.

### **Notification Requirements after Claim Filing or Filing of a Partial Discharge Request**

If the guarantor determines that the borrower is eligible, the guarantor pays the total and permanent disability claim to the lender. After the lender receives payment of the a total and permanent disability claim for a loan made solely to a single borrower or for a portion of a Consolidation loan attributable to a comaker, the lender must notify the borrower or comaker that the loan or a portion of the loan will be assigned to the Department for determination of eligibility for a total and permanent disability loan discharge. After the lender receives notification from the guarantor that the loan discharge application has been forwarded to the Department for a determination of total and permanent discharge eligibility, the lender must notify the PLUS loan borrower that the comaker's or endorser's discharge application has been forwarded to the Department.

[§682.402(c)(8)]

If the guarantor determines that the borrower, comaker, or endorser is not eligible for loan discharge, the guarantor will notify the lender claim will be returned to the lender with an explanation of the reason for the denial. The lender must notify the borrower, comaker, or endorser that the application for a disability discharge has been denied, provide the basis for the denial, and inform the borrower, comaker, or endorser that the lender will resume collection activities on the loan.

[§682.402(c)(7)]

### **Resuming Loan Servicing on Comade or Endorsed Loans**

If the Department grants a final discharge to a comaker for a portion of a Consolidation loan, the lender must resume collection activities on the remaining loan balance, collecting that balance from both the disabled and non-disabled spouses. If the Department denies the final loan discharge, the lender must refund to the guarantor the amount of the discharge payment previously received and return the loan to repayment with the corrected loan balance. No interest accrues on the disabled comaker's portion of the loan during the conditional discharge period.

If the Department grants a final discharge to a comaker of a PLUS loan, there is no reduction of the loan's principal and the lender must resume loan collection activities on the full loan amount. The disabled comaker's obligation on the loan is discharged and lender may bill only the non-disabled comaker. If the Department denies the final discharge, the lender must resume collection activities with both comakers.<sup>1</sup>

<sup>1</sup>. Policy 956 (Batch 141), approved April 19, 2007

If the Department grants a final discharge for a PLUS loan endorser, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance. If the Department denies the final discharge, the lender may resume billing both the borrower and endorser, as appropriate.<sup>1</sup>

### Treatment of Payments

If the lender receives a payment from or on behalf of the borrower after a total and permanent disability claim has been filed but before the lender receives the claim payment, the lender must hold the borrower's payment. After the lender receives the claim payment, the lender must forward the borrower payment to the guarantor.

[§682.402(c)(9)]

## 13.8.G Unpaid Refund

The Higher Education Act provides relief for borrowers who are entitled to, but did not receive, refunds from their respective schools. Borrowers who meet the criteria outlined in this subsection may be eligible to have a loan discharged, in full or in part.

To qualify for an unpaid refund loan discharge, a borrower must complete, certify, and submit to his or her lender or guarantor an unpaid refund loan discharge application—a Loan Discharge Application: Unpaid Refund and which includes a sworn statement (notarization is not required), made under penalty of perjury, that declares the following:

- That ~~That~~ the borrower (or the student for whom a parent obtained a PLUS loan) received any part of the proceeds of the FFELP loan on or after January 1, 1986, to attend school.
- That ~~That~~ the borrower (or the student), within a time frame that entitled the borrower to a refund, withdrew from, was terminated from, or did not attend the school.
- That ~~That~~ the borrower (or the student) did not receive the benefit of a refund to which the borrower was entitled either from the school or from a third party, such as a holder of a performance bond or a tuition recovery program.

[§682.402(l)(4)(i)]

~~The borrower's discharge application must also include the following:~~

- ~~A statement of whether the borrower has any other discharge application pending for this loan, in full or in part.~~  
[§682.402(l)(4)(ii)]
- ~~A statement that the borrower agrees to provide, upon request by the Department or the Department's designee other documentation reasonably available to the borrower demonstrating that the borrower meets the qualifications for an unpaid refund discharge.~~
- ~~A statement that the borrower agrees to cooperate with the Department or the Department's designee in enforcement actions and to transfer to the Department any right to recovery against a third party.~~
- ~~A statement that the information provided on the discharge application is true and accurate.~~  
[§682.402(l)(4)(iii)]<sup>2</sup>

The guarantor may, with the Department's consent, grant an unpaid refund discharge without a borrower's discharge application if the guarantor determines, based on information in the guarantor's possession, that the borrower qualifies for a discharge.

When a borrower receives a discharge under the unpaid refund provisions, the discharge amount will include other costs associated with the portion of the loan discharged (including accrued interest, late charges, **collection costs**, **origination fees**, and **guarantee fees**). If the total discharge amount exceeds the current outstanding balance of the loan, the lender must refund that excess amount to the borrower.  
[HEA 437(c); §682.402(l)(3)]

### Suspending Collection Activity

If a guarantor or the Department notifies a lender, or the lender receives reliable information from another source (such as a telephone call or letter from the borrower) that a school did not pay a required refund, the lender must provide the borrower an unpaid refund loan discharge application and an explanation of the qualifications and procedures for obtaining a discharge. The lender also must immediately suspend all collection activity and grant an administrative forbearance on any affected loan for at least 60 days, or until the lender receives the guarantor's determination, whichever is earlier. If an unpaid refund loan discharge may be applicable to any underlying loan(s) of a

<sup>1</sup> Policy 956 (Batch 141), approved April 19, 2007

<sup>2</sup> Policy 910 (Batch 135), approved November 16, 2006

## 15.1.C Notifying the Guarantor

The lender is required to notify the guarantor of each Federal Consolidation loan it makes. The lender must report the making of a Consolidation loan in a format acceptable to the guarantor. When the guarantor receives the notification, it will record the loans under the lender's insurance capacity.

The lender must report to the guarantor that a Consolidation loan has been made within 60 days of the date on which the loan is initially disbursed. If a lender adds a loan within the 180-day add-on period or makes any other adjustment to the outstanding original balance of a Consolidation loan, the lender must report the new Consolidation loan information to the guarantor within 60 days of the date on which the additional loan **funds** are disbursed or the adjustment is made. If there is a data discrepancy, the lender will be granted an additional 60 days from the date the guarantor rejects the application (plus five days mail time) to provide additional or corrected information.

The guarantor reserves the right to take appropriate corrective action, including the imposition of interest penalties, if the lender fails to report the making of a Consolidation loan, fails to report the **disbursement** of additional funds, or fails to report any other adjustment of the outstanding original balance within 60 days after that activity occurs. Repeated or intentional noncompliance (including failure to reconcile) may result in the withdrawal of the loan guarantee.

- ▲ Lenders may contact individual guarantors to verify the acceptability of notification formats. See [section 1.5](#) for contact information.

## 15.2 Borrower Eligibility and Underlying Loan Holder Requirements

To qualify for a Federal Consolidation loan, a **borrower** must meet the following eligibility criteria at the time he or she applies for the Consolidation loan:

- A borrower must be in the **grace period** or have entered repayment on each loan chosen for consolidation. [[§682.201\(c\)\(1\)\(i\)\(A\)\(1\) and \(2\)](#)]

- If any Title IV loans being considered for consolidation are in **default**, the borrower must either make **satisfactory repayment arrangements** with the **holder** of each defaulted loan or agree to repay the consolidating lender under an income-sensitive repayment schedule. Satisfactory repayment arrangements for consolidation purposes are defined later in this section. The **income-sensitive repayment schedule** is described in [subsection 10.8.C](#). [[§682.201\(c\)\(1\)\(i\)\(A\)\(3\)](#)]

See [section H.4](#) for information about a statutory or regulatory waiver authorized by the **HEROES Act** that may impact these requirements.

The following additional criteria must be met in order for a borrower to receive a Federal Consolidation loan. By completing and signing the common Federal Consolidation Loan Application and Promissory Note, the borrower certifies that he or she meets those eligibility criteria that are specifically required by statute and regulations to be certified. Separate certifications are not necessary.

- ~~A borrower who has loan amounts that are ineligible due solely to the borrower's error must repay the ineligible amount in full prior to the consolidation of the borrower's loans (see section 5.16).~~ A borrower may not consolidate a loan for which the borrower is wholly or partially ineligible due solely to the borrower's error (see [subsection 5.16.A](#)). However, a borrower with an ineligible loan may consolidate another eligible loan(s). [~~§682.412~~][[§682.201\(d\)\(2\)](#)]<sup>1</sup>
- A borrower must not be subject to a judgment secured through litigation or an order of **administrative wage garnishment** on a Title IV loan that is being considered for consolidation. If the judgment has been vacated or the wage garnishment order has been lifted, the loan is eligible for consolidation and eligible for inclusion in an existing Consolidation loan during the 180-day add-on period (see "Adding Loans After Consolidation" later in this section). [[HEA 428C\(a\)\(3\)\(A\)\(i\)](#); [§682.201\(c\)\(1\)\(i\)\(B\) and \(C\)](#)]
- A borrower must certify that he or she does not have another Federal Consolidation loan or Direct Consolidation loan application pending. [[§682.201\(c\)\(1\)\(ii\)](#)]

<sup>1</sup>. Policy 939 (Batch 140), approved April 19, 2007

- A borrower must agree to notify the holder of address changes.  
[§682.201(c)(1)(iii)]
- A borrower must certify that he or she does not owe a refund on a Pell, SEOG, or LEAP grant and that all loans being consolidated were used to finance the education of the borrower or the borrower's child.
- ~~If a borrower has FFELP loans held by multiple lenders, A borrower may request consolidation may be requested from any participating consolidation lender, regardless of whether the consolidating lender is a holder of any of the borrower's loans.~~  
[HEA 428C(b)(1)(A); §682.102(d); §682.201(c)(1)(iv)(B)(1)]
- ~~A borrower whose FFELP loans are held by a single lender must request consolidation from that lender. A borrower who requests consolidation from a lender that is not the borrower's sole FFELP loan holder must certify one of the following:~~
  - ~~– That the borrower sought and was unable to obtain a Federal Consolidation loan through the holder of the borrower's FFELP loans.~~
  - ~~– That the holder declined to provide a Consolidation loan to the borrower with an income sensitive repayment schedule.~~  
[HEA 428C(b); §682.102(d); §682.201(c)(2)(iii)]<sup>1</sup>
- A guarantor will guarantee a Consolidation loan only if the borrower has one or more active loans currently held or guaranteed by that guarantor, except as otherwise agreed on a case-by-case basis by the lender and guarantor. The borrower may choose not to include the active loan that was issued under that guarantee in the Consolidation loan.

For purposes of this policy, an active loan is any loan that has not been paid in full, canceled, **discharged** (e.g., due to death, **disability**, closed **school**, or false **certification**), or subrogated by the **Department**. However, a subrogated loan may be included in a Consolidation loan if the borrower has another active loan guaranteed or held by the consolidating guarantor that has not been subrogated. A **defaulted** loan that is still held by the consolidating guarantor is an active loan.

If a Consolidation loan is guaranteed and the guarantor later determines that it was not the guarantor or **holder** of at least one of the borrower's active loans, the guarantor reserves the right to notify the lender that the guarantee on the Consolidation loan is not valid. The lender may attempt to transfer the loan to an appropriate guarantor or the guarantee may be revoked. If the guarantee is revoked, all **interest benefits** and **special allowance** collected on that loan from the date of **disbursement** must be refunded.

Some guarantors have additional eligibility requirements and restrictions on Consolidation loans. These requirements and restrictions are noted in **appendix C**.

### Obtaining a Subsequent Consolidation Loan

A borrower who currently has either a Federal or a Direct Consolidation loan is not eligible for a subsequent Federal or Direct Consolidation loan unless the borrower meets one of the following conditions:

- The borrower has obtained a new eligible loan after the date the existing Consolidation loan was made.
- The borrower is consolidating an existing Consolidation loan with at least one other eligible loan, including another eligible Consolidation loan, regardless of whether ~~it~~ that eligible loan was made before or after the date the existing Consolidation loan was made.  
[HEA 428C(a)(3) and (a)(4); §682.201(d)(e)(2) and (3); DCL GEN-06-20/FP-06-16]<sup>2</sup>

A borrower who currently has a Federal Consolidation loan and does not meet one of the above conditions is not eligible for a subsequent Federal Consolidation loan, but may be eligible for a subsequent Direct Consolidation loan if the borrower meets one of the following conditions:

- ~~The~~ The borrower's consolidation loan holder has requested default aversion assistance from the guarantor, and the borrower is seeking an income-contingent repayment schedule.
- The borrower has filed an adversary complaint in a bankruptcy proceeding and is seeking an income-contingent repayment schedule.  
[HEA 428C(a)(3)(B)(I); DCL GEN-06-20/FP-06-16]<sup>3</sup>

<sup>1</sup> Policy 904 (Batch 134), approved October 19, 2006

<sup>2</sup> Policy 934 (Batch 139), approved March 15, 2007

<sup>3</sup> Policy 946 (Batch 140), approved April 19, 2007



### Borrowers with Loans Made before July 1, 1993

If a Consolidation loan is made before July 1, 1993, the borrower may be entitled to the following deferment types. These options also apply if a Consolidation loan is disbursed on or after July 1, 1993, to a borrower with any outstanding FFELP loans at the time of consolidation that were first disbursed before July 1, 1993:

- *In-School Deferments*

When the borrower is enrolled at an eligible school as a full-time or [half-time student](#) (see [section 11.6](#)).

- *Education-Related Deferments*

When the borrower is engaged in an eligible graduate fellowship program (see [section 11.5](#)) or rehabilitation training program (see [section 11.13](#)).

- *Temporary Total Disability Deferments*

When the borrower is temporarily totally disabled or unable to secure employment because he or she is caring for a spouse or other dependent who is temporarily totally disabled (see [section 11.16](#)).

- *Unemployment Deferments*

When the borrower is conscientiously seeking, but unable to secure, employment (see [section 11.17](#)). [[§682.210](#)]

A lender must establish a first payment due date that is no more than 60 days after the last day of a deferment period (see [subsection 15.5.A](#)). [[§682.209\(a\)\(3\)\(ii\)\(B\)](#)]

### 15.5.E Forbearance

Federal Consolidation loan borrowers remain eligible for all types of [forbearance](#). Forbearance provisions for Consolidation loan borrowers are the same as those for Stafford, PLUS, and SLS loan borrowers (see [section 11.19](#)).

A lender must establish a first payment due date that is no more than 60 days after the last day of a forbearance period (see [subsection 15.5.A](#)). [[§682.209\(a\)\(3\)\(ii\)\(B\)](#)]

### 15.5.F

### **Delinquency, Default, and Claim Filing, Loan Forgiveness, and Discharge**

The [due diligence](#), and [default](#), and [bankruptcy claim](#) filing requirements for a Federal Consolidation loans are identical to those applicable for other FFELP loans—~~guaranteed by the guarantor (see chapters 12 and 13).~~ [Loan forgiveness and discharge provisions](#), and [discharge claim filing requirements](#), however, may be different for a Consolidation loan, as follows:

- [For Consolidation loan discharge provisions due to closed school and false certification](#), see [subsections 13.8.B and 13.8.D](#), respectively.
- [For Consolidation loan forgiveness due to teacher loan forgiveness](#), the Consolidation loan must not include a FFELP or FDLP loan that was first disbursed before October 1, 1998. See [subsection 13.9.B](#) for teacher loan forgiveness provisions for Consolidation loans.
- [For Consolidation loan discharge provisions due to an unpaid school refund](#), see [subsection 13.8.G](#).
- [For Consolidation loan discharge provisions due to the death of one spouse in the case of a joint Consolidation loan, or for the portion of a Consolidation loan attributable to an underlying PLUS loan that was made for a dependent student who dies](#), see [subsection 13.8.C](#). [[§682.402\(a\)\(2\) and \(b\)\(6\)](#)]
- [For Consolidation loan discharge provisions due to total and permanent disability](#), the borrower must be considered totally and permanently disabled according to FFELP discharge criteria on all underlying loans included in the Consolidation loan—including any non-FFELP loans. The loan origination dates of the underlying loans will be used in determining a [borrower's](#) eligibility.

If a Consolidation loan is made jointly to two spouses as comakers, the portion of the Consolidation loan attributable to one of the spouses may be discharged if that spouse becomes totally and permanently disabled. See [subsection 13.8.F](#) for more information regarding the discharge of all or a portion of a Consolidation loan due to total and permanent disability. [[§682.402\(a\)\(2\) and \(c\)\(1\)\(iv\)](#)]<sup>1</sup>

<sup>1</sup>. Policy 962 (Batch 141), approved April 19, 2007



## Ending Date

The Department's obligation to pay [federal interest benefits](#) ends on the earliest of the following dates, as applicable:

- The date the loan is fully repaid.  
[§682.300(b)(2)(i)]
- The date the borrower [defaults](#).  
[§682.300(b)(2)(iii)]
- The date the lender receives notice of the guarantor's determination that the loan is eligible for [discharge](#) under closed school, false certification, or unpaid refund provisions. If only a portion of the loan is discharged, the remaining portion of the loan remains eligible for interest benefits.  
[§682.300(b)(2)(viii)]
- The date the lender receives [claim](#) payment on the loan.  
[§682.300(b)(2)(iv)]
- The date the loan is [discharged](#) by a [bankruptcy](#) court.  
[§682.300(b)(2)(v)]
- The date the lender determines that the borrower has died or become totally and permanently disabled.  
[§682.300(b)(2)(vi)]
- The date of disbursement for any portion of the loan for which a borrower is found to be ineligible (see [section 5.16](#)).  
[§682.300(b)(3)]
- The date the loan, or any portion of the loan, ceases to be [guaranteed](#) or loses its eligibility for reinsurance—regardless of whether the lender has filed a claim with the [guarantor](#).  
[§682.300(b)(2)(vii)]
- The date of disbursement, if a loan is [unconsummated](#).  
[§682.300(b)(2)]

For loans first disbursed on or after October 1, 1992, a [lender](#) may not bill for [interest benefits](#) on an [unconsummated](#) subsidized Stafford loan. A loan is considered unconsummated if it is disbursed, but the [check](#) is not cashed—or, in the case of [funds](#) disbursed by [EFT](#) or [master check](#), the funds are not released to the [borrower](#) from the [school's](#) account—within 120 days of the date on which the check was cut or the EFT/master check funds were sent to the school. If a loan is unconsummated, the lender must discontinue its current billing on the loan and refund interest benefits that have already been paid.  
[§682.300(c)]

## A.2 Special Allowance and Excess Interest

A lender may receive [special allowance](#) payments on most [FFELP](#) loans. The [Department](#) pays special allowance on a loan for any quarter in which the applicable calculation for that type of loan yields a positive number.

Special allowance is not paid on the following:

- Unconsummated loans.  
[§682.302(b)(3)]
- Nonsubsidized Stafford loans first disbursed on or after October 1, 1981, for periods of enrollment beginning before October 1, 1992.  
[§682.302(b)(1)]
- Any portion of a Consolidation loan derived from an underlying HEAL loan.  
[HEA 428C(d)(3)(A)]

For a loan first disbursed on or after April 1, 2006, the Department will collect excess interest for quarters in which the applicable interest rate on the loan exceeds the special allowance support level (see [subsection A.2.A](#)).

The formulas used to calculate special allowance and excess interest, which are exhibited on the following pages, are based on the maximum [applicable interest rates](#) specified in law for each category of loan. If a lender charges a borrower an [interest](#) rate that is less than the statutory maximum rate applicable to that loan, the lender must report the loan at the statutory rate for special allowance purposes.<sup>1</sup>

<sup>1</sup>. Policy 958 (Batch 141), approved April 19, 2007

Variable-rate PLUS or SLS loans first disbursed before July 1, 1994, and PLUS loans first disbursed on or after July 1, 1998, or on or after January 1, 2000, for any period prior to April 1, 2006, are eligible for special allowance only when the following criteria are met:<sup>1</sup>

- The loan is accruing at the maximum interest rate specified in law for such a loan (also called the cap).
- The interest rate for each July 1 to June 30 period, as calculated prior to applying the interest rate maximum (or cap), exceeds the maximum interest rate for the loan.  
[HEA 438(b)(2)(I)(v); §682.302(b)(2)]

## A.2.A

### Special Allowance and Excess Interest Rates

#### Special Allowance Rates

The amount of special allowance that is payable on an eligible loan is determined by multiplying the average daily balance of principal and capitalized interest on the loan by the applicable special allowance rate. Special allowance rates are calculated and published quarterly by the Department. The formulas used to calculate these rates are exhibited on the following pages. The following factors are considered in the calculation of special allowance rates for a loan:

- The average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in the quarter (also called the 3-month [commercial paper rate](#)) for Stafford and PLUS loans first disbursed on or after January 1, 2000, and for Consolidation loans made from applications received by lenders on or after January 1, 2000.
- The average bond equivalent rate of the 91-day [Treasury bills](#) auctioned during the quarter (also called the T-bill rate) for Stafford and PLUS loans first disbursed prior to January 1, 2000, and for Consolidation loans made from applications received by lenders before January 1, 2000.

- A factor prescribed by law for each category of loans. This factor is added to the applicable T-bill rate or 3-month commercial paper rate for the quarter.
- The applicable [statutory interest rate](#) for the loan. This rate is subtracted from the sum of the appropriate factor and the applicable T-bill rate or 3-month commercial paper rate.

If a special allowance rate calculation results in a negative number on a loan first disbursed prior to April 1, 2006, special allowance will not be paid for that loan type for that quarter. If a special allowance rate calculation results in a negative number on a loan first disbursed on or after April 1, 2006, the lender must remit the excess interest to the Department.<sup>2</sup>

The amount of each quarterly special allowance payment will vary according to the type of loan, the date the loan was disbursed, the [loan period](#), and, in some cases, the number of quarters for which the loan has been outstanding, or the loan's status.

[§682.302(c)]

<sup>1</sup>. Policy 959 (Batch 141), approved April 19, 2007

<sup>2</sup>. Policy 960 (Batch 141), approved April 19, 2007

- The loan was refinanced with funds obtained from a source other than tax-exempt obligations originally issued prior to October 1, 1993, or reimbursement collections, interest, or other income related to eligible loans made or purchased with those tax-exempt funds.
  - The loan was sold or transferred to any other loan holder.  
[HEA 438(b)(2)(A), (B), and (E) through (I); DCL FP-06-04]
- A loan also becomes subject to the regular special allowance rate if either of the following applies:
- The loan was made or purchased on or after February 8, 2006.
  - The loan was not earning the minimum quarterly special allowance as of February 8, 2006.  
[HEA 438(b)(2)(B)(vi); DCL FP-06-04]
- Certain loan holders remain subject to the maximum/minimum special allowance rates on eligible loans until December 31, 2010, if all of the following apply:
- The holder was a unit of the state or local government or a nonprofit private entity as of February 8, 2006, and during the quarter for which the special allowance is paid.
  - The holder was not owned or controlled by, or under the common ownership or control with, a for-profit entity as of February 8, 2006, and during the quarter for which special allowance is paid.
  - The holder held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than \$100 million on loans for which maximum/minimum special allowance was paid in the most recent quarterly payment prior to September 30, 2005.  
[HEA 438(b)(2)(B)(vii); DCL FP-06-04]

### Excess Interest Rates

The amount of excess interest that a lender must remit on a qualifying loan is determined by multiplying the average daily principal balance (not including unearned interest added to principal) of the loan by the applicable excess interest rate.

## Excess Interest Formulas

## Figure A-3

### FORMULA 1

$(\text{APPLICABLE INTEREST RATE OF THE LOAN} - \text{AVERAGE 3-MONTH COMMERCIAL PAPER RATE} + 2.34\% - ) \div 4$

- Stafford loans first disbursed on or after April 1, 2006, when such loans are in repayment.

### FORMULA 2

$(\text{APPLICABLE INTEREST RATE OF THE LOAN} - \text{AVERAGE 3-MONTH COMMERCIAL PAPER RATE} + 1.74\%*) \div 4$

- Stafford loans first disbursed on or after April 1, 2006, when such loans are in an in-school, grace, or deferment period.

### FORMULA 3

$(\text{APPLICABLE INTEREST RATE OF THE LOAN} - \text{AVERAGE 3-MONTH COMMERCIAL PAPER RATE} + 2.64\%*) \div 4$

- Consolidation and PLUS loans first disbursed on or after April 1, 2006.

\* The average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in the quarter (also called the 3-month commercial paper rate) as reported by the Federal Reserve in Publication H-15 for each quarter plus the indicated percentage is known as the special allowance support level.<sup>1</sup>

<sup>1</sup> Policy 960 (Batch 141), approved April 19, 2007

## Example of Excess Interest Calculations

## Figure A-4

A PLUS loan is first disbursed on October 2, 2006, and is accruing interest at 8.5%. Excess interest for this loan is calculated using **Formula 3**.

For the quarter ending December 31, 2006, the average 3-month commercial rate is 5.38%. The special allowance support level is 8.02% (5.38% + 2.64%). The quarterly excess interest rate is calculated as follows:

$$(8.50\% - 8.02\%) \div 4 = 0.12\%$$

If the loan has an average daily principal balance for the quarter of \$1,000, applying the above rate yields the following quarterly excess interest amount:

$$0.0012 \times \$1,000 = \$1.20^1$$

<sup>1</sup>. Policy 960 (Batch 141), approved April 19, 2007

## A.2.B Termination of Special Allowance

The Department's obligation to pay special allowance for an eligible loan ends on the earliest of the following dates, as applicable:

- The date the loan is fully repaid.  
[§682.302(d)(1)(i)]
- The date the lender receives a claim payment on the loan.  
[§682.302(d)(1)(iii)]
- The date the loan, or any portion of the loan, ceases to be guaranteed or loses its reinsurability—regardless of whether the lender has filed a claim with the guarantor.  
[§682.302(d)(1)(iv)]
- 30 days after the date the lender receives a claim returned solely due to inadequate documentation, unless the claim is resubmitted with all required documentation within 30 days.  
[§682.302(d)(1)(vii)]
- 60 days after the date the borrower defaulted on the loan, unless the lender has filed a claim and all required documentation with the guarantor on or before the 60th day.  
[§682.302(d)(1)(v)]
- The date the lender receives a claim payment for the loan or the 90th day (plus a 5-day mail time allowance) after the date on which the lender files a claim with the guarantor, whichever is earlier. The lender may be required to readjust special allowance billing if it receives information from the guarantor specifying the date on which the guarantor received the claim. If such information is received, the lender must ensure that special allowance is not billed beyond the 90th day following the date the guarantor received the claim.  
[§682.302(d)(3); §682.413]
- The date of disbursement, for any portion of the loan for which a borrower is found to be ineligible and the borrower repays the special allowance to the lender (see section 5.16).  
[§682.412(d)(1)]
- For a loan first disbursed prior to October 1, 1992, the date the lender receives a returned, uncashed disbursement check for the loan.  
[§682.302(d)(1)(ii)]
- For a loan first disbursed prior to October 1, 1992, the 120th day after the disbursement date if the disbursement check has not been cashed or the EFT/master check funds have not been released from the school's account to the borrower by that date.  
[§682.302(d)(1)(vi)]
- For a loan first disbursed on or after October 1, 1992, the date of disbursement (retroactive), if a loan is unconsummated.  
[§682.302(d)(2)]

LaRS Special Allowance and Interest Rate Reporting for FFELP Loans<sup>1</sup>

Figure A-5

LaRS Special Allowance and Interest Rate Reporting For FFELP Loans					
Loan Type Code		Special Allowance Factor			
<del>FGSE</del> <sup>1</sup>	Subsidized Stafford and Subsidized FISL loans	SA	3.50% round up to 1/8%	SJ	2.20%
<del>FP</del> <sup>5</sup> <del>PL</del>	PLUS (parent) loans <u>and</u> Grad PLUS loans	SB	3.50%	SK	2.80%
<del>FP</del> <sup>5-8</sup> <del>PL</del> <sup>2</sup>	PLUS (student) and ALAS loans	SD	3.25%	SL	3.10%
<del>FUSU</del>	Unsubsidized Stafford loans	SE	3.10%	CA, CE	1.74%
<del>FS</del> <sup>5</sup> <del>SL</del>	SLS loans	SG	3.10%	CB, CF	2.34%
<del>FP</del> <sup>5-8</sup> <del>SL</del> <sup>3</sup>	PLUS (student) and ALAS loans	SH	2.50% / 3.10% (see below)	CC, CG	2.64%
<del>TECL</del>	Consolidation loans	X★	3.50%, tax exempt <sup>4</sup>	CD, CH	2.64%
Special Allowance Codes - For loans made or purchased with taxable funds or tax-exempt funds originally issued on/after 10-1-1993 not subject to the minimum/maximum rules <sup>4</sup>					
SA	All loans first disbursed prior to 10-1-1981. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4, rounded up to the nearest 1/8 percent)	SB	All loans first disbursed on/after 10-1-1981 through 10-16-1986 and loans first disbursed on/after 10-17-1986 through 11-15-1986 with a loan period begin date prior to 11-16-1986. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4)		
SC	All loans first disbursed during sequester periods (1st four quarters after first disbursement). These sequester periods included 3-1-1986 to 9-30-1986 and 10-1-1989 to 12-31-1989. (Formulas no longer in effect)	SD	All loans first disbursed on/after 10-17-1986 through 11-15-1986 with a loan period begin date on/after 11-16-1986, and loans first disbursed on/after 11-16-1986 through 9-30-1992. (Formula: Average 90-day Tbill + 3.25% - Interest Rate / 4)		
SE	All loans first disbursed on/after 10-1-1992 through 6-30-1994, and consolidation loans based on applications received by the lender prior to 11-13-1997. (Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)	SG	All Stafford and PLUS loans first disbursed on/after 7-1-1994 through 6-30-1998 (except Stafford loans first disbursed on/after 7-1-1995 through 6-30-1998 while in school, grace, or deferment status) and consolidation loans based on applications received by the lender on/after 11-13-1997 through 9-30-1998. (Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)		
SH	All Stafford loans first disbursed on/after 7-1-1995 through 6-30-1998 while in school, grace, or deferment status, and PLUS loans first disbursed on/after 7-1-1998 through 12-31-1999. (Stafford Formula: Average 90-day Tbill + 2.50% - Interest Rate / 4) (PLUS Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)	SJ	All Stafford loans first disbursed on/after 7-1-1998 through 12-31-1999 while in school, grace, or deferment status. (Formula: Average 90-day Tbill + 2.20% - Interest Rate / 4)		
SK	All Stafford loans first disbursed on/after 7-1-1998 through 12-31-1999 while in a status other than in-school, grace or deferment status. (Formula: Average 90-day Tbill + 2.80% - Interest Rate / 4)	SL	Consolidation loans based on applications received by the lender on/after 10-1-1998 through 12-31-1999. (Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)		
CA	All Stafford loans first disbursed on/after 1-1-2000 <u>through 3-31-2006</u> while in school, grace, or deferment status. (Formula: Average 3-month CP + 1.74% - Interest Rate / 4)	CB	All Stafford loans first disbursed on/after 1-1-2000 <u>through 3-31-2006</u> while in a status other than in-school, grace, or deferment status. (Formula: Average 3-month CP + 2.34% - Interest Rate / 4)		
CC	Consolidation loans based on applications received by the lender on/after 1-1-2000 <u>through first disbursed on/before 3-31-2006</u> . (Formula: Average 3-month CP + 2.64% - Interest Rate / 4)	CD	PLUS loans first disbursed on/after 1-1-2000 <u>through 3-31-2006</u> . (Formula: Average 3-month CP + 2.64% - Interest Rate / 4)		
CE	<u>All Stafford loans first disbursed on/after 4-1-2006 while in school, grace, or deferment status. (Formula: Average 3-month CP + 1.74% - Interest Rate / 4, subject to excess interest rebates)</u>	CF	<u>All Stafford loans first disbursed on/after 4-1-2006 while in a status other than in-school, grace, or deferment status. (Formula: Average 3-month CP + 2.34% - Interest Rate / 4, subject to excess interest rebates)</u>		
CG	<u>Consolidation loans first disbursed on/after 4-1-2006. (Formula: Average 3-month CP + 2.64% - Interest Rate / 4, subject to excess interest rebates)</u>	CH	<u>PLUS loans first disbursed on/after 4-1-2006. (Formula: Average 3-month CP + 2.64% - Interest Rate / 4, subject to excess interest rebates)</u>		
Special Allowance Codes - For loans made or purchased with tax exempt funds originally issued prior to 10-1-1993 subject to the minimum/maximum rules <sup>4</sup>					
SA	All loans first disbursed prior to 10-1-1980. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4, rounded up to the nearest 1/8 percent)	XA	All loans first disbursed on/after 10-1-1980 through 9-30-1981. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)		
XB	All loans first disbursed on/after 10-1-1981 through 9-30-1992. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XC	All loans first disbursed during sequester periods (1st four quarters after first disbursement). These sequester periods include 3-1-1986 to 9-30-1986 and 10-1-1989 to 12-31-1989. (Formulas no longer in effect)		
XE	All loans first disbursed on/after 10-1-1992 through 6-30-1994, and consolidation loans based on applications received by the lender prior to 11-13-1997. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XG	All Stafford and PLUS loans first disbursed on/after 7-1-1994 through 6-30-1998 (except Stafford loans while in school, grace, or deferment) and consolidation loans based on applications received by the lender on/after 11-13-1997 through 9-30-1998. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)		
XH	All Stafford loans first disbursed on/after 7-1-1995 through 6-30-1998 while in school, grace, or deferment, and PLUS loans first disbursed on/after 7-1-1998 <u>through 3-31-2006</u> . (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XJ	All Stafford loans first disbursed on/after 7-1-1998 <u>through 3-31-2006</u> while in school, grace, or deferment. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)		
XK	All Stafford loans first disbursed on/after 7-1-1998 <u>through 3-31-2006</u> while in a status other than in-school, grace or deferment. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XL	Consolidation loans based on applications received by the lender on/after 10-1-1998 <u>through first disbursement on/before 3-31-2006</u> . (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)		
XM	All Stafford loans first disbursed on/after 4-1-2006 while in school, grace, or deferment, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)	XN	All Stafford loans first disbursed on/after 4-1-2006 while in a status other than in-school, grace or deferment, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)		
XO	Consolidation loans first disbursed on/after 4-1-2006, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)	XP	PLUS loans first disbursed on/after 4-1-2006, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)		
XQ	PLUS loans first disbursed on/after 1-1-2000 through 3-31-2006, for quarters beginning 4-1-2006 which would have been reported under the "XH" category for quarters prior to 4-1-2006. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)				

<sup>1</sup> Policy 959 (Batch 141), approved April 19, 2007

# LaRS Special Allowance and Interest Rate Reporting for FFELP Loans *(continued)*<sup>1</sup>

Loan Type and Special Allowance Code Reporting Combinations									
TG	SA, SB, SC, SD, SE, SG, SH, SJ, SK, XA, XB, XC, XE, XG, XH, XI, XK, CA, CB	TU	SE, SG, SH, SJ, SK, XE, XG, XH, XI, XK, CA, CB						
TC	SC, SD, SE, SG, SL, XB, XC, XE, XG, XL, CC	TS	SA, SB, SC, SD, SE, XA, XB, XC, XE						
TP	SA, SB, SC, SD, SE, SH, XA, XB, XC, XE, XG, XH, CD								
Interest Rate Codes									
.07	Stafford loans at a fixed rate of 7% or less								
.99999	Consolidation loans based on applications received by the lender on/after 10-1-1998 through 6-30-2003 where the fixed interest rate is a weighted average of the underlying loan interest rates rounded up to the nearest 1/8 of a percent								
CVAR	PLUS loans and SLS loans made in 1986 and 1987 where the interest rate changes each January 1.								
VAR	PLUS and SLS loans with first disbursements on or after 7-1-1987, but before 10-1-1992, where the interest rate changes each July 1.								
EVAR	All FFELP loans that were guaranteed as variable rate loans with first disbursements on or after 10-1-1992 and Consolidation loans based on applications received by the lender between 11-13-1997 and 9-30-1998, inclusive, where the interest rate changes each July 1, and HEAL portions of Consolidation loans.								
FVAR#	Stafford loans that were originally guaranteed as fixed rate loans, but were converted to a variable rate, where the interest rate now changes each July 1. Includes 8/10% loans except for those that fall under the FVARX category. FVAR# includes FVAR7, FVAR8, FVAR9, FVAR10.								
FVARX	FFELP Stafford loans with a 8/10% interest rate first disbursed to prior borrowers on or after 7-23-1992 but before 10-1-1992, when such loans reach the 49 <sup>th</sup> month of repayment and beyond.								
Special Allowance and Interest Rate Code Reporting Combinations									
SA, XA	Stafford/PLUS/SLS/ALAS	7%, 9%							
SB	Stafford/PLUS/SLS/ALAS	7%, 8%, 9%, 12%, 14%, CVAR							
SC	Stafford/PLUS/SLS/ALAS	7%, 8%, 9%, 12%, 14%, CVAR							
XB	Stafford/PLUS/SLS/ALAS/Consolidation	7%, 8%, 9%, 10%, 12%, 14%, CVAR, FVAR7, FVAR8, FVAR9, FVAR10, FVARX, VAR							
SD	Stafford/PLUS/SLS/ALAS/Consolidation	7%, 8%, 9%, 10%, 12%, 14%, CVAR, FVAR7, FVAR8, FVAR9, FVAR10, FVARX, VAR							
SC	Stafford/PLUS/SLS/ALAS/Consolidation	7%, 8%, 9%, 10%, 12%, 14%, CVAR, FVAR7, FVAR8, FVAR9, FVAR10, VAR							
SE, XE	Stafford/PLUS/SLS/Consolidation	7%, 8%, 9%, 10%, FVAR7, FVAR8, FVAR9, FVAR10, EVAR							
SG, XG	Stafford/PLUS/Consolidation	EVAR							
SH, XH	Stafford/PLUS	EVAR							
SJ, SK, XJ, XK	Stafford	EVAR							
SL, XL	Consolidation	.99999							
CA, CB	Stafford	EVAR							
CC	Consolidation	.99999							
CD	PLUS	EVAR							
Valid Special Allowance, Loan Type, and Interest Rate Code Reporting Combinations									
Subsidized Stafford		Unsubsidized Stafford		PLUS <sup>5</sup>		SLS <sup>5</sup>		Consolidation	
Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt
SA TG SE .07	SA TG SE .07	SE TU SU .07	XE TU SU .07	SA TP PL .09	XA TU PL .09	SA TS SL .09	XA TS SL .09	SC TC CL .09	XC TC CL .09
SA TG SE .09	XA TG SE .07	SE TU SU .08	XE TU SU .08	SB TU PL .14	XB TU PL .14	SB TS SL .14	XB TS SL .14	SC TC CL .10	XC TC CL .10
SB TG SE .07	XA TG SE .09	SE TU SU .09	XE TU SU .09	SB TU PL .12	XB TU PL .12	SB TS SL .12	XB TS SL .12	SC TC CL .11	XC TC CL .11
SB TG SE .08	XB TG SE .07	SE TU SU EVAR	XE TU SU EVAR	SB TU PL CVAR	XB TU PL CVAR	SB TS SL CVAR	XB TS SL CVAR	SC TC CL .12	XC TC CL .12
SB TG SE .09	XB TG SE .08	SE TU SU FVAR7	XE TU SU FVAR7	SC TU PL .12	XB TU PL VAR	SC TS SL .12	XB TS SL VAR	SD TC CL .09	XB TC CL .09
SC TG SE .07	XB TG SE .09	SE TU SU FVAR8	XE TU SU FVAR8	SC TU PL VAR	XC TU PL .12	SC TS SL VAR	XC TS SL .12	SD TC CL .10	XB TC CL .10
SC TG SE .08	XB TG SE .10	SE TU SU FVAR9	XE TU SU FVAR9	SD TU PL .12	XC TU PL VAR	SD TS SL .12	XC TS SL VAR	SD TC CL .11	XB TC CL .11
SC TG SE .09	XB TG SE FVAR7	SE TU SU FVAR10	XE TU SU FVAR10	SD TU PL CVAR	XE TU PL EVAR	SD TS SL VAR	XE TS SL EVAR	SD TC CL .12	XB TC CL .12

<sup>1</sup>. Policy 959 (Batch 141), approved April 19, 2007



## LaRS Special Allowance and Interest Rate Reporting for FFELP Loans *(continued)*<sup>1</sup>

Valid Special Allowance, Loan Type, and Interest Rate Code Reporting Combinations, cont'd									
Subsidized Stafford		Unsubsidized Stafford		PLUS <sup>5</sup>		SLS <sup>5</sup>		Consolidation	
Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt
SD <del>FG</del> <del>SF</del> .07	XB <del>FG</del> <del>SF</del> FVAR8	SG <del>TU</del> <del>SU</del> EVAR	XG <del>TU</del> <del>SU</del> EVAR	SD <del>TU</del> <del>PL</del> VAR	XG <del>TU</del> <del>PL</del> EVAR	SD <del>TS</del> <del>SL</del> CVAR		SE <del>TC</del> <del>CL</del> .01-.25	XE <del>TC</del> <del>CL</del> .01-.25
SD <del>FG</del> <del>SF</del> .08	XB <del>FG</del> <del>SF</del> FVAR9	SH <del>TU</del> <del>SU</del> EVAR	XH <del>TU</del> <del>SU</del> EVAR	SE <del>TU</del> <del>PL</del> EVAR	XH <del>TU</del> <del>PL</del> EVAR	SE <del>TS</del> <del>SL</del> EVAR		SG <del>TC</del> <del>CL</del> EVAR	XG <del>TC</del> <del>CL</del> EVAR
SD <del>FG</del> <del>SF</del> .09	XB <del>FG</del> <del>SF</del> FVAR10	SJ <del>TU</del> <del>SU</del> EVAR	XJ <del>TU</del> <del>SU</del> EVAR	SG <del>TU</del> <del>PL</del> EVAR				SL <del>TC</del> <del>CL</del> .99999	XL <del>TC</del> <del>CL</del> .99999
SD <del>FG</del> <del>SF</del> .10	XB <del>FG</del> <del>SF</del> FVARX	SK <del>TU</del> <del>SU</del> EVAR	XK <del>TU</del> <del>SU</del> EVAR	SH <del>TU</del> <del>PL</del> EVAR				CC <del>TC</del> <del>CL</del> .99999	
SD <del>FG</del> <del>SF</del> FVAR7	XC <del>FG</del> <del>SF</del> .07	CA <del>TU</del> <del>SU</del> EVAR		CD <del>TU</del> <del>PL</del> EVAR					
SD <del>FG</del> <del>SF</del> FVAR8	XC <del>FG</del> <del>SF</del> .08	CB <del>TU</del> <del>SU</del> EVAR							
SD <del>FG</del> <del>SF</del> FVAR9	XC <del>FG</del> <del>SF</del> .09								
SD <del>FG</del> <del>SF</del> FVAR10	XE <del>FG</del> <del>SF</del> .07								
SD <del>FG</del> <del>SF</del> FVARX	XE <del>FG</del> <del>SF</del> .08								
SE <del>FG</del> <del>SF</del> .07	XE <del>FG</del> <del>SF</del> .09								
SE <del>FG</del> <del>SF</del> .08	XE <del>FG</del> <del>SF</del> EVAR								
SE <del>FG</del> <del>SF</del> .09	XE <del>FG</del> <del>SF</del> FVAR7								
SE <del>FG</del> <del>SF</del> EVAR	XE <del>FG</del> <del>SF</del> FVAR8								
SE <del>FG</del> <del>SF</del> FVAR7	XE <del>FG</del> <del>SF</del> FVAR9								
SE <del>FG</del> <del>SF</del> FVAR8	XE <del>FG</del> <del>SF</del> FVAR10								
SE <del>FG</del> <del>SF</del> FVAR9	XG <del>FG</del> <del>SF</del> EVAR								
SE <del>FG</del> <del>SF</del> FVAR10	XH <del>FG</del> <del>SF</del> EVAR								
SG <del>FG</del> <del>SF</del> EVAR	XJ <del>FG</del> <del>SF</del> EVAR								
SH <del>FG</del> <del>SF</del> EVAR	XK <del>FG</del> <del>SF</del> EVAR								
SJ <del>FG</del> <del>SF</del> EVAR									
SK <del>FG</del> <del>SF</del> EVAR									
CA <del>FG</del> <del>SF</del> EVAR									
CB <del>FG</del> <del>SF</del> EVAR									
Notes									
<sup>1</sup>	Stafford Nonsubsidized and FISL Nonsubsidized loans disbursed prior to 10-1-81 are included within SF loan types.								
<sup>2</sup>	Loans disbursed prior to 10-17-86 and <b>unable</b> to distinguish from PLUS (parent) loans.								
<sup>3</sup>	Loans disbursed prior to 10-17-86 and <b>able</b> to distinguish from PLUS (parent) loans.								
<sup>4</sup>	Loans <del>made or purchased with attributable</del> to tax-exempt funds originally issued prior to 10-1-93 receive ½ the regular special allowance rate but not less than 9.5% minus the applicable interest rate. Loans <del>made or purchased with attributable</del> to tax-exempt funds originally issued on or after 10-1-93 receive regular special allowance and must be reported using the taxable special allowance codes.								
<sup>5</sup>	PLUS and SLS loans first disbursed on/after 7-1-1987 but before 6-30-1994, and PLUS loans first disbursed on/after 7-1-1998 but before 6-30-2003 do not receive any special allowance if the annual interest rate calculation does not exceed the applicable maximum interest rate.								

<sup>1</sup>. Policy 959 (Batch 141), approved April 19, 2007

**Notification (as it relates to the Stafford MPN):** A process by which the school, lender, or guarantor notifies the borrower of the proposed loan types and amounts. The borrower is required to take action only to reject or adjust the type or amount of the loan.

**NSLDS:** See [National Student Loan Data System](#)

## O

**Official:** The person at the guarantor with the responsibility for initiating an Action under the Limitation, Suspension, or Termination procedures outlined in [chapter 18](#) of this manual.

**One-Academic-Year Training Program:** A program that ~~is at least at least 30 weeks in length during which the student earns at least~~ includes:

- At least 30 weeks of instructional time and 24 semester or trimester hours or units, or 36 quarter hours or units at a school in a program using credit hours or units to measure academic progress.
- At least 26 weeks of instructional time and 900 clock hours of supervised training at a school in a program using clock hours to measure academic progress.
- At least 26 weeks of instructional time and 900 clock hours in a correspondence program.<sup>1</sup>

**Origination Fee:** A fee charged to offset the cost of interest, special allowance, and reinsurance payments by the federal government on a FFELP loan. This fee, if charged to the borrower, may be subtracted from the borrower's loan proceeds. See [section 7.9](#).

**Out-of-School Date:** The date the student ceases to be enrolled on at least a half-time basis at an eligible school.

**Overaward:** Any amount of a student's total estimated financial assistance (excluding Pell Grants) that exceeds the student's financial need. See [section 8.6](#).<sup>2</sup>

## P

**Parent:** For purposes of PLUS loan eligibility, a student's natural or adoptive mother, father, or the spouse of a parent who remarried if the spouse's income and assets would have been taken into account when calculating a dependent student's expected family contribution.

**Parent PLUS Loan:** A PLUS loan made to the parent of a dependent undergraduate student.

**Partial Cancellation:** Cancellation of a disbursement or a portion of a disbursement rather than of an entire loan.

**Participating School:** An eligible school that meets the standards for participation in Title IV programs in [subpart B](#), has a current Program Participation Agreement with the Department, and is eligible to receive funds under these programs.

**Payment Period:** The basis on which a school must schedule and deliver disbursements for a particular loan period. The payment period begins on the first day of regularly scheduled classes. A payment period is determined based on the structure of the school's academic program. At a school that does not use standard terms, a payment period is measured in credit or clock hours completed by the student in relation to the length of the student's program of study. The payment period requirement does not eliminate the multiple disbursement requirement for a school to deliver loan proceeds in substantially equal installments, with no installment exceeding one-half of the loan amount. See [section 6.3](#).

**Pell Grant:** A federal need-based grant.

**Period of Enrollment:** As defined by federal regulation, the period for which a Stafford or PLUS loan is intended. The period of enrollment must coincide with a bona fide academic term established by the school for which the school's charges are generally assessed, i.e., semester, trimester, quarter, length of the student's program or the school's academic year. The period of enrollment is also referred to as the loan period (see [section 6.2](#)). In addition, the term "period of enrollment" is commonly used by the financial aid community to refer to the period of time during an academic year when a student is enrolled at the school.

[§682.200(b); §682.603(f)(1) and (2)]

**Permanent Resident of the United States:** A person who meets certain requirements of the U.S. Immigration and Naturalization Service (INS). Valid documentation of permanent residency includes the following: I-551, I-151, I-181, I-94, or a passport stamped processed for I-551, "Temporary evidence of lawful admission for permanent residence."

**PLUS MPN:** See [Federal PLUS Loan Application and Master Promissory Note](#)

<sup>1</sup>. Policy 925 (Batch 138), approved February 15, 2007

<sup>2</sup>. Policy 940 (Batch 140), approved April 19, 2007

**Repurchase (of a Claim):** ~~The A lender's purchase back from the guarantor of a defaulted loan for which the lender has already been reimbursed by the guarantor on which a claim was filed and paid, if that purchase occurs more than 30 days after the lender receives the claim payment (see section 13.5). (Please refer to section 13.5 for the definition of repurchase (of a claim) for CCI purposes.)<sup>1</sup>~~

**Return of Title IV Funds:** The federally mandated process by which a school calculates the amount of federal funds to be returned for a Title IV aid recipient who withdraws or who ceases attendance during a payment period or period of enrollment. The calculations may result in a reduction of the student's Title IV loan and grant aid to reflect the percentage of the payment period or period of enrollment that the student attended, if he or she attended 60% or less of the period. Based on these calculations, the school and the student may be required to return "unearned" federal assistance. See [section 9.5](#).

**Rolling Delinquency:** A delinquency that occurs whenever the delinquent status of a loan is increased or reduced but not completely eliminated as result of a payment, the reversal of a payment, a deferment or forbearance, or the receipt of a new out-of-school date. See [subsection 12.3.E](#).

**Rule of 78s:** A procedure for calculating the outstanding principal balance of a loan that is prohibited for loans made to a borrower who entered repayment on or after June 26, 1987. Seventy-eight is the sum of the digits from one to twelve (the number of months in a one-year installment contract).

## S

**SAP:** See [Satisfactory Academic Progress](#)

**SAR:** See [Student Aid Report](#)

**SAY:** See [Scheduled Academic Year](#)

**Satisfactory Academic Progress: (SAP)** The level of academic progress required of a student by the Higher Education Act in order to receive Title IV aid, including Federal Stafford, PLUS, or SLS loans. Each school must establish a standard for evaluating a student's efforts to achieve an educational goal within a given period of time. In making this evaluation, the school must establish the normal time frame for completion of the course of study in which the student is enrolled, and a method, such as grades or work projects completed, to measure the quality of the student's performance. Students enrolled in an undergraduate program who are enrolled beyond the

school's maximum time frame for program completion are not eligible for additional Title IV assistance. A school's maximum time frame for program completion cannot exceed 150% of the published program length.

**Satisfactory Repayment Arrangement:** A specified number of consecutive, on-time, voluntary, reasonable and affordable full monthly payments made by a borrower to the holder of any loan or loans in default. Satisfactory repayment arrangements may be established by a borrower either to regain eligibility for Title IV funds, ~~to rehabilitate a defaulted loan,~~ or to consolidate a defaulted loan. The loan holder's determination of a "reasonable and affordable" payment amount is based on the borrower's total financial circumstances. "Voluntary" payments are payments made directly by the borrower, and do not include payments obtained by state offsets or federal Treasury offset, garnishment, or income or asset execution. An "on-time" payment is a payment received by the guarantor within 15 days before or after the scheduled due date. See [subsection 5.2.E](#) for more information on regaining eligibility for Title IV funds. ~~See section 13.7 for more information on rehabilitating a defaulted loan.~~ See [section 15.2](#) for more information on consolidating a defaulted loan.<sup>2</sup>

**Scheduled Academic Year: (SAY)** The "fixed" academic period, as published in a school's printed materials, that generally begins and ends at the same time each year according to an established schedule. The SAY is the academic period to which the statutory definition of an academic year must be applied and must meet the statutory requirements of an academic year as defined by the Department. Schools may not use a SAY for borrowers enrolled in clock-hour and non-term-based credit-hour programs of study. The summer term may be treated as an add-on at the beginning (leader) or end (trailer) of the SAY. For additional information, see [section 6.1](#) and the [2006-2007 Federal Student Aid Handbook, Volume 3, Chapter 4, p. 3-67](#).

**School:** An institution of higher education, a proprietary institution of higher education, or a postsecondary vocational school declared eligible by the U.S. Department of Education to participate in one or more Title IV programs. Some guarantors may require schools to complete a separate agency-specific participation agreement. See [Participating School](#).

**School Lender:** A school, other than a correspondence school, that has been approved as a lender under the FFELP and has entered into a contract of guarantee with the Department or a similar agreement with a guarantor.

<sup>1</sup>. Policy 949 (Batch 140), approved April 19, 2007

<sup>2</sup>. Policy 926 (Batch 138), approved February 15, 2007

## T

**T-bill:** See [Treasury Bill](#).

**Teacher Shortage Area:** A federally designated geographic area, grade level, or academic, instructional, subject matter, or discipline that has been classified as a shortage area as defined by the Department. See [section 11.15](#).

**Teach-Out Program:** A program of study offered by a school that is substantially similar to a borrower's program of study at a school that closed and ceased to provide educational services during the borrower's loan period.

**Telecommunications Course:** A course offered during an award year that principally uses one technology or a combination of technologies including television, audio, or computer transmission, including through open broadcast, closed circuit, cable, microwave or satellite, audio conferencing, computer conferencing, or video cassettes or discs. These technologies may be used to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between these students and the instructor, either simultaneously or at different times. A course is not considered to be a telecommunications course if the course is delivered using video cassettes or discs unless that same course is also delivered to students who are physically attending classes at the school providing the course during the same award year.<sup>1</sup>

**Term-Based School:** A school that uses standard academic terms, such as semesters, trimesters, or quarters.

**Termination:** Withdrawal of the eligibility of a school, lender, or servicer to participate in the guarantor's programs. See [subsection 18.1.C](#).

**Third-Party Servicer:** In the case of a lender or guarantor, a state or private for-profit or nonprofit organization or an individual that enters into a contract with the lender or guarantor to administer any aspect of the lender's or guarantor's FFELP as required by statutory or regulatory provisions related to [part B of Title IV of the Higher Education Act](#). In the case of a school, a state or private for-profit or nonprofit organization or an individual that enters into a contract with the school to administer any aspect of the school's participation in any Title IV program.

**Three-Times Rule:** The federal requirement that no single installment of a graduated or income-sensitive repayment schedule may be more than three times greater than any other installment.

**Title IV:** A section of the Higher Education Act of 1965, as amended, that authorizes federal loan, work, and grant education financial assistance programs.

**Totally and Permanently Disabled:** The condition of an individual who is unable to work and earn money due to an injury or illness that is expected to continue indefinitely or result in death.

**Trailer, Summer Term:** A summer term that comes at the end of a school's Scheduled Academic Year.

**Transfer:** For purposes of defining due diligence time frames, a transfer is any action (such as the sale of a loan) that results in a change of the system used to monitor or conduct collection activities on the loan.

**Treasury Bill: (T-bill)** A note or bill issued by the U.S. Treasury as legal tender for all debts.

**Treasury Offset:** An interception by the United States Treasury Department's Financial Management Service or a state agency of any payment of applicable federal funds (tax refunds, Social Security benefits, federal retirement benefits, etc.) or state funds otherwise due a borrower who has defaulted on a FFELP loan.

## U

**Unconsummated Loan:** Loan proceeds that the school returned to the lender prior to the borrower's having cashed the check, if an individual check, or the school having applied the proceeds to the student's account, if included in a master check or EFT transmission. This includes checks that may have been released by the school but remain uncashed by the 120th day following disbursement and EFT and master check transactions that have not been completed by the 120th day following disbursement.

**Undergraduate Student:** A student who is enrolled at a school in a course of study, at or below the baccalaureate level, that usually does not exceed four academic years, or is up to five academic years in length and is designed to lead to a first degree.

**Undue Hardship (Adversary Complaint) Petition:** A motion to have a loan discharged in a bankruptcy case on the grounds of undue hardship. See [subsection 13.8.A](#).

**Unknown Telephone Number:** The lack of any telephone number assigned to a particular borrower, endorser, or reference.

<sup>1</sup> Policy 952 (Batch 141), approved April 19, 2007

# H History of the FFELP and the *Common Manual*

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# Index of History Categories

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This appendix contains information on topics pertinent to the history of the FFELP and the *Common Manual*. Under each applicable date in this history, these topics are listed alphabetically by category. Following is an index of the categories under which these topics have been organized.

Ability to benefit	Guarantee fee
Additional unsubsidized Stafford funding	Guarantee transfer
Aggregate loan limit	Holder
Annual loan limit	Inducements
Audit	Insurance
Authorizations and certifications	Interest payment and capitalization
Bankruptcy	Interest rates
Blanket guarantee	Interest subsidy
Borrower dispute	Late disbursement/post-withdrawal disbursement
Child-care provider loan forgiveness	Leave of absence
Claim filing requirements	Lender fee
Claim payment	Lender of Last Resort
Claim repurchase/recall	Loan amount
Claims – returned and refiled	Loan amount – adjustment
Closed school loan discharge	Loan certification
Cohort default rate	Loan guarantee
Common forms	Loan origination
Consolidation loans	Loan sales and transfers
Consummated loan	Loan types
Cost of attendance	Need analysis
Credit balance	Negotiated rulemaking
Credit bureau reporting	Notification – borrower and student
Cure	NSLDS
Data matches	Origination fee
Death discharge	Payment application
Deferment	Payment period
Delivering loan funds	Period of enrollment
Disability discharge (total and permanent)	PLUS credit check
Disbursements rules	Post-deferment grace period
Disclosure requirements	Program Participation Agreement
Due diligence	Record retention
Electronic processing requirements	Refinancing (PLUS and SLS loans)
Eligibility – borrower and student	Refunds
Eligibility – lender	Rehabilitation of defaulted loan
Eligibility – school	Reinstatement of Title IV eligibility
Endorser	Reinsurance
Entrance counseling	Reissued disbursements
Estimated financial assistance	Repayment start
Exceeding loan limits	Repayment terms
Exceptional performance	Return of Title IV funds
Excess interest rebate	Special allowance
Exit counseling	Social Security number documentation/reporting
FAFSA	Status changes and reporting
False certification loan discharge	Statute of limitations
Federal default fee	Summer bridge extension
Federal reporting	Teacher loan forgiveness
Financial aid transcript (FAT)	Third-party servicer
Financial responsibility standards (school)	Unpaid refund discharge
Forbearance	Voluntary Flexible Agreement
Foreign school	Withdrawal
Grace period	



## H.1 History of the FFELP and the *Common Manual*

Today's education loan program is the result of a long evolutionary process that began with the enactment of the Higher Education Act in 1965. By law, the Act must be reviewed and reauthorized every 5 years, and the review often results in changes (amendments) to the law. Some [reauthorizations](#) have resulted in subtle changes; others have dramatically revised the program. Following is a chronology of milestones in the evolution of education loans. This information pertains to Federal Stafford (once called GSL) loans unless otherwise specified.

### 1965

November 8, 1965

The Higher Education Act of 1965 is signed into law. The Act requires the periodic reexamination and reauthorization of its congressional mandate. Reauthorizations must occur every 5 years, or loans may no longer be made under the program.

*Interest subsidy:* The new law provides an in-school [interest](#) subsidy of 5%, paid by the federal government for families with annual incomes less than \$15,000. A 3% interest subsidy is paid for periods during which the loan is in repayment. [Nonsubsidized loans](#) are available for students with annual family incomes of more than \$15,000.

### 1967

July 2, 1967

*Aggregate loan limit:* Aggregate loan limits are increased to \$9,000.

*Annual loan limit:* Annual loan limits are increased to \$1,500.

August 10, 1967

*Interest rates:* Interest rates increase to 6% for families earning less than \$15,000 in annual income.

*Loan guarantee:* The [guarantee](#) amount is increased from 80% to 90% of unpaid principal and interest.

### 1968

August 3, 1968

*Interest rates:* Interest rates increase from 6% to 7% for families with less than \$15,000 annual income.

October 16, 1968

*Eligibility – lender:* Interstate [lenders](#) are permitted to make loans under the Federally Insured Student Loan Program (FISLP).

December 15, 1968

*Interest subsidy:* Interest subsidy for loans in repayment is eliminated.

### 1969

August 1, 1969

*Special allowance:* Special allowance is authorized for lenders to ensure they receive a market-rate yield on their student loans. Special allowance yields no more than 3% per year based on the outstanding [principal balance](#) of eligible loans.

### 1972

June 23, 1972

[Amendments to the Higher Education Act](#) are signed into law. The Student Loan Marketing Association (Sallie Mae) is authorized.

July 1, 1972

*Interest subsidy:* Interest subsidy is determined based on an evaluation of family income and resources.

*Need analysis:* A needs test is established.

August 18, 1972

*Interest subsidy:* Interest subsidy is reinstated for students whose families have annual incomes of \$15,000 or less.

October 1, 1972

*Repayment terms:* The maximum [repayment period](#) of 63 months is increased to 120 months.

## 1973

**March 1, 1973**

*Interest subsidy:* Eligibility for interest subsidy is determined by an evaluation of family income and resources.

*Need analysis:* [Need analysis](#) is required again.

**June 1, 1973**

*Aggregate loan limit:* Aggregate loan limits increase to \$7,500 for undergraduate students and \$10,000 for graduate students (including undergraduate aggregates).

*Annual loan limit:* Annual loan limits increase to \$2,500 for third- and fourth-year [undergraduate students](#) and for [graduate students](#). Loan limits are \$1,000 for first-year students and \$1,500 for second-year students.

## 1974

**June 2, 1974**

*Eligible borrower:* Undergraduate students [enrolled](#) at least half time, but less than full time, are eligible borrowers.

*Interest subsidy:* Eligibility for [interest](#) subsidy is returned to students whose families have annual incomes of \$15,000 or less.

*Need analysis:* Need analysis is required for families earning more than \$15,000 and for loan amounts exceeding \$2,000.

## 1976

**March 1, 1976**

*Annual loan limit:* Graduate students may receive a student loan of up to \$2,500.

*Eligibility – borrower and student:* Graduate students enrolled at least half time, but less than full time, are eligible borrowers.

**October 1, 1976**

*Deferment:* “New borrowers” are eligible for a one-year unemployment [deferment](#), which is subsidized if the borrower otherwise qualifies for interest subsidy.

*Disbursement rules:* [Disbursement checks](#) must be endorsed by the borrower. [Lenders](#) may make checks copayable to both the borrower and the [school](#). Multiple disbursement of loan [funds](#) is encouraged.

*Interest subsidy:* Lenders are permitted to bill for interest subsidy on the full loan amount from the date of the first disbursement (even if the second disbursement was not made yet), provided the lender has signed a Multiple Disbursement Agreement with the [Department](#).

*Special allowance:* Lenders are permitted to bill for [special allowance](#) on the full loan amount from the date of the first disbursement (even if the second disbursement was not made yet), provided the lender has signed a Multiple Disbursement Agreement with the Department.

**October 12, 1976**

Amendments to the Higher Education [Act](#) are signed into law, with provisions effective January 1, 1977.

**November 12, 1976**

*Need analysis:* For loan terms beginning on or after November 11, 1976, [need analysis](#) is required only for [subsidized loans](#) for borrowers whose families report adjusted gross incomes of \$25,000 or more, regardless of the loan amount being requested.

## 1977

**January 1, 1977**

*Special allowance:* Special allowance is authorized for all loans disbursed between November 8, 1965, and August 1, 1969, for which balances remained outstanding. Special allowance payments for these loans are in addition to payments for other loans previously considered eligible for special allowance.

**May 20, 1977**

*Aggregate loan limit:* For [loan periods](#) beginning on or after July 1, 1977, aggregate limits are increased to \$7,500 for undergraduate borrowing and \$15,000 for cumulative graduate and undergraduate borrowing.

*Annual loan limit:* For loan periods beginning on or after July 1, 1977, [annual loan limits](#) are increased to \$2,500 for [undergraduate students](#) and \$5,000 for graduate and [professional students](#).

**September 30, 1977**

*Bankruptcy:* **Bankruptcy discharge** of student loans is prohibited for the first 5 years after the borrower graduates or withdraws from school, unless the borrower proves that payment of the loan would present an undue hardship.

**December 1, 1977**

*Special allowance:* Special allowance payments become a derivative of the Treasury-bill formula, yielding no more than 5% annually based on a quarterly determination.

**1978****November 1, 1978**

*Deferment:* The rehabilitation deferment is established for borrowers in rehabilitation training programs for disabled individuals.

*Interest subsidy:* All loans disbursed on or after November 1, 1978, qualify for interest benefits regardless of family income.

*Special allowance:* Special allowance is paid on both the subsidized and unsubsidized loans.

**November 6, 1978**

*Bankruptcy:* The prohibition against the bankruptcy discharge of student loans that have been in repayment for less than 5 years is repealed.

**1979****July 1, 1979**

*Special allowance:* The annual cap on special allowance is eliminated. Yield floats with the Treasury-bill (**T-bill**) formula (T-bill plus 3.5%).

**October 1, 1979**

*Bankruptcy:* **Bankruptcy Reform Act** is effective. The prohibition against the discharge of a student loan in bankruptcy during the first 5 years of repayment is reinstated. Loans may be discharged in the first 5 years of repayment only if the repayment of the loan would present an undue hardship to the borrower.

**1980****November 3, 1980**

**Education Amendments of 1980** are signed; provisions are effective January 1, 1981.

*Special allowance:* Special allowance paid on loans made or purchased with tax-exempt **funds** is reduced by half, effective for loans disbursed on or after October 1, 1980.

**1981****January 1, 1981**

*Aggregate loan limit:* Aggregate loan limits are revised to \$15,000 for independent **undergraduate students**, \$12,500 for dependent undergraduate students, and \$25,000 for **graduate students** (including undergraduate loans).

*Annual loan limit:* Annual loan limits increase to \$3,000 per year for independent undergraduate students, \$2,500 for dependent undergraduate students, and \$5,000 for graduate students.

*Deferment:* **Deferments** are authorized for medical internship or residency, service in a nonprofit agency, service as an officer in the Commissioned Corps of Public Health, and temporary total **disability**.

*Grace period:* Loans to “new borrowers” with loan periods beginning on or after January 1, 1981, and applicable interest rates of 9% are eligible for a 6-month grace period.

*Interest rates:* The **applicable interest rate** is 9% for “new borrowers” with **loan periods** beginning on or after January 1, 1981. New PLUS and ALAS loans have an applicable interest rate of 9%.

*Loan types:* Parental Loans for Undergraduate Students (PLUS loans) and Auxiliary Loans for Students (**ALAS**) loans are established.

*Post-deferment grace period:* Loans with a deferment end date on or after January 1, 1981, are eligible for a 6-month **post-deferment grace period**.

**August 23, 1981**

*Origination fee:* Effective for **subsidized loans** on which the **lender** provided the **borrower’s promissory note** on or after August 23, 1981, an **origination fee** of 5% is assessed. The fee may be deducted from the loan’s proceeds by the lender and must be paid to the **Department** quarterly via the ED Form 799.

**October 1, 1981**

*Post-deferment grace period:* Post-deferment grace periods are eliminated for loans first disbursed on or after October 1, 1981.

*Need analysis:* Need analysis is reinstated for borrowers with annual family incomes exceeding \$30,000.

**October 1, 1981**

*Aggregate loan limit:* Aggregate loan limits are \$12,500 for undergraduate students and \$25,000 for graduate students (including undergraduate loans).

*Annual loan limit:* Annual loan limits are revised to remove the difference between independent and dependent borrowers. Limits of \$2,500 and \$5,000 apply for undergraduate and graduate students, respectively. ALAS loan limits for undergraduate students permit an annual maximum of \$2,500 through combined GSL and ALAS borrowing. Graduate and professional students may borrow up to \$3,000 annually in ALAS, in addition to their \$5,000 GSL maximum.

*Interest rates:* PLUS/ALAS interest rate increases to 14%.

*Repayment terms:* The minimum monthly payment amount increases from \$30 to \$50 for loans first disbursed on or after October 1, 1981.

*Special allowance:* [Nonsubsidized loans](#) disbursed on or after October 1, 1981, are no longer eligible for [special allowance](#). Special allowance for loans first disbursed on or after October 1, 1981, is calculated without rounding up to the nearest eighth of a percent.

**1982****November 1, 1982**

*Interest rates:* PLUS/ALAS interest rates are reduced to 12% for loans first disbursed on or after November 1, 1982.

**1983****July 24, 1983**

*Eligibility – borrower and student:* Students must meet Selective Service Registration requirements to receive [Title IV](#) funds on or after July 24, 1983.

**August 1, 1983**

*Eligibility – borrower and student:* For [applications](#) certified on or after August 1, 1983, the [financial aid administrator](#) may not certify an application for any student unless the Statement of Registration Compliance is presented with the application.

**August 15, 1983**

*Deferment:* PLUS borrowers with loans first disbursed on or after August 15, 1983, are not eligible for deferment of their loans.

**September 13, 1983**

*Interest rates:* The applicable interest rate for new GSL borrowers with loan periods beginning on or after September 13, 1983, is reduced to 8%.

**1986****March 1, 1986**

*Origination fee:* Loans first disbursed on or after March 1, 1986, and before October 1, 1986, are subject to the provisions of sequester. Origination fees are increased to 5.5% of the loan's [principal balance](#).

*Special allowance:* Due to the sequester, [lenders](#) must collect a reduced [special allowance](#) on new loans for four consecutive reporting quarters beginning with the quarter in which the loan was first disbursed.

**April 7, 1986**

The [Consolidated Omnibus Budget Reconciliation Act \(COBRA\) of 1985](#) is signed into law.

*Consolidation loans:* Consolidation loans are authorized to permit a borrower to combine multiple obligations into a single debt.

*Credit bureau reporting:* Credit bureau reporting is required for all lenders and [guarantors](#).

*Disbursement rules:* GSL and [ALAS disbursement checks](#) must be mailed directly to the [school](#).

*Default:* The statutory [default](#) date is extended from 120 days delinquent to 180 days delinquent.

*Eligibility – borrower and student:* Schools must determine a student's eligibility for [Pell Grant](#) funding before certifying a GSL [application](#).

*Interest rates:* The [interest](#) rate for the newly authorized Consolidation loans is the greater of 9% or the weighted average interest rate of the loans being consolidated, rounded to the nearest whole percent, effectively establishing a 9% minimum interest rate.

*Lender of Last Resort:* Guarantors must ensure that a [Lender of Last Resort](#) Program is available to borrowers in each [state](#).

### May 15, 1986

*Eligibility – borrower and student:* Schools, lenders, and guarantors are prohibited from certifying, approving, or guaranteeing an application if the borrower advises that he or she has a student loan in default.

### July 1, 1986

*Disbursement rules:* All GSL and ALAS loans first disbursed on or after July 1, 1986, must be multiply disbursed if the loan amount is \$1,000 or more and there are more than 180 days remaining in the [loan period](#) after the date of first disbursement.

*Eligibility – borrower and student:* Students may not receive additional [Title IV](#) assistance if they have defaulted on a Title IV loan.

*Origination fee:* The [origination fee](#) must be deducted proportionately from each disbursement of a GSL loan.

### October 17, 1986

The [Higher Education Amendments of 1986](#) are signed into law and reauthorize the program through 1991.

*Aggregate loan limit:* The aggregate loan limit for PLUS or SLS loans is \$20,000.

*Annual loan limit:* The [annual loan limit](#) for PLUS or SLS loans is \$4,000.

*Deferment:* Eligibility for an unemployment [deferment](#) is extended from 12 to 24 months for GSL, SLS, and PLUS loan borrowers.

*Disbursement rules:* Multiple disbursements are no longer required for SLS loans. GSL multiple disbursement requirements are revised. Lenders must disburse loans in two or more installments if the loan amount is more than \$1,000 or if the loan period for which the loan is intended ends more than 180 days from the scheduled date of the first disbursement. The second disbursement may not be made before the midpoint of the period of enrollment,

except as necessary to coincide with the start of the next quarter, trimester, or semester. Loans to borrowers attending [foreign schools](#) are exempt from multiple disbursement requirements.

*Eligibility – borrower and student:* [Parents](#) may borrow PLUS funds for dependent undergraduate or dependent graduate students.

*Exit counseling:* Schools must perform [exit counseling](#) for all student borrowers.

*Interest payment and capitalization:* Interest accruing during in-school or other deferred periods on PLUS and SLS loans is payable in monthly or quarterly installments or may be capitalized no more frequently than quarterly.

*Interest rates:* The PLUS/SLS interest rate becomes a variable rate, not to exceed 12%.

*Loan types:* The ALAS Program is replaced with the SLS Program. PLUS and SLS loans are to be administered under separate programs.

*Need analysis:* GSL applications are subject to uniform methodology and [need analysis](#), regardless of family income.

*Refinancing (PLUS and SLS loans):* A borrower may refinance a fixed interest rate PLUS or ALAS/SLS loan that is disbursed prior to July 1, 1987, to obtain a [variable interest rate](#). If the lender denies the borrower the option of refinancing his or her eligible PLUS or SLS loan(s) to secure a variable interest rate, the borrower may apply to another lender for a new loan that pays the loan held by the original lender in full. Under this option, the lender making the new loan must send the proceeds of the new loan to the current holder to retire the borrower's original debt.

*Reinsurance:* Guarantors are required to pay the [Department](#) a reinsurance fee on loans guaranteed to help defray the cost of defaults.

*Repayment terms:* The 15-year limit on the repayment term of a GSL loan is eliminated.

### November 16, 1986

*Special allowance:* Special allowance for loans with periods of enrollment beginning on or after November 16, 1986, is reduced to the [T-bill](#) plus 3.25%.



**December 26, 1986**

*Deferment:* Unemployment [deferment](#) requests must list three contacts and be reaffirmed every 3 months. An unemployment deferment may be backdated no more than 60 days from the date on which the lender receives the form. Other deferments may be backdated no more than 6 months from the date the lender receives the form.

*Delivering loan funds:* Schools may credit a student's loan proceeds to his or her account no more than 21 days before the first day of the period of enrollment for which the funds are intended. [Checks](#) may be released to the [borrower](#) no more than 10 days before the start of the period of enrollment for which the funds are intended.

*Origination fee:* [Lenders](#) must refund [origination fees](#) for [disbursements](#) on which the [loan proceeds](#) are returned or the disbursement is paid in full within 120 days of the date on which the [funds](#) are disbursed.

*Refunds:* A school must make refunds to students within 30 days of the date the school determines that the student is last [enrolled](#) at least half time.

**1987****January 1, 1987**

*Aggregate loan limit:* Aggregate loan limits increase to \$17,250 for undergraduate borrowing and \$54,750 for combined undergraduate and graduate borrowing.

*Annual loan limit:* Annual loan limits increase to \$2,625 for the first two years of undergraduate study, \$4,000 for any subsequent years of undergraduate study, and \$7,500 for graduate study.

**March 10, 1987**

*Bankruptcy:* Lenders must file a [bankruptcy claim](#) no more than 30 days after learning that a borrower has filed for bankruptcy protection.

*Disclosure requirements:* Lenders must provide a "Plain English Disclosure" to borrowers before disbursing loan funds for periods of enrollment beginning on or after January 1, 1987.

*Due diligence:* New [due diligence](#) requirements are effective for loans with a first day of [delinquency](#) on or after March 10, 1987.

**June 3, 1987**

The [Higher Education Technical Amendments of 1987](#) are signed into law.

*Disbursement rules:* Disbursements for students attending [foreign schools](#) may be made directly to the borrower. Multiple disbursement requirements are returned to previous levels, so that the lender must disburse any loan of \$1,000 or more in two or more installments.

**June 26, 1987**

*Interest rates:* Interest may not be calculated on any loan entering repayment using the [Rule of 78s](#).

**July 1, 1987**

*Deferment:* New deferment provisions are introduced for "new borrowers" with loans made for periods of enrollment beginning on or after, or for loans disbursed on or after, July 1, 1987. Deferments are made available for periods of at least half-time enrollment (for borrowers with another GSL or SLS loan for the [loan period](#) for which they are applying for the deferment), temporary total [disability](#) of dependents or spouses, parental leave, and mothers entering or reentering the work force. PLUS loans may be deferred based on the status of the [dependent student](#) for whom the [parent](#) has obtained a loan. All PLUS loans for that parent may be deferred based on the status of a single dependent student. New PLUS loans disbursed for periods of enrollment beginning on or after July 1, 1987, are eligible for new deferment types: half-time enrollment deferment if the parent or dependent student for whom the parent borrowed is enrolled at least half time, National Oceanic and Atmospheric Administration (NOAA) Corps deferment, teacher shortage deferment, parental leave deferment, and working mother deferment.

*Eligibility – borrower and student:* Students must be enrolled in a degree or certificate program to receive GSL, SLS, or PLUS loan funds if the funds are intended for periods of enrollment beginning on or after July 1, 1987. A student enrolled in a course of study that is a prerequisite to a degree or certificate program is eligible for one loan for a 12-month period. A dependent student is eligible for an SLS loan if the [financial aid administrator](#) determines that exceptional circumstances preclude the parent(s) from borrowing under the PLUS program.

*Guarantee fee:* All loans are subject to a [guarantee fee](#) of no more than 3% of the [principal balance](#), collectable by the [guarantor](#).



*Interest rates:* PLUS and SLS loans first disbursed on or after July 1, 1987, accrue [interest](#) at a variable rate that is subject to change each July 1.

*Special allowance:* Lenders receive [special allowance](#) payments when the [T-bill](#) rate plus applicable factor exceeds 12%.

#### October 20, 1987

*Origination fee:* GSL loans are placed under sequester. Origination fees are increased to 5.5%.

*Special allowance:* Due to the sequester, special allowance yields are reduced for new loans for the first four reporting quarters following the one in which the loan was first disbursed.

#### December 26, 1987

*Origination fee:* The sequester action is rescinded retroactive to October 20, 1987. [Lenders](#) are required to refund to [borrowers](#) the additional 0.5% [origination fee](#) that was collected under the terms of the sequester.

### 1988

#### March 11, 1988

*Cure:* The [Department](#) publishes [cure](#) procedures for violations of [due diligence](#) or timely filing provisions.

#### July 1, 1988

*Excess interest rebate:* For loans accruing interest at the new “split 8%/10%” interest rates, if the [T-bill](#) rate plus 3.25% is less than the applicable 10% rate, the lender is required to return (rebate) earnings to the borrower at the end of the year in which those “excess” earnings are received.

*Interest rates:* [Interest](#) rates for “[new borrowers](#)” with Stafford loans first disbursed for periods of enrollment beginning on or after July 1, 1988, are 8% for the [in-school](#) and [grace periods](#), and for the first 48 months of repayment. Interest rates increase to 10% on the first day of the 49th month of repayment.

*Interest subsidy:* Lenders may no longer use the average quarterly balance in billing for [interest benefits](#).

*Loan types:* The GSL program is renamed the Stafford Loan Program.

*Special allowance:* Lenders may no longer use the average quarterly balance in billing for [special allowance](#).

#### July 18, 1988

*Eligibility – borrower and student:* Students [enrolled](#) at least half time in a teacher certificate program are eligible to borrow up to \$4,000 per year in Stafford loans.

#### August 17, 1988

*Eligibility – borrower and student:* For loans on which the [application](#) is certified on or after August 17, 1988, [schools](#) must determine the applicant’s eligibility for [Pell Grants](#) and Stafford loans before certifying an SLS application. If the borrower is eligible for a Pell Grant or Stafford loan, he or she must apply for it.

#### October 1, 1988

*Disbursement rules:* SLS loans first disbursed on or after October 1, 1988, must be multiply disbursed if the loan balance is more than \$1,000 or the [loan period](#) ends more than 180 days after the date of the first loan [disbursement](#).

*Repayment start:* SLS loan repayment begins no more than 60 days after the date the loan is fully disbursed.

### 1989

#### July 20, 1989

*Delivering loan funds:* Schools with [cohort default rates](#) of more than 30% must delay delivery of loan funds to “new borrowers” for at least 30 days following the first day of the [period of enrollment](#) for which the loan is intended.

*Refunds:* A school must make refunds within 60 days of the date the school determines that the student has dropped to less-than-half-time attendance.

#### August 24, 1989

*Entrance counseling:* Schools must provide [entrance counseling](#) for all first-time borrowers.

#### October 1, 1989

*Origination fee:* Loans first disbursed on or after October 1, 1989, but before January 1, 1990, are subject to sequester. Origination fees of 5.5% must be paid to the Department.

*Special allowance:* Due to the sequester, special allowance is reduced for new loans for the first four reporting quarters, beginning with the quarter in which the loan was first disbursed.

## November 21, 1989

Department of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act of 1990 is signed into law.

*Refunds:* Schools with cohort default rates exceeding 30% must implement a pro rata refund policy for all [Title IV](#) aid recipients.

## December 19, 1989

The [Omnibus Budget Reconciliation Act of 1989 \(OBRA\)](#) is signed into law.

*Delivering loan funds:* Schools must withhold and return to the lender any disbursement exceeding the amount of the assistance for which the student is eligible. Provisions are applicable to Stafford and SLS [loan proceeds](#) not delivered to students as of December 19, 1989, for periods of enrollment beginning on or after January 1, 1990. Schools must delay the delivery of SLS proceeds to first-time borrowers who are first-year students until 30 days after the start of the loan period for which they are intended.

*Late disbursement/post-withdrawal disbursement:* For [disbursements](#) made on or after December 19, 1989, for [loan periods](#) beginning on or after January 1, 1990, late second disbursements of Stafford and SLS loans are prohibited. For loans delivered on or after December 19, 1989, for periods of enrollment beginning on or after January 1, 1990, schools may not deliver late first disbursements of SLS proceeds if the student did not complete the first 30 days of the period of enrollment for which the funds are intended.

## 1990

### January 1, 1990

*Annual loan limit:* Annual loan limits for SLS loans are reduced for first-time borrowers. SLS [annual loan limits](#) of \$4,000 are restricted to periods of one [academic year](#) or 9 months, whichever is longer. SLS annual limits are prorated at \$2,500 for borrowers who attend at least two-thirds of an academic year but less than a full academic year; \$1,500 for borrowers who attend between one-third and two-thirds of an academic year; and to \$0 for borrowers who attend less than one-third of an academic year.

*Deferment:* Individuals serving in medical internships and residencies, except those serving in dental programs, are ineligible for in-school [deferments](#).

*Disbursement rules:* Lenders must delay the disbursement of SLS funds. For loans [guaranteed](#) on or after January 1, 1990, lenders must make Stafford and SLS loans in [multiple disbursements](#), regardless of the loan amount or the length of the [period of enrollment](#) for which the funds are intended.

*Eligibility – borrower and student:* [Borrowers](#) may no longer borrow Stafford or SLS loans for enrollment in an internship or residency program.

*Federal reporting:* Lenders must use the newly revised ED Form 799 to file for [special allowance](#) and [interest benefits](#), pay [origination fees](#), and provide information that previously was included in the annual Call Report. Any filing for benefits on or after January 1, 1990, must be on the new form and in the new format, regardless of the quarter for which it is applicable.

*Forbearance:* [Lenders](#) must grant [forbearance](#) to interns and residents.

*Loan certification:* [Schools](#) with [cohort default rates](#) of 30% or more may no longer certify SLS loan [applications](#).

### March 1, 1990

*Disbursement rules:* For loans certified on or after March 1, 1990, with loan periods beginning on or after January 1, 1990, schools must determine the [disbursement dates](#) for the loans, and lenders may not disburse funds before the first date on which the school has requested disbursement of the funds.

### June 5, 1990

*Refunds:* Schools with cohort default rates of 30% or more must institute a pro rata refund policy.

### November 5, 1990

The [Omnibus Budget Reconciliation Act \(OBRA\) of 1990](#) is signed into law.

*Bankruptcy:* Student loans are determined to be nondischargeable for borrowers filing for protection under Chapter 7 or 13 [bankruptcy](#) within 5 years of the date the loan entered repayment, excluding periods of deferment and forbearance.

*Due diligence:* For delinquencies beginning on or after November 5, 1990, [guarantors](#) must provide [preclaim assistance](#) on accounts that are less than 120 days delinquent and must provide supplemental preclaim assistance (SPA) on loans that are more than 120 days delinquent. The [Department](#) compensates the guarantor for each loan on which SPA is requested and for which the [default claim](#) is not filed within 150 days.

*Loan certification:* The minimum loan period for SLS loans is reduced to 7 months or the length of the school's academic year, whichever is longer.

## 1991

### January 1, 1991

*Delivering loan funds:* Schools must delay for 30 days the release of Stafford loan funds to borrowers who are entering the first year of an undergraduate program and who have not previously obtained a Stafford or SLS loan.

*Eligibility – borrower and student:* Students applying for [Title IV](#) funds must have a high school diploma or GED, or must pass an independently administered [ability-to-benefit](#) test for periods of enrollment beginning on or after January 1, 1991.

### April 9, 1991

*Post-deferment grace period:* Military personnel serving in Operations Desert Shield/Desert Storm are authorized to receive a 6-month post-deferment grace period following either a period of military deferment, or a period of in-school deferment if the borrower previously received a military deferment for such service. This one-time benefit is available for the period from April 9, 1991, to September 30, 1997.

*Statute of limitations:* The statute of limitations for enforcement of guaranteed student loans is eliminated.

### May 28, 1991

*Bankruptcy:* Student loans that are in repayment for 7 years or less from the date the loan first entered repayment through the date of a bankruptcy action—excluding periods of deferment and/or forbearance—are considered to be nondischargeable under bankruptcy provisions.

### July 1, 1991

*Eligibility – school:* [Schools](#) with [cohort default rates](#) of 35% or more for the most recent three fiscal years for which rates are available are ineligible to participate in the GSL Program. In Fiscal Year 1993, the rate drops to 30%.

### November 15, 1991

The [Emergency Unemployment Compensation Act of 1991](#) is signed into law. However, provisions are never enforced based on guidance received from the [Department](#), pending regulations. The [Higher Education Amendments of 1992](#) later repeal all but two provisions applicable to student loans.

## 1992

### July 23, 1992

The [Higher Education Amendments of 1992](#) are signed into law.

*Aggregate loan limit:* Aggregate loan limits on Stafford loans are revised to \$23,000 for undergraduates and \$65,500 for graduate students (including undergraduate loans). SLS aggregate loan limits are revised to \$23,000 for undergraduate borrowing and \$73,000 for combined graduate and undergraduate borrowing. These provisions became effective October 1, 1992.

*Annual loan limit:* The [annual loan limit](#) on Stafford loans of \$2,625 for the first year of full-time undergraduate study must be prorated for some students. Annual loan limits for SLS loans of \$4,000 for first- and second-year full-time enrollment must be prorated for some students. These provisions became effective October 1, 1992.

*Audit:* [Guarantors](#) must require an annual compliance audit from each lender in the FFELP. The lender's first audit under this requirement is to have covered the lender's first fiscal year that began after July 23, 1992. Submission of the audit report is required within six months after the end of the audit period.

*Closed school loan discharge:* Loans may be forgiven if the school for which the borrower obtained the loan closed before the borrower's program of study was complete.

*Common forms:* The Department, in cooperation with industry participants, is required to develop common loan applications and [promissory notes](#), [deferment](#) forms, and reporting formats.

*Exceptional performance:* A program to encourage superior servicing performance for lenders, servicers, and guarantors is initiated. For lenders and servicers that receive an [exceptional performer](#) designation, guarantors pay 100% of the principal and [interest](#) due on loans filed as [claims](#) during the period the lender or servicer is designated. Lenders or servicers are not penalized for inadvertent omissions of [due diligence](#) or timely filing violations. For guarantors designated as exceptional performers, the Department pays 100% of the applicable rate payable on loans filed for reinsurance during the period the guarantor is designated (note that criteria for exceptional performers are not defined in regulation until July 1995).

*Excess interest rebates:* [Lenders](#) must rebate excess [interest](#) on Stafford loans first disbursed at a fixed rate on or after July 23, 1992, regardless of that rate. Rebates to “[new borrowers](#)” with loans at the 8%/10% rate are applicable when the [T-bill](#) rate plus 3.25% is less than the [applicable interest rate](#). Rebates are applicable for the new 8%/10% loan only when the loan reaches the 10% accrual period. For loans first disbursed to [borrowers](#) with outstanding loans on or after July 23, 1992, the rebate is applicable when the T-bill rate plus 3.10% is less than the loan’s applicable interest rate. For second or subsequent loans first disbursed at 8%/10% on or after July 23, 1992, the rebate is applicable both to the 8% period and the 10% period.

*False certification:* Loans may be forgiven if the [school](#) falsely certified the loan [application](#).

*Forbearance:* Borrowers participating in medical internship or residency programs may request and the lender must grant a period of [forbearance](#) when the borrower has expended his or her entire [deferment](#) period for internship or residency. Lenders may extend forbearance on loans without a borrower’s request (grant [administrative forbearance](#)) in prescribed instances, such as a period of [delinquency](#) preceding an authorized period of deferment.

*Interest subsidy:* The lender may not bill for interest on a subsidized Stafford loan that is disbursed by [check](#) earlier than 10 days before the first [disbursement](#) of the loan or earlier than 3 days before the first disbursement of [funds](#) by [EFT](#). In this case only, the term “disbursement” is intended to mean delivery to the borrower.

*Loan sales or transfers:* Borrowers must be notified of the sale or transfer of their loan to another [holder](#) or [servicer](#) no more than 45 days from the date the new holder or servicer obtains legal right to receive payments on the loan. Specifically defined information must be included in notices to the borrower, and the notice must be provided by

both the seller and holder, or by the previous servicer and new servicer. Lenders may not sell or transfer ownership of a loan that is not yet fully disbursed if the transaction would cause a change in the party to which the borrower will send payments.

*Loan types:* The GSL Program is renamed the [Federal Family Education Loan Program \(FFELP\)](#). The Stafford Loan Program is renamed the Federal Stafford Loan Program, the SLS Program is renamed the Federal SLS Program, and the PLUS Loan Program is renamed the Federal PLUS Loan Program.

*Negotiated rulemaking:* The Department is required to develop regulations from these amendments in a negotiated rulemaking process with the student loan industry and other interested participants.

*PLUS credit check:* Lenders must perform a credit check on PLUS loan applicants and may not make loans to borrowers determined to have adverse credit unless they determine that mitigating circumstances apply.

*Rehabilitation of defaulted loans:* All [guarantors](#) must provide for the [rehabilitation of defaulted loans](#) by the [borrower’s](#) making 12 consecutive, on-time, reasonable and affordable payments. In addition, the borrower’s defaulted loans must be purchased by an [eligible lender](#).

*Reinstatement of Title IV eligibility:* A borrower may have his or her eligibility for additional [Title IV](#) funding reinstated if the borrower makes six consecutive, on-time, reasonable and affordable payments on his or her defaulted loan.

*Repayment terms:* The \$600 joint minimum annual payment amount for married couples is deleted. A new clause advises that the minimum payment is the amount of interest that is due and payable. Lenders must offer to borrowers who have both Stafford and SLS loans the option of deferring the [repayment start date](#) of the SLS loans to coincide with the repayment start date of the Stafford loans. Interest on the SLS loans continues to accrue and is payable by the borrower in monthly or quarterly installments, or may be capitalized.

*Third-party servicer:* The [Department](#) is authorized to regulate [third-party servicers](#).

## October 1, 1992

*Consummated loan:* For subsidized Stafford loans first disbursed on or after October 1, 1992, lenders may not bill the Department for interest or [special allowance](#) payments on loans for which the disbursement check is not cashed or

the funds delivered by EFT are not delivered to the student within 120 days of the date of disbursement. Such loans are considered unconsummated.

*Delivering loan funds:* The school must confirm the eligibility of the [dependent student](#) for whom the [parent](#) is borrowing before delivering PLUS loan funds.

*Disbursement rules:* PLUS loans must be disbursed by EFT or by a check that is copayable to the borrower and the school and must be sent to the school.

*Interest rates:* Interest rates on Stafford loans are revised to a [variable interest rate](#) based on the 91-day [T-bill](#) rate plus 3.1%, capped at 9% for loans first disbursed to “new borrowers” who have no outstanding balance on any [FFELP](#) loan on or after October 1, 1992. Interest rates on SLS loans are revised to a variable rate, calculated at the 52-week T-bill rate plus 3.1%, capped at 11%. Interest rates on PLUS loans are revised to a variable rate based on the 52-week T-bill plus 3.1%, capped at 10%.

*Loan types:* Effective for periods of enrollment beginning on or after October 1, 1992, unsubsidized Stafford loans are authorized with provisions paralleling those for subsidized Stafford loans, except that interest during [in-school](#), [grace](#), and deferred periods is not paid by the Department. The program provides loans for students who do not qualify for a subsidized Stafford loan or who qualify for only a part of the annual [subsidized loan](#) amount. Borrowers pay a combined [origination fee/guarantee fee](#) of 6.5%, all of which is paid to the Department. Guarantors are prohibited from collecting guarantee fees on unsubsidized Stafford loans.

*Origination fee:* Lenders must charge SLS and PLUS loan borrowers an origination fee of 5% on all loans with first disbursements on or after October 1, 1992, with the fee being deducted proportionally from each loan disbursement.

## 1993

### January 1, 1993

*Consolidation loans:* Married couples may consolidate their loans into a single Consolidation loan if they agree to be jointly and severally liable for the obligation, regardless of future marital status. Effective for applications received on or after January 1, 1993, the Consolidation minimum loan amount is increased to \$7,500 and periods during which the borrower qualifies for a deferment are subsidized. A Consolidation loan borrower may add other

eligible loans to a preexisting Consolidation loan for a period of up to 180 days from the date the Consolidation loan is made.

*Repayment terms:* Lenders must offer Consolidation loan borrowers the option of repaying their loans with graduated or income-sensitive repayment provisions.

### February 1, 1993

*Special allowance:* Provisions for loans made or purchased with tax-exempt obligations are modified.

### April 16, 1993

*Common forms:* The Department issues a Dear Guaranty Agency Director Letter announcing the approval of the common application and promissory note that combines the Federal Stafford and Federal Unsubsidized Stafford or Federal SLS loan into a single form. Schools are required to use the common application and promissory note for loans certified on or after January 1, 1994.

### July 1, 1993

*Aggregate loan limit:* Aggregate loan limits for PLUS loans are effectively negated.

*Annual loan limit:* Stafford [annual loan limits](#) are revised to \$3,500 for the second year of study. SLS annual loan limits for subsequent years of undergraduate enrollment (beyond the second year) are increased to \$5,000 effective July 1, 1993. SLS annual limits for graduate and [professional students](#) are \$10,000. Annual limits for PLUS loans are revised to the [cost of attendance](#) minus other aid, effective for loans first disbursed on or after July 1, 1993.

*Deferment:* For “new borrowers” on or after July 1, 1993, [deferments](#) are limited to in-school (including periods during which the [borrower](#) is [enrolled](#) at least half time), graduate fellowship or [rehabilitation](#) training, unemployment (not to exceed 36 months), and periods during which the borrower is experiencing [economic hardship](#) that would preclude making student loan payments. For PLUS loans first disbursed to “[new borrowers](#)” on or after July 1, 1993, borrowers may no longer defer their PLUS loan based on the status of the [dependent student](#).

*Eligibility – schools:* For fiscal year 1993, [schools](#) with [default](#) rates exceeding 30% for the three most recent fiscal years for which data is available are not eligible to participate in the [FFELP](#). For subsequent years, the default rate may not exceed 25%.



*Repayment terms:* **Lenders** must offer new SLS and Stafford loan borrowers graduated or income-sensitive repayment schedules.

### August 10, 1993

The Student Loan Reform Act of 1993, a part of the **Omnibus Budget Reconciliation Act**, is signed.

*Interest subsidy:* Consolidation loans made from **applications** received on or after August 10, 1993, are eligible for **interest** subsidy during authorized periods of deferment only if all underlying loans are subsidized Stafford loans.

*Loan types:* The Federal Direct Loan Demonstration Program authorized under the **Higher Education Amendments of 1992** is replaced with an expanded pilot.

### October 1, 1993

*Annual loan limit:* Stafford annual loan limits are increased to \$8,500 for graduate and professional students.

*Disbursement rules:* PLUS loans first disbursed on or after October 1, 1993, must be multiply disbursed under the same conditions as SLS loans.

*Lender fee:* Lenders must pay a 0.5% fee for all FFELP loans disbursed on or after October 1, 1993. This fee may not be passed on to the borrower. Lenders of Consolidation loans must pay the **Department** monthly consolidation fees of 1.05% of the total outstanding loan balance of Consolidation loans (principal and interest) made on or after October 1, 1993. This fee may not be passed on to the borrower.

*Loan guarantee:* Loans first disbursed on or after October 1, 1993, are insured at 98% of the principal and outstanding interest filed as a **claim** by the lender.

*Reinsurance:* The reinsurance fee paid by guarantors to the Department is eliminated for loans first disbursed on or after October 1, 1993. Loans first disbursed on or after October 1, 1993, are reinsured at a maximum of 98% of the principal and interest filed with the Department by the **guarantor**.

## 1994

### April 29, 1994

*Closed school loan discharge:* A borrower may be eligible for a closed school loan discharge as long as the borrower did not transfer any portion of the academic credits or clock hours earned at the closed school through a teach-out at another school.

### July 1, 1994

*Additional unsubsidized Stafford funding:* If a school certifies a PLUS loan for an eligible parent and the parent dies during the loan period, the parent's death creates a sufficient "exceptional circumstance" to permit the school to certify additional unsubsidized Stafford loan funds for the student for the current academic year, not to exceed the student's additional unsubsidized Stafford loan limit. Any eligible PLUS loan proceeds delivered prior to the date of the parent borrower's death must be included in the estimated financial assistance used in determining the student's eligibility for the additional unsubsidized Stafford loan funds.

*Annual loan limit:* Loan limits for unsubsidized Stafford loans for **independent students** (and students whose parents are unable to receive a PLUS loan) are increased to \$6,625 for first year enrollment (a \$4,000 increase), \$7,500 for second year enrollment (a \$4,000 increase), and \$10,500 for subsequent years of undergraduate enrollment (a \$5,000 increase). Graduate **annual loan limits** are increased to \$18,500 (a \$10,000 increase). Borrowers are eligible for these increased limits to the extent that they exceed the amount of funds received under the subsidized Stafford Loan Program.

*Consolidation loans:* Consolidation loans are no longer subject to a minimum loan amount.

*Interest rates:* Interest rates for Stafford loans first disbursed on or after July 1, 1994, are variable rates, calculated at the **T-bill** rate plus 3.10%, capped at 8.25%. Stafford loan interest rates for "repeat borrowers" are no longer tied to the rate at which the borrower previously received his or her loan. Interest rates for PLUS loans are revised to the T-bill rate plus 3.1%, capped at 9%. The annual **interest** rate for Federal Consolidation loans made on or after July 1, 1994, and for which the lender received the consolidation application prior to November 13, 1997, is the weighted average rate of all loans included in the consolidation rounded up to the nearest whole percent. The 9% minimum annual interest rate is no longer applicable.



*Leave of absence:* Students in an approved leave of absence are considered to be withdrawn for purposes of calculating refunds and determining continuous in-school status. For deferment purposes, students are considered to be enrolled during the leave.

*Loan types:* The Federal SLS Loan Program is eliminated. As a result, independent [undergraduate students](#) (and dependent students whose [parents](#) are unable to obtain PLUS loans) are offered additional unsubsidized Stafford loan eligibility equal to the prior SLS annual and [aggregate loan limits](#).

*Origination fee:* Origination fees for all FFELP loans first disbursed on or after July 1, 1994, are 3%. Guarantors are prohibited from collecting [guarantee fees](#) exceeding 1%. The combined origination/guarantee fee for unsubsidized Stafford loans is revoked.

*Repayment terms:* Repayment schedules for loans with original balances of less than \$7,500 may not exceed 10 years.

#### October 20, 1994

President Clinton signs into law the [Improving America's School Act of 1994 \(P.L. 103-382\)](#), which allows Nursing Student Loans to be included in a Consolidation loan and changes the [record](#) retention requirements for schools.

*Consolidation loans:* Borrowers are able to consolidate Nursing Student Loans into a Consolidation loan that is made on or after October 20, 1994. A borrower may not retroactively add those loans to a Consolidation loan made before October 20, 1994.

*Record retention:* All required records relating to a student or parent borrower's eligibility for, and participation in, the FFELP must be kept for 3 years after the end of the award year in which the student last attended the school. An award year is the period between July 1 of a given calendar year and June 30 of the following calendar year. In addition, a school must keep copies of all reports (such as its SSCRs) and forms used by the school to administer FFELP loans for 3 years after the end of the award year in which those records were submitted. Any records relating to a loan, [claim](#), or expenditure questioned in an audit, [program review](#), investigation, or other review must be retained until the later of the resolution of the question or the end of the retention period applicable to the record. Schools are encouraged to keep records longer than the minimum 3-year period to aid in their defense of [cohort default rate](#) appeals, claims of false certification, or other borrower

defenses. These requirements are effective for any record that meets the 3-year retention requirement on or after October 20, 1994.

## 1995

### March 1995

*Audit:* The Department publishes an audit guide on annual compliance audits. The following provisions are included in the initial instructions published with the audit guide for lenders:

- For initial audits, a lender with a fiscal year ending July 23 through December 31 is required to choose between having separate audits for fiscal years 1993 and 1994 or a combined audit for the two years.
- The initial audit for a lender with a fiscal year ending January 1 through July 22 must cover fiscal year 1994.
- A lender with a fiscal year ending January 1 through March 31 may choose to have a combined initial audit for fiscal years 1994 and 1995.

### July 1, 1995

*Bankruptcy:* Borrowers who have had previous [FFELP](#) loans [discharged](#) in [bankruptcy](#) are no longer required to reaffirm the old debt to be eligible to borrow additional FFELP funds.

*Deferment:* Eligibility criteria for the [economic hardship deferment](#) are revised. Regulations require that deferments be administered as borrower-specific provisions so that the borrower may use those deferment entitlements on which time limits are placed only for the maximum time frame on all their FFELP loans, regardless of when those loans are made. Thus, a borrower who receives a loan and defers it based on internship for 20 months, then takes a second loan, is eligible for only 4 months of internship deferment on that second loan.

*Eligibility – school:* When a school begins participation in any Title IV program, the school is required to send at least two representatives, including both its president or chief executive officer (CEO) and financial aid administrator (FAA), to the Department's Fundamentals of Title IV Administration Training workshop. Also, if a school changes ownership, structure, or governance, its representatives must attend the training. The training must be completed up to 12 months prior to but no later than

12 months after the school executes its Program Participation Agreement (PPA) or experiences a change in ownership, structure, or governance.

The CEO may designate another school executive-level officer to attend the training in lieu of the CEO. The school may request from the Department a waiver of the training requirement for the FAA and/or the CEO. The Department may grant or deny the waiver for the required individual, require another official to take the training, or require alternative training.

A school seeking to participate for the first time in a Title IV program must not have a withdrawal rate during its latest completed award year that exceeds 33% of its regular, undergraduate students. The school must include in its withdrawal calculation every regular student who was enrolled during the latest completed award year except a student who, during that period, meets established criteria.

*Exceptional performance:* [Exceptional performer](#) criteria are defined, permitting some lenders and lender [servicers](#) to obtain a performance rating that will result in their receiving 100% reimbursement on [claims](#) submitted—regardless of the [disbursement date](#) of the loans included in the claims.

*Interest rates:* Interest rates on Stafford loans are revised; lenders earn interest at one rate ([T-bill](#) plus 2.5%) during [in-school](#), grace, and deferred periods, and a higher rate ([T-bill](#) plus 3.1%) during periods of repayment.

*Leave of absence:* [Leave of absence](#) provisions are reinstated, but are limited to no more than a 60-day period. The student is considered to be [enrolled](#) for purposes of enrollment [verification](#) and [refunds](#). For a one-year period—July 1, 1994, through July 1, 1995—students in an approved leave of absence were considered to be withdrawn for purposes of calculating refunds and determining continuous in-school status. For [deferment](#) purposes, students were considered to have remained enrolled during the leave.

*PLUS credit check:* A PLUS loan applicant with adverse credit history may obtain a creditworthy [endorser](#) to receive a PLUS loan. A PLUS loan applicant is considered to have adverse credit if, among other conditions, the applicant had any debt discharged in bankruptcy during the 5-year period before the date of the applicant's credit report.

*Origination fee:* Loans on which [origination fees](#) are not paid promptly by the originating lender are deemed to be non-reinsured. The lender or [holder](#) may not collect [interest benefits](#) or special allowance on the loans.

*Repayment start:* [Lenders](#) may offer a postponement of repayment start on SLS loans that is consistent with the grace on a [borrower's](#) Stafford loan. Previously, borrowers with both Stafford and SLS loans entering repayment could postpone the beginning of their SLS repayment only for 6 months without requesting a [forbearance](#) for the additional months that coincided with their Stafford [grace period](#).

*Special allowance:* [Special allowance](#) rates on Stafford loans are revised; lenders earn interest at one rate ([T-bill](#) plus 2.5%) during [in-school](#), grace, and deferred periods, and a higher rate ([T-bill](#) plus 3.1%) during periods of repayment.

## September 30, 1995

*Audit:* A lender must complete its initial audit (or audits) by September 30, 1995. If the lender is required to submit an audit report, the report must be submitted to the Department by September 30, 1995. The deadline for the completion of the audit is extended to June 30, 1996, for any audit period in which a lender originated or held FFELP loans totaling \$5 million or less.

## November 29, 1995

The [Department](#) publishes final regulations on the [Equity in Athletics Disclosure Act](#), effective July 1, 1996.

## December 1, 1995

The Department publishes [final regulations](#) on default prevention, [parity with the FDLP](#), the [Student Right-To-Know Act](#), [regulatory reform](#), and [ability-to-benefit](#), effective July 1, 1996.

## 1996

### March 1, 1996

[Dear Colleague Letter 96-G-287/96-L-186](#) lifts the Department's waiver of enforcement of the lender due diligence provisions in [34 CFR 682.411](#), published in the December 18, 1992, [Federal Register](#) and clarifies policy changes pertaining to lender due diligence.

### April 1, 1996

The *Common Manual—Unified Student Loan Policy*, which contains both federal and [guarantor](#) policies, is adopted by 23 guarantors. The *Common Manual* was developed from

inception to publication in less than one year.

Acknowledgment for this accomplishment is due to many individuals and their organizations:

- To the staff of participating guarantors for their time, patience, and long hours spent going through several drafts and compromising on sensitive issues.
- To National Student Loan Program (NSLP), the Montana Guaranteed Student Loan Program (MGSLP), and the Northwest Education Loan Association (NELA) for providing administrative leadership and support throughout the development of the manual.
- To the Iowa College Student Aid Commission for guiding the manual through the various draft stages, receiving numerous edits from the guarantors involved, and compiling and inserting the edits into a readable format.
- To TG and the Oregon Student Assistance Commission for performing final editing on the manual.
- To USA Funds, Inc., for providing its December 1994 manual as the foundation for this manual, performing final editing on the text, and preparing the manual for publication.

It is in the spirit of partnership and cooperation that this manual was created.

### July 1, 1996

*Ability to benefit:* **Ability-to-benefit (ATB)** students may receive **Title IV funds** if they obtain passing scores on independently administered tests approved by the Department; obtain passing scores on Department-approved **state** tests; or enroll in schools that participate in state processes that have been approved by the Department. This provision is effective for loan applications certified for the 1996–97 award year and thereafter.

*Aggregate loan limit:* For purposes of determining if a borrower has exceeded the **aggregate loan limit**, a school or lender may make certain assumptions about the underlying Stafford loans (subsidized vs. unsubsidized) in a Consolidation loan.

*Annual loan limit:* For loan periods beginning on or after July 1, 1996, certain health profession students who attend eligible HEAL participating schools and who have not borrowed under the HEAL program prior to October 1, 1995, are eligible to borrow unsubsidized Stafford loans in

excess of annual and aggregate limits. To be eligible, a school must have disbursed HEAL loans in federal fiscal year 1995 (October 1, 1994, through September 30, 1995) and must not have subsequently withdrawn from the HEAL program.

*Bankruptcy:* If a borrower files for **bankruptcy**, a lender should not make any disbursement on any loan for which the borrower applied and that is approved before the borrower's bankruptcy filing. Any funds disbursed but not yet delivered by the school should be recalled. Loans scheduled to be disbursed after the date of the bankruptcy filing should be canceled. These changes apply to disbursements made on or after July 1, 1996.

Any period of administrative forbearance that is applied in conjunction with a **cure** period must be included in the calculation of the 7-year **repayment period** for the purpose of determining dischargeability of a loan in **bankruptcy**. If a bankruptcy **claim** is not filed in a timely manner, a lender need not perform cure activities. The lender may consider a loan to have regained reinsurance if the lender is resuming servicing after receiving notice that the loan was not discharged in bankruptcy or that the bankruptcy action was reversed or dismissed. These changes apply to bankruptcy notifications received by the lender on or after July 1, 1996.

*Claim payment:* For a non-default claim, the **guarantor** purchases all interest that accrues from the interest-paid-through date through the date the guarantor pays a claim (if the lender does not incur any penalties for **due diligence** violations or for failure to meet timely filing or refiling deadlines). This applies to claims received by the guarantor on or after July 1, 1996.

*Claims – returned and refiled:* Resubmission of a claim on the 31st day through the 60th day, inclusive, after the guarantor returns the claim to the lender will result in loss of eligibility for interest, **interest benefits**, and special allowance payments beyond the 30th day after the return. This applies to returned claims received by the lender on or after July 1, 1996.

*Cohort default rates:* The defaulted loan of a student who attended and borrowed at more than one **school** is attributed to the respective schools at which the student received a loan that entered repayment for the fiscal year. A weighted average **cohort default rate** is required for schools with borrowers entering repayment in both FFELP and FDLP in the same fiscal year; the formula used to calculate the rate depends on the type of school and the number of students entering repayment. Rehabilitated FFELP or FDLP loans are not considered to be in default for purposes of cohort default rate calculations. “Enclosure B,” which outlines cohort default rate appeal procedures, is renamed the

“Official Cohort Default Rate Guide.” Schools are no longer required to notify the Department of their intent to appeal cohort default rates. The criteria for appealing a school’s cohort default rate were expanded. A school’s chief executive officer (CEO) must provide a [certification](#), under penalty of perjury, that all information submitted by the school in support of its cohort default rate appeal is true and correct. For a cohort default rate appeal based on exceptional mitigating circumstances, a school must submit an independent auditor’s opinion regarding the CEO’s assertion that the information contained in the school’s appeal is complete and accurate. Implementation of a default management plan or [Appendix D](#) is no longer a requirement for schools with cohort default rates greater than 20%. Implementation of [Appendix D](#) may not be used as a defense to loss of eligibility for [schools with FFELP cohort default rates](#) greater than 40%.

*Consolidation loans:* A borrower may consolidate [defaulted](#) loans by agreeing to repay the Consolidation loan under an income-sensitive repayment schedule. This applies to Consolidation loan [applications](#) received on or after July 1, 1996.

*Credit bureau reporting:* Lenders are strongly encouraged to wait until a borrower is at least 60 days delinquent before reporting a [delinquency](#) to a credit bureau. This applies to credit bureau reporting on or after July 1, 1996.

*Cure:* These changes are enforced for loans on which the first day of delinquency on the “oldest outstanding due date” is after July 1, 1996.

- Defines the earliest unexcused violation based on the type of violation causing the loss of the loan’s [guarantee](#).
- Codifies that a [lender](#) must complete the prescribed [cure](#) activities and reinstate a loan’s guarantee within a specific 3-year time frame.
- The lender must complete the intensive collection activities (ICA)/location cure procedure (that is, the default claim must have been filed) by the 3-year deadline.

*Data matches:* The Department will perform a data match with the Social Security Administration to confirm claims of U.S. citizenship made on the FAFSA. The Department also will conduct a data match with the Selective Service to verify a male student’s registration status. These provisions are applicable to loans certified for periods of enrollment beginning on or after July 1, 1996. For loan [applications](#) certified for the 1996–97 award year and after, the

Department will conduct a data match with the Social Security Administration to verify the [Social Security number](#) a student provides on the FAFSA.

*Deferment:* A borrower who has [defaulted](#) on a loan is not eligible for a deferment unless the borrower makes payment arrangements acceptable to the lender to resolve the default prior to payment of the default [claim](#) by the guarantor. This applies to deferment requests received by the lender on or after July 1, 1996.

To obtain an unemployment [deferment](#), a [borrower](#) may provide the titles (in lieu of the names) of the six persons contacted in an attempt to secure employment. This applies to unemployment deferments granted by the [lender](#) on or after July 1, 1996.

*Delivering loan funds:* The following changes apply to [funds](#) credited to the student’s account on or after July 1, 1996:

- A [school](#) may use Stafford or PLUS [loan proceeds](#) to pay minor prior-year charges that do not exceed \$100; loan proceeds can be applied to prior-year charges that exceed \$100 if doing so will not prevent the student from paying his or her current year costs.

*Disability discharge (total and permanent):* Within 30 days of receiving payment of a [disability discharge](#) claim, the lender is required to return to the sender any payments received from, or on behalf of, a borrower after the date a physician certifies that the borrower is totally and permanently disabled. This applies to total and permanent disability claims filed by the lender on or after July 1, 1996.

*Disclosures:* Beginning with the 1996–97 [award year](#) schools must disclose completion/graduation and transfer-out rates to current and prospective students. Correspondence schools are no longer required to provide prospective students with a schedule for submission of lessons for courses of study beginning on or after July 1, 1996.

*Due diligence:* A lender must give the borrower 30 days from the date the [final demand](#) letter is mailed to repay principal and [interest](#), plus interest and [special allowance](#) paid by the [Department](#), on any portion of a loan that is ineligible. This applies to final demand letters mailed on or after July 1, 1996.

The following changes are enforced for loans on which the first day of delinquency on the “oldest outstanding due date” is after July 1, 1996. The “oldest outstanding due date” is the date from which the current 180-day due



diligence counter is based and is sometimes referred to as the “latest,” “current,” or “next” due date. The following provisions are included:

- Permits lenders to substitute forceful collection letters for telephone contacts with borrowers who are [incarcerated](#) or live outside a [state](#), Mexico, or Canada.
- Replaces 30-day buckets with new [due diligence](#) windows of 1–10 days delinquent and 11–180 days delinquent.
- Requires a [final demand](#) letter—which gives the borrower 30 days to bring the loan out of [default](#)—on or after 151st day of delinquency (was day 151–180). An exception is permitted if the borrower’s address is unknown and remains unknown after the lender has exhausted all required [skip tracing](#) activities. In such instances, the lender is excused from sending the borrower a final demand letter, unless a valid address for the borrower is obtained on or before the 150th day of delinquency (the 210th day for loans payable in installments less frequent than monthly).
- Establishes collection rules for a [rolling delinquency](#) or [special occurrence](#) if 1–10 days delinquent, 11–90 days delinquent, 91–120 days delinquent, or more than 120 days delinquent, as a result of the event.
- Permits a lender to continue collection efforts required in the 11–180 days of delinquency after sending the final demand letter to the borrower. Specifies that those collection efforts should be restricted to diligent telephone efforts.
- Requires a lender to perform telephone [skip tracing](#) activities if the lender discovers—even on the last required attempt to make a [diligent effort](#) to contact the borrower—that the telephone number is invalid.
- Clarifies that at least one diligent effort to contact the borrower by telephone must occur on or before the 90th day of delinquency.
- Defines [gap](#) in collection activity.
- Defines [diligent effort](#) for telephone contacts.
- Defines telephone and address [skip tracing](#) requirements and establishes time frames.
- Prescribes [due diligence](#) requirements for [endorsers](#).
- Preempts any [state](#) law conflicting with lender collection requirements.
- Defines “made-up” collection activity.
- If a lender determines that it does not know the current telephone number for a delinquent endorser, the lender must diligently attempt to obtain a valid telephone number through the use of normal commercial skip tracing techniques. If the lender determines that a delinquent endorser’s telephone number is incorrect after it sends the final demand letter, the lender need not attempt to find a valid telephone number.
- For delinquent borrowers, a lender’s skip tracing techniques must include an inquiry to directory assistance or a comparable service.
- A due diligence gap starts the day after the date the lender receives a new correct telephone number for a delinquent borrower.

*Eligibility – borrower and student:* For loans certified for periods of enrollment beginning on or after July 1, 1996:

- A stepparent is eligible for a PLUS loan if the stepparent’s income and assets have been taken into account when calculating a [dependent student’s EFC](#).
- Secondary confirmation of an applicant’s eligible noncitizen status is not required if the status was confirmed in a previous award year or if the school does not have conflicting information or reason to believe that the applicant’s claim of citizenship is incorrect.
- If a [parent](#) is denied a PLUS loan due to adverse credit, this denial can be considered “exceptional circumstances.” Only one parent need be denied a PLUS loan and the student’s family must be otherwise unable to provide the expected family contribution in order for a dependent student to be eligible for an additional unsubsidized Stafford loan; however, if any of the student’s parents subsequently becomes eligible for a PLUS loan, undelivered [disbursements](#) of the additional unsubsidized Stafford loan must be canceled.

For loan [applications](#) certified for the 1996–97 award year and after, students who enroll in service academies but withdraw before graduating (under any circumstances except a dishonorable release) are considered veterans for purposes of determining dependency status.

For loan applications certified on or after July 1, 1996, a student borrower seeking a Stafford loan or a student for whom a PLUS loan is being obtained must not have property subject to a judgment lien for a debt owed to the United States.

A student may self-certify that he or she has at least a high school diploma or the recognized equivalent of a high school diploma, or has completed a secondary school education in a home-schooled setting.

A student is required to update his or her dependency status if it changes during the award year regardless of whether the student is selected for verification. The only exception is if the student's dependency status changes as the result of a change in marital status. If the student's last remaining parent dies after the student submits the FAFSA, the student must update his or her dependency status on the Student Aid Report (SAR) and report income and assets as an independent student.

A borrower is ineligible for a FFELP loan if the borrower has had a prior FFELP loan partially or totally written off by a guarantor. To become eligible to receive a new FFELP loan, a borrower must reaffirm the written-off loan, provide confirmation of that reaffirmation to the school, and be otherwise eligible for the loan. A borrower whose prior FFELP loan has been partially or totally written off by a lender is not required to reaffirm the written-off loan as a condition of eligibility.

*Eligibility – school:* A school will lose FFELP eligibility 30 calendar days after the date it receives notification that its three most recent cohort default rates are 25% or greater—unless an appeal is filed. [Limitation](#), [suspension](#), and [termination](#) actions may be taken against a school with any combination of a FFELP, [FDLP](#), or a weighted average cohort default rate that is equal to or greater than 25%.

*Endorser:* An [endorser](#) is released from his or her repayment obligation if (1) the borrower dies or (2) on or after July 23, 1992, the student for whom a [parent](#) received a PLUS loan dies, or (3) the loan is discharged for any other reason. This applies to death certificates received by the [lender](#) on or after July 1, 1996.

*FAFSA:* The [Statement of Educational Purpose](#) has been added to the [FAFSA](#).

*Forbearance:* A lender may apply an [administrative forbearance](#) if a borrower requests repayment alignment of his or her Stafford and SLS loans. This change applies to loans that are eligible for repayment alignment on or after July 1, 1996.

A lender may grant an [administrative forbearance](#) to a borrower to cover any period of [delinquency](#) that exists after the close of a period of deferment or [mandatory forbearance](#). This applies to all deferments and mandatory forbearances with end dates on or after July 1, 1996.

*Foreign school:* Foreign schools must comply with federal regulations, unless exempted by the [Department](#).

*Guarantee fee:* A lender must refund a prorated portion of the [guarantee fee](#) to the borrower's account if a loan or a portion of a loan is returned by the school to the lender on or after July 1, 1996. Lenders are encouraged to use a standard refund formula.

*Late disbursement/post-withdrawal disbursement:* If a lender makes a [late disbursement](#) 61–90 days after the borrower is no longer [enrolled](#) at least half time, it is the school's responsibility to determine and document that exceptional circumstances exist. This applies to loan funds delivered by the school on or after July 1, 1996.

*Loan amount:* Once a prorated loan amount has been certified, the school need not recalculate the [borrower's](#) eligibility if the number of hours for which the student is [enrolled](#) changes. This change is applicable to loans certified for periods of enrollment beginning on or after July 1, 1996.

*Loan certification:* For loan applications certified on or after July 1, 1996:

- A school may certify a loan for the entire [academic year](#) in which a borrower regains Title IV eligibility after [default](#).
- A school may certify a PLUS application before the [FAT](#) or equivalent data is received.

A school is prohibited from charging a fee for completing or certifying any FFELP document or for providing any information necessary to receive a FFELP loan or program benefit.

After a school has certified a Stafford loan, the loan certification cannot be changed to reflect a change in dependency status. However, the school may use the updated status to recalculate the expected family contribution and certify additional loans if the student qualifies. The school is liable for any overpayment of Stafford loan funds due to recalculation errors.



*Notices and authorizations:* When a school notifies a [borrower](#) by electronic means that loan funds were credited to the student's account, the borrower must confirm receipt of that notice.

*NSLDS:* The Department issues [Dear Colleague Letter GEN-96-13](#) to announce the availability of the National Student Loan Data System (NSLDS) to meet the regulatory requirements for obtaining financial aid transcript (FAT) information for purposes of determining student eligibility for Federal Title IV student assistance. Effective with the implementation of NSLDS reporting, applicable procedures may be included by the guarantor in a school program review. Beginning with the 1996–97 award year, schools may access the [NSLDS](#) to obtain [financial aid transcript](#) data.

For each transfer student applying for Title IV aid, a school must obtain and evaluate financial aid transcript (FAT) data from the National Student Loan Data System (NSLDS) for each school the student attended previously. A school is required to complete and return paper FATs when requested to do so by another school. A school may certify or decline to certify a Stafford or PLUS loan application and promissory note, but may not release the proceeds of any Stafford or PLUS loan before receiving and evaluating data from NSLDS or a paper FAT, as applicable. This change is effective for FAT data requested by schools for the 1996–97 award year and after.

In determining whether a student has ever defaulted on any Title IV loan, schools may rely on NSLDS financial aid history information (or transcripts from other schools in the case of a mid-year transfer student) and on information provided by the student or parent borrower during the application process, unless the school receives conflicting information. The school must reconcile all conflicting information before delivering any funds. This change is effective for FAT information requested by schools for the 1996–97 award year and after.

*Origination fee:* A lender must refund a prorated portion of the [origination fees](#) to the borrower's account if a loan or a portion of a loan is returned by the school to the lender on or after July 1, 1996. Lenders are encouraged to use a standard refund formula.

*Payment application:* A lender may credit an entire payment first to any [late charges](#) or collection costs, then to any outstanding [interest](#), and then to outstanding principal. Unless the borrower requests otherwise, a payment that equals or exceeds the regularly scheduled payment amount must be applied to future installments. A borrower's due date may be advanced if the payment received is within

\$5.00 of the amount due; this tolerance cannot be applied to a curing payment. These changes apply to payments received on or after July 1, 1996.

*Record retention:* Schools must retain any [records](#) related to unresolved audits that begin or are in progress on or after July 1, 1996.

*Refunds:* A school must pay [refunds](#) to [lenders](#) within 60 days of the date that the student withdraws or is expelled. If a student does not return to school at the expiration of an approved [leave of absence](#), the refund must be sent within 30 days of the date the leave of absence expires or the student notifies the school that he or she will not be returning, whichever is earlier. This applies to refunds for students who withdraw, are expelled, or do not return from leaves of absence on or after July 1, 1996.

*Repayment start date:* A 30-day extension of the first payment due date for a SLS loan is permitted if an extension is necessary for the lender to comply with the requirement that the payment disclosure be sent to the borrower no less than 30 days before the first payment is due. The 30-day extension had previously only applied to Stafford loans. This change applies to loans that enter or reenter repayment on or after July 1, 1996.

Changes codify the [Dear Colleague Letter 88-G-138](#) rule to set the first due date within 45 days or within 75 days for late notification or early withdrawal.

*Repayment terms:* A lender may apply an [administrative forbearance](#) if a borrower requests repayment alignment of his or her Stafford and SLS loans. To align repayment of Stafford and SLS loans, the borrower need only have one Stafford loan that has not yet entered repayment. The length of the postponed SLS [repayment period](#) is determined by the Stafford loan with the longest applicable [grace period](#). These changes apply to loans that are eligible for repayment alignment on or after July 1, 1996.

*Status changes and reporting:* Upon request, a school must promptly provide the [Department](#), a lender, or a [guarantor](#) with any information it has regarding the address, name, employer, and employer address of any borrower who attends or has attended the school. This applies to changes reported to the school by the student or another reliable source on or after July 1, 1996.

For [deferment](#) and enrollment status reporting purposes, if a student does not return for the next scheduled term following a summer break or summer bridge deferment, the school must determine the student's [withdrawal date](#) within

30 days after the first day of the next scheduled term. This applies to scheduled terms that begin on or after July 1, 1996, for students who fail to return from a summer break.

### August 22, 1996

*Eligibility – borrower and student:* Noncitizen eligibility requirements are modified based on the [Personal Responsibility and Work Opportunity Reconciliation Act of 1996](#) (effective August 22, 1996). Further guidance was subsequently provided by the Department of Education in [DCL GEN-98-2](#). The new eligibility criteria for FFELP borrowers includes noncitizens with a Departure Record (I-94) from the U.S. Immigration and Naturalization Service (INS) indicating one of the following statuses:

- Alien paroled into the U.S. for at least one year.
- Alien granted a stay of deportation [pursuant to [8 U.S.C. section 1253\(h\)](#)] due to fear of persecution on account of race, religion, or political opinion.
- Conditional Entrant (valid if I-94 was issued before April 1, 1980).

The changes indicate the elimination of eligibility for certain categories of noncitizens previously determined to be eligible: Temporary Resident, Indefinite Parolee, Humanitarian Parolee, and Cuban-Haitian Entrant. Acceptable documentation for determining U.S. citizenship status includes a U.S. passport.

*Delivering loan funds:* A school may deliver funds to an otherwise eligible student pending INS response to secondary confirmation, provided at least 15 business days have elapsed since the school submitted the documentation to INS. Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau are not eligible for FFELP funds at any participating school, but may be eligible for other types of Title IV aid. These changes are effective for loan applications certified by the school on or after August 22, 1996.

### September 1, 1996

*Bankruptcy:* If the late refiling of a [bankruptcy claim](#) results in a guarantor's missing any court-established deadlines, the result will be permanent [cancellation](#) of the guarantee on the loan, except in limited circumstances. This applies to returned claims received by the lender on or after September 1, 1996, unless implemented earlier by the guarantor.

*Consolidation loans:* A PLUS borrower may consolidate his or her PLUS loans if the [dependent student](#) for whom the [parent](#) has borrowed is [enrolled](#) at least half time. This applies to Consolidation loan applications received by the lender no later than September 1, 1996.

*NSLDS:* The Department issues [Dear Colleague Letter GEN-96-17/96-L-189/96-G-291](#) that describes the implementation of the Student Status Confirmation Report (SSCR) function of the National Student Loan Data System (NSLDS). The guarantor is no longer responsible for the distribution and collection of SSCRs once the school receives a letter from the Department confirming the school's successful SSCR testing with the NSLDS. The Department, via the NSLDS, is responsible for ensuring that SSCR information is distributed to the appropriate guarantor and, in some cases, lenders. This change is effective on and after the date the school receives a letter from the Department indicating that the school has successfully tested its SSCR process through the NSLDS.

*Status changes and reporting:* A [guarantor](#) will assume that the lender's receipt date of enrollment information is the day a guarantor successfully transmits such information electronically to the lender. If an [enrollment update report](#) is generated in the last 7 days of the month, the lender receipt date is assumed to be no later than 5 days after the end of the month. These changes apply to enrollment information generated by the guarantor on or after September 1, 1996.

Enrollment information must be reported whenever the enrollment status for an individual student changes. The enrollment status changes that must be reported include any change that the school is required to report through enrollment reporting. Examples of enrollment changes that a school is required to report include a change from full-time to half-time status, a change from half-time to less-than-half-time status, a withdrawal, a graduation, or an approved leave of absence that complies with Title IV requirements. If a student's enrollment status changes and the school does not expect its NSLDS enrollment reporting to be completed within the next 60 days, the school must submit an ad hoc report within 30 days. These changes apply to school enrollment reporting beginning in September 1996.

*Reinstatement of Title IV eligibility:* A [borrower](#) who requests [reinstatement](#) of [Title IV](#) eligibility, but is not requesting a new loan, is allowed to make the six required payments either before or after requesting reinstatement; at least one payment must be made by the borrower at or after the time of the request. This applies to loan [applications](#) certified by the [school](#) or requests for reinstatement of Title IV eligibility received from the borrower on or after September 1, 1996.

**November 1996**

*Audit:* The Department announces the deadline for the completion of the lender audit is extended to June 30, 1998, for any audit period in which a lender originated or held FFELP loans totaling \$5 million or less.

**November 27, 1996**

The Department publishes [final regulations](#) on regulatory relief, [record retention](#), [conflict of interest](#), and [guarantor and lender due diligence](#), effective July 1, 1997.

**November 29, 1996**

The Department publishes [final regulations on cash management](#) and [financial responsibility for schools](#), effective July 1, 1997.

**December 31, 1996**

*Audit:* A [lender](#) is required to submit the compliance audit report to the [Department](#) if, for the fiscal year being audited, it made or held:

- [FFELP](#) loans totaling \$10 million or more.
- More than \$5 million but less than \$10 million in FFELP loans and its compliance audit report identifies findings of noncompliance.

A lender who made or held FFELP loans totaling more than \$5 million but less than \$10 million for the fiscal years being audited and whose report does not disclose findings of noncompliance must retain those reports for a period of 5 years and submit them to the Department only if requested. Historically, meeting the requirement to submit an annual compliance audit for a lender who made or held less than \$5 million in FFELP loans has been delayed. This is effective for fiscal years ending on or after December 31, 1996.

**1997****January 16, 1997**

*Annual loan limit:* The criteria for determining annual loan limits for students taking preparatory coursework are revised:

- A student who is taking preparatory coursework that the school has determined and documented to be necessary for the student to enroll in an undergraduate program may borrow at the first-year undergraduate loan level.
- A student who is taking preparatory coursework that the school has determined and documented to be necessary for the student to enroll in a graduate or professional program may borrow at the fifth-year undergraduate loan level.

These changes are effective for loan applications certified by the school on or after January 16, 1997.

**February 1, 1997**

*Due diligence:* If all four required [diligent efforts](#) to contact the [borrower](#) by telephone have been completed and the lender subsequently becomes aware it does not have a correct telephone number for the borrower, the lender is not required to perform telephone [skip tracing](#) activities. This change is effective for borrower telephone numbers determined by the lender to be invalid on or after February 1, 1997.

If a lender learns that a reference does not know the borrower's current whereabouts, does not anticipate contact with the borrower in the future, or that the reference is not acquainted with the borrower, the lender must note this information in the loan's servicing history and is not required to contact that reference again. This change is effective for borrower addresses or telephone numbers determined by the lender to be invalid on or after February 1, 1997.

*Endorser:* If the PLUS loan applicant is required to obtain an [endorser](#) in order to be eligible for the PLUS loan, the student for whom the PLUS loan is being obtained cannot serve as the endorser. This applies to PLUS loan [applications](#) received by the lender on or after February 1, 1997.

**March 1, 1997**

*Interest rates:* A lender who offers discounted [interest](#) rates must notify the borrower that the lower interest rate ends on the date a [default](#) or [ineligible borrower claim](#) is purchased by the guarantor. A lender is required to provide [documentation](#) of this notice if a borrower challenges the guarantor or the Department of Education for charging the applicable statutory maximum interest rates during postclaim interest accrual. If the issue goes to court and the court's decision in favor of the borrower makes the loan unenforceable at the maximum [statutory interest rate](#), the lender will be required to repurchase the loan and the guarantee will be withdrawn permanently. The lender may be required to reimburse the guarantor for any court costs or court-imposed fines or penalties. This applies to loans beginning repayment at a reduced interest rate on or after March 1, 1997.

*NSLDS:* Schools that have received a letter from the Department confirming successful submission of a Student Status Confirmation Report (SSCR) roster file to the National Student Loan Data System (NSLDS) are exempt from the requirement to process SSCR rosters received directly from guarantors. Schools that have not received a letter from the Department confirming successful submission of an SSCR roster file to the NSLDS must respond both to SSCR roster files received from the NSLDS and SSCRs received from guarantors until otherwise notified by the Department. These changes are effective for SSCR roster files received by a school from the Department on or after March 1, 1997.

A school may be required to report a change in the student's enrollment status that affects the grace period, repayment responsibility, or deferment privileges of a borrower through an ad hoc report. An ad hoc report must be submitted within 30 days unless the school expects to submit a Submittal File within the next 60 days.

*Reinstatement of Title IV eligibility:* A [guarantor](#) will review the most recent 6-month period to determine whether a borrower qualifies for [reinstatement of Title IV eligibility](#). Each of the six required payments must be received within 15 days of the due date for the 6 months immediately preceding the date the guarantor receives the borrower's new loan application and [promissory note](#) or request for reinstatement. This applies to loan applications or requests for reinstatement received by the guarantor on or after March 1, 1997.

*Social Security Number documentation/reporting:* A passport is no longer accepted as a valid source document for initiating and reporting a [Social Security number](#) change. A state driver's license or a state-issued

identification card for those states in which the Social Security number is listed on the license or identification card has been added as a resource document for the initiating and reporting an Social Security number change. This applies to Social Security number changes initiated or reported on or after March 1, 1997.

If a school becomes aware of any Social Security number (SSN) change, the school is expected to verify the correct SSN by obtaining a copy of an acceptable source document from the following list:

- Social Security card or other Social Security Administration document.
- Income tax return or W-2 form.
- Official military orders, documents, or papers.
- Loan application (if the discrepancy resulted from a data input error).
- State driver's license or state-issued identification card on which the SSN is listed.

Changes to a student's SSN must be reported to the guarantor through NSLDS using the SSCR or an equivalent process. If the change is to a parent borrower's SSN, the school must continue to notify the guarantor directly. If the guarantor requires the supporting documentation for any SSN change, the school must provide it. Schools may contact individual guarantors for more information on procedures for reporting SSN changes. This change is effective for student SSN changes identified by a school on or after March 1, 1997.

**April 1, 1997**

*Closed school loan discharge:* If a closed school claim includes FFELP loans that have been paid in full as a result of a Consolidation loan, the consolidating lender must submit the original application and promissory note for the underlying FFELP loan(s) assigned to the guarantor. However, if the loan(s) that qualifies for [discharge](#) is paid in full as a result of consolidation, or consists solely of FFELP loans paid in full by or on behalf of the borrower and the original or the true and exact copy of the application and promissory note cannot be located, the guarantor and the [lender](#) must examine their [records](#) and any [documentation](#) submitted by the [borrower](#) to determine if the borrower qualifies for a [discharge](#) or [refund](#). This applies for [claims](#) filed by the lender on or after April 1, 1997.



*Eligibility – borrower and student:* A baptismal certificate or voter registration card may not be used as acceptable documents for secondary confirmation of a student's or parent's citizenship. This applies to citizenship verifications requested by the school on or after April 1, 1997.

*False certification loan discharge:* If a false certification claim includes FFELP loans that have been paid in full as a result of a Consolidation loan, the consolidating lender must submit the original application and promissory note for the underlying FFELP loan(s) assigned to the guarantor. However, if the loan(s) that qualifies for [discharge](#) is paid in full as a result of consolidation, or consists solely of FFELP loans paid in full by or on behalf of the borrower and the original or the true and exact copy of the application and promissory note cannot be located, the guarantor and the [lender](#) must examine their [records](#) and any [documentation](#) submitted by the [borrower](#) to determine if the borrower qualifies for a [discharge](#) or [refund](#). This applies for [claims](#) filed by the lender on or after April 1, 1997.

*Forbearance:* A lender may grant a [forbearance](#) retroactively to resolve the borrower's [delinquency](#), provided the duration of each forbearance [agreement](#) does not exceed the maximum 12-month limit. This change is effective for forbearances granted by the lender on or after April 1, 1997.

#### May 1, 1997

*Bankruptcy:* If the lender receives a Notice of the First Meeting of Creditors (the Notice) or other confirmation from the [bankruptcy](#) court (directly either from the court or from another source) that a borrower has filed for relief under any chapter of the [bankruptcy code](#), the lender must cease collection activities and may not file a [preclaim assistance](#) request with the [guarantor](#). Further, if the lender has already filed for preclaim assistance and receives notice of any bankruptcy action, the lender must immediately, within 5 business days of the lender's receipt of the Notice, notify the guarantor to cancel preclaim activities based on a bankruptcy action filed on the borrower's loans. If the lender's failure to comply results in the court determining the loan to be unenforceable, the [guarantee](#) on the loan will be permanently canceled. Further, the lender will be required to reimburse the guarantor for costs associated with defending itself against contempt of court charges on the account if those charges are based solely on the lender's failure to comply with these provisions and can be demonstrated accordingly. In the event the lender receives notice that the bankruptcy action has ended and the loan remains enforceable and is deemed nondischargeable; the bankruptcy case is dismissed; or [discharge](#) is reversed, the lender must treat the loan as though it were in forbearance.

This change is effective for loans on which the lender receives the bankruptcy notification on or after May 1, 1997.

*Consolidation loans:* A guarantor will guarantee a Consolidation loan only if the borrower (or borrowers in the case of spouses applying to consolidate their loans) has one or more active loans currently held by the guarantor except as otherwise agreed on a case-by-case basis by the lender and guarantor. This is effective May 1, 1997.

*Status changes and reporting:* A lender must not adjust the borrower's anticipated graduation date (AGD) if the lender receives enrollment information as part of an in-school [deferment](#) request that is certified for an academic period that ends earlier than the borrower's AGD of record and no conflicting AGD information is included on the enrollment certification. The lender must document that it received information from the [school](#), but need not report to the guarantor any information regarding the loan's status, except to fulfill the [NSLDS](#) lender manifest reporting requirements. If the lender receives enrollment information that is certified for an academic period that ends after the borrower's AGD of record, the lender should adjust the borrower's AGD to agree with the information provided on the enrollment certification. The lender may process the deferment through the academic period end date certified by the school or the AGD of record, whichever is later, if the enrollment verification information used to certify the borrower's deferment eligibility does not include an AGD. This change is effective for in-school deferment requests received by the lender on or after May 1, 1997.

#### May 31, 1997

*Audit:* Delays in the publication of the servicer audit guide resulted in the Department allowing servicers to submit the first audit by May 31, 1997. Periods covered by the initial audit depend on when the lender servicer's fiscal year ends:

- If the fiscal year ends June 30 through October 31, the lender servicer may combine the annual compliance audit for fiscal years 1995 and 1996, or may have separate audits performed for each of those years.
- If the fiscal year ends November 1 through December 31, the lender servicer is required to have its initial compliance audit performed for fiscal year 1995.
- If the fiscal year ends January 1 through June 29, the lender servicer is required to have its initial compliance audit performed for fiscal year 1996.

If a lender's servicer had an independent audit of its servicing functions performed for fiscal year 1995 and 1996 to support the lender audit requirement, the servicer may submit those audits to the Department as meeting its servicer audit requirement for those fiscal years, provided that those audits meet certain standards. These changes reflect guidance given in [Dear Colleague Letter \(DCL\) LS-97-01](#) and the "[Audit Guide: Compliance Audits \(Attestation Engagements\) for Lenders and Lender Servicers Participating in the Federal Family Education Loan Program](#)," published December 1996.

### June 1, 1997

*Eligibility – borrower and student:* Effective for loans certified by the school on or after June 1, 1997, independent undergraduate borrowers, dependent borrowers whose parents are unable to borrow PLUS loans, and graduate and professional student borrowers may continue to borrow up to their individually applicable subsidized and unsubsidized aggregate loan limits, regardless of the "base" or "additional" unsubsidized loan amounts borrowed. Special calculations are required if a student's status changes from independent to dependent or if a dependent student borrower's parent, who initially was unable to borrow a PLUS loan, is later determined eligible. In these cases, the school must calculate the student's remaining aggregate loan eligibility by totaling only those portions of loans that represent the student's "base" Stafford loan amounts. These changes reflect guidance given in [Dear Colleague Letter GEN-97-3](#).

### July 1, 1997

[Final regulations](#) on regulatory relief, [record retention](#), conflict of interest, [guarantor and lender due diligence](#), and [cash management](#) take effect.

*Audit:* Schools are required to perform both annual compliance and financial audits based on their fiscal year. These audits must be submitted within 6 months of the end of their fiscal year. The financial statement must include a detailed description of related [entities](#) and should list parties related to the school and details that enable the Department to readily identify the related entities. A proprietary school must disclose in a footnote to its financial state the percentage of its revenues derived from Title IV programs during the covered fiscal year. Each compliance audit must cover all Title IV transactions in that fiscal year and all transactions that occurred since the period covered by its last compliance audit. The school must permit the Department or its authorized representative access to any records or [documentation](#) that would assist in the review of the school's third-party servicer's compliance or financial statement audit. [Foreign schools](#) also must

submit an audited financial statement of the most recently completed fiscal year. If a school receives less than \$500,000 (U.S.) in Title IV program funds during that fiscal year, its audited financial statement for that year may be prepared under the auditing standards and accounting principles of the school's home country. If a foreign school receives \$500,000 (U.S.) or more in Title IV program funds during its most recently completed fiscal year, the school must submit its audited financial statement in accordance with U.S. federal regulation and satisfy the general standards of financial responsibility outlined for schools in the United States or must qualify under an alternate standard of financial responsibility specified in regulation. These requirements are effective July 1, 1997.

A [third-party servicer](#) that contracts with more than one [lender](#) must have performed a compliance audit that covers the servicer's administration of [Title IV](#) programs for all the lenders for which it services. This requirement may be satisfied with a single audit of all the servicer's functions if the audit encompasses all the services provided for the lenders for which it provides such services. These provisions are effective July 1, 1997.

*Authorizations and certifications:* The following changes are effective for authorizations obtained by a school to carry out the activities described under [34 CFR 668.165\(b\)\(1\)](#) beginning on or after July 1, 1997:

- Schools must obtain written authorization from the student or parent borrower to perform certain activities.
- Guidelines for authorization modifications and cancellations are established.

*Consolidation loans:* A Federal Consolidation loan is considered to be disbursed on the date of the first individual or [master check](#), payment advice, or noncash transfer that transfers funds from the consolidating lender to the [holder](#) of the loans to be consolidated. For [funds](#) disbursed by [EFT](#), the Consolidation loan is considered disbursed on the first date that funds are transferred. If the loan funds for multiple underlying loans are disbursed on multiple days, including funds issued through the end of the 180-day add-on period, those disbursements are considered "subsequent disbursements." The loan's first [disbursement date](#) is used to determine its terms and conditions. This change is effective for Consolidation loans with first [disbursements](#) on or after July 1, 1997.

Lenders must report the making of a Consolidation loan to the [guarantor](#) not more than 60 days following the date on which the funds are disbursed. If a lender adds a loan within the 180-day add-on period, the lender must report the new



Consolidation loan information to the guarantor within 60 days of the date on which the additional loan funds are disbursed or the adjustment is made. Failure to report the loan timely may result in the loss of the loan's [guarantee](#). This is effective for Consolidation loans made by the lender on or after July 1, 1997.

*Credit balance:* Requirements for delivering of credit balances are defined effective for loan periods on or after July 1, 1997. If a student dies and there is a Title IV credit balance on his or her account, the school must eliminate the credit balance by paying outstanding authorized school charges, repaying any Title IV grant overpayments that the student owes for previous withdrawals, and/or returning any remaining credit balance to the Title IV programs.

*Delivering loan funds:* The following changes are effective for [loan proceeds](#) received by the school on or after July 1, 1997. Schools must deliver loan proceeds within specific time frames after receipt. For [EFT](#) or [master check](#) proceeds, the school must deliver the funds directly to the student, or credit the student's account at the school within 10 business days after the school's receipt of the proceeds.

- Latest delivery date and time frame for returning undelivered proceeds to the lender is defined.
- Examples of latest delivery date and deadline for returning proceeds are provided.
- Schools must return loan proceeds to the lender within specific time frames after receipt.
- Delivery date for students who return from a [leave of absence](#) is defined.
- Delivery restrictions for schools on the reimbursement payment method are defined.

The following changes apply to schools that receive loan proceeds under the reimbursement payment method on or after July 1, 1997:

- Criteria for school [certification](#) of the [application](#) and [promissory note](#) is explained.
- Schools must receive approval from the [Department](#) before delivering loan proceeds.

The following change applies to the date, on or after July 1, 1997, that the [Department](#) notifies a [school](#) that it must obtain approval from the Department to certify loan applications:

- [Certification](#) restrictions for schools on the reimbursement payment method are defined.

The following changes apply to [loan proceeds](#) that are either credited to the student's account or paid directly to the student or parent [borrower](#) on or after July 1, 1997:

- The delivery date when the school is applying school funds in advance of receipt of [FFELP](#) proceeds is defined.
- The requirements for the notice to the borrower of the right to cancel are defined.

The following changes apply to students who become ineligible under [34 CFR 668.164\(g\)\(1\)](#) (i.e., student is no longer enrolled as at least a half-time student for the [loan period](#)) on or after July 1, 1997:

- Schools may deliver loan proceeds after the end of the loan period or the date on which the student ceased to be enrolled at least half time.
- Schools must deliver a [late disbursement](#) no later than 90 days after the earlier of the end of the loan period or the date the student ceased to be enrolled at least half-time.

The following change is effective for [payment periods](#) beginning on or after July 1, 1997:

- Earliest date the school may directly pay the borrower or credit the student's account if the student is in a [clock-hour](#) program or credit-hour program that is not offered in semester, trimester, or quarter academic terms is defined.

The following changes are effective for loan periods on or after July 1, 1997:

- Requirements for the receipt and maintenance of loan proceeds are revised.
- School requirements for delivery of loan proceeds are revised.
- School delivery methods are defined.
- Delivery restrictions are defined.

- Requirements for delivering of credit balances are defined.
- Requirements for holding credit balances are defined.
- Requirements for crediting student accounts are explained.
- The first and second [disbursement date](#) must be scheduled on a payment-period basis rather than on the basis of period of enrollment.
- Required notices a school must send to a student are defined.

The following change is effective on or after July 1, 1997, for any balances of loan proceeds:

- A school must pay any remaining loan balance to a student or parent borrower no later than the end of the loan period.

***Due diligence:*** Lenders are required to send the first [delinquency](#) notice no later than the 15th day of delinquency. The content of this first delinquency notice has been modified to include, at a minimum; lender/servicer contact information and a telephone number (e.g., the name and telephone number of the customer service department). It also must include a prominent statement informing the borrower that assistance may be available if the borrower is experiencing difficulty in making a scheduled payment. Because of the change in the timing of the first delinquency notice, the time frame for the second “window” of collection activity will change from the current 11–180 days delinquent period to 16–180 days (16–240 days delinquent for a loan repayable in installments less frequent than monthly). At least one of the four written notices or collection letters sent during this period must include, at a minimum, information regarding [deferment](#), [forbearance](#), [income-sensitive repayment](#), loan consolidation, and other available options to avoid [default](#). The content of at least two of the four collection letters sent during the 16–180 day period has also been modified to add language to inform the borrower that the guarantor may also offset other payments made by the federal government to the borrower and that the guarantor may assign the loan to the federal government for litigation against the borrower. This change is effective for loans on which the first day of delinquency on the oldest outstanding due date is after July 1, 1997. The oldest outstanding due date is the date from which the current 180-day due diligence counter is based and is sometimes referred to as the “latest,” “current,” or “next” due date. The timing of when a lender

may assess a [late charge](#) has been changed from 10 days to 15 days after a payment is due. This change is effective for late charges assessed by the lender on or after July 1, 1997.

***Electronic processing requirements:*** A [school](#) must participate in the electronic processes that the [Department](#) provides at no substantial charge to the school. Schools are not restricted to using only software and services provided by the Department. This standard is effective July 1, 1997.

***Late disbursement/post-withdrawal disbursement:*** Late disbursement by the lender and late delivery by the school is defined for students who become ineligible under [34 CFR 668.164\(g\)\(1\)](#) (i.e., student is no longer enrolled as at least a half-time student for the [loan period](#)) on or after July 1, 1997.

***Payment period:*** Because of possible differences in interpretation of the term “first day of classes,” (i.e., first day of classes for an individual student or first day of regularly scheduled classes) the *Common Manual* definition of “[payment period](#)” is amended to clarify that the payment period begins on the first day of regularly scheduled classes. This applies to loan periods beginning on or after July 1, 1997.

***Record retention:*** A lender is permitted to store [records](#)—except for the [promissory note](#)—for each FFELP loan it holds in hard copy or on microform (e.g., microfilm or microfiche), computer file, optical disk (e.g., electronic optical image), CD-ROM, or other imaged media formats capable of reproducing an accurate, legible, and complete copy in approximately the same size as the original document. This change is effective for records retained on or after July 1, 1997.

The [Department](#) has consolidated and clarified existing school [record](#) retention rules to reduce the administrative burden. A [school](#) is required to maintain program records, which document the school’s eligibility administration of the FFELP, and fiscal records relating to each FFELP transaction. The school also must keep loan-related records as follows:

- A copy of the loan [application](#)—or application data, if submitted electronically to a [lender](#) or a [guarantor](#)—including the name of the [borrower](#) and, for PLUS loans, the name of the student on whose behalf the loan was made.
- The name and address of the lender.

- **Documentation** of each student or parent borrower's receipt of FFELP funds, including, but not limited to, the loan amount, the **payment period**, and the **period of enrollment** for which the loan was intended; calculations used to determine the loan amount; the date(s) and amount(s) of each delivery of loan proceeds by the school to the student or parent borrower; the date and amount of any **refund** paid to or on behalf of the student and the method by which the refund was calculated; and the payment of any refund to a lender of the Department.
- The **Student Aid Report (SAR)** or the **Institutional Student Information Record (ISIR)**.
- Documentation of each student or parent borrower's eligibility for FFELP funds, such as documentation of need, **cost of attendance**, **verification**, enrollment status, financial aid history, satisfactory academic progress (SAP), etc.
- The school's receipt date for each **disbursement** of the loan.
- For loans disbursed to the school by copayable check, the date the school endorsed the check.
- For loans disbursed by **electronic funds transfer (EFT)** or **master check**, the student or parent borrower's authorization to the school to transfer the initial and subsequent disbursements of each FFELP loan to the student's school account.
- Proof that requirements for **entrance and exit loan-counseling** are met.
- Any required reports or forms and any records needed to verify data reported in those reports or forms.
- Documentation supporting the school's calculations of its completion and graduation rates.

These provisions are effective July 1, 1997.

*Refunds:* In calculating a pro rata refund for a student who withdrew from a clock-hour program, the school may include excused absences in the number of clock hours completed by the student as of his or her withdrawal date if both of the following conditions exist:

- Under the school's written policy the absences do not have to be made up to complete the program.

- The school documents that the hours actually were scheduled and missed prior to the student's withdrawal.

In addition to the required conditions noted above, the number of excused absences included as hours completed during the period of enrollment for which the student was charged must be limited to the least of the following:

- The number of clock hours permitted under the excused absence policy of the school's nationally recognized accrediting agency.
- The number of clock hours permitted under the excused absence policy of the state agency that licenses or authorizes the school to operate in the state.
- 10% of the number of clock hours in the period of enrollment for which the student was charged.

This change is effective for students eligible for pro rata refunds on or after July 1, 1997.

*Reissued disbursements:* The following changes are effective for **disbursements** reissued by the lender on or after July 1, 1997:

- Circumstances in which lenders will reissue loan proceeds are defined.
- Requirements schools must follow when requesting loan proceeds be reissued are defined.

*Status changes and reporting:* A school or the school's designated servicer must provide information about borrowers upon request by the Department, a lender, or a guarantor. Schools or the school's designated servicer should respond to such a request within 30 days. In addition to providing any information the school has regarding the last known address, full name, employer, and employer address of a borrower who attends or has attended the school, the school now must also provide the borrower's telephone number and enrollment information. This applies to requests for information received by the school on or after July 1, 1997.

### August 5, 1997

President Clinton signs into law the **Taxpayer Relief Act of 1997**, providing for the Hope Scholarship Credit, the Lifetime Learning Credit, and a deduction on **interest** paid on student loans and creating the Education Individual Retirement Accounts (Education IRAs).

**September 18, 1997**

*Consolidation loans:* If there is a data discrepancy on a Consolidation loan, the **lender** will be granted an additional 60 days from the date the **guarantor** rejects the **application** (plus 5 days' mail time) to provide additional or corrected information. The guarantor reserves the right to take appropriate corrective action (including the imposition of **interest** penalties) if the lender fails to report the making of a Consolidation loan, fails to report the **disbursement** of additional **funds**, or fails to report any other adjustment of the outstanding original balance within 60 days after that activity occurs. Repeated or intentional noncompliance (including failure to reconcile) may result in the withdrawal of the loan **guarantee**. This change is effective for Consolidation loans made by the lender on or after September 18, 1997.

**September 19, 1997**

*Electronic processing requirements:* The Department publishes in the *Federal Register* a notice of new requirements that institutions must follow to be in compliance with the Department's administrative standard for electronic processes.

**November 1, 1997**

*Deferment:* To obtain an unemployment deferment or an extension of an unemployment deferment, a **borrower** must request the deferment or extension. If requesting an extension, this description must document at least six attempts to secure employment during the period to be covered by the deferment. An Internet address for the firm or place of employment (e.g., Web site or electronic mail) is an acceptable address if the borrower applied electronically for employment. As an alternative to certifying employer contacts, a lender may accept comparable **documentation** that the borrower has used to meet the requirements of the Unemployment Insurance Service, provided the documentation shows the same number of contacts and contains the same information required from the borrower. In addition, an Internet address for the public or private employment agency at which the borrower is registered (e.g., Web site or electronic mail) is an acceptable address if the borrower registered electronically with the agency. It may not be presumed that a borrower has access to an employment agency based on the borrower's providing a firm's Internet address as part of the documentation that the borrower attempted to secure full-time employment. This change is effective for unemployment deferment requests received by the lender on or after November 1, 1997.

*Endorser:* An **endorser** may be released from his or her repayment obligation on a loan if the endorser dies and the lender receives evidence of the endorser's death, such as a copy of the death certificate or other proof of the endorser's death that is acceptable under applicable **state** law. This change is effective for death certificates or other acceptable documentation received by the lender on or after November 1, 1997.

**November 13, 1997**

President Clinton signs into law the **Emergency Student Loan Consolidation Act (ESLCA) of 1997 (P.L. 105-78)**.

*Consolidation loans:* The following provisions of the **Emergency Student Loan Consolidation Act of 1997 (ESLCA)** are effective for Consolidation loan applications received by the consolidating lender between November 13, 1997, and September 30, 1998, inclusive:

- **Withdrawal of Direct Consolidation Loan Application**

A borrower with a pending application for a Direct Consolidation loan may apply for a Federal Consolidation loan, provided that the application for the Direct Consolidation loan is canceled by the borrower prior to the date on which the Federal Consolidation loan is made. The FFELP lender may rely on the borrower's statement that any pending Direct Consolidation loan application has been or will be canceled.

- **Direct Loans Eligible for Federal Consolidation**

Direct loans may be included in a Federal Consolidation loan.

- **Non-discrimination in Making Federal Consolidation loans**

Federal Consolidation loan lenders are prohibited from discriminating against a Federal Consolidation loan applicant based on any of the following criteria:

- The number or types of eligible student loans the **borrower** wishes to consolidate.
- The type or category of school the borrower attended.
- The interest rate the **lender** is required to charge the borrower on the Consolidation loan.

- The types of [repayment schedules](#) the lender must offer the borrower.

These provisions are effective for *all* Consolidation loan applications received by the consolidating lender on or after November 13, 1997.

*Interest rates:* For Federal Consolidation loans for which applications are received by the consolidating lender on or after November 13, 1997, the variable interest rate, adjusted annually on July 1, is calculated as follows:

- For portions of the Consolidation loan attributable to FFELP, FDLP, FISL, Perkins, HPSL, or NSL loans, the variable rate is based on the bond equivalent rate of the 91-day Treasury bill, auctioned at the final auction prior to the preceding June 1st, plus 3.1%, not to exceed 8.25%.
- For portions of the Consolidation loan attributable to HEAL loans, the variable rate is based on the 91-day Treasury bill, auctioned for the quarter ending June 30th, plus 3.0%. (There is no interest rate cap on the HEAL portion.)

If a lender initially calculated the interest rate on Consolidation loans, made during the subject period, at a fixed weighted average rate, the lender must convert the loans from the fixed to the variable rate prior to April 1, 1998, and make appropriate adjustments to the borrower's loan. In the conversion process, lenders must recalculate, at the variable rate, the amount of interest which would have been owed by the borrower on the Consolidation loan from the date on which the loan was made to the date of rate conversion and apply any credits to the borrower's account.

The [interest](#) rate applicable on an eligible loan added to a Federal Consolidation loan during the 180-day add-on period (except HEAL) is the variable interest rate applicable to the [FFELP](#), [FDLP](#), FISL, Perkins, HPSL, or NSL portion of the Federal Consolidation loan. The interest rate on HEAL loans added to a Federal Consolidation loan during the 180-day add-on period is the variable interest rate applicable to the HEAL portion of the Federal Consolidation loan.

*Interest subsidy:* Effective for all Consolidation loan applications received by the consolidating lender on or after November 13, 1997, during a period of authorized [deferment](#), interest subsidies will be paid by the [Department](#) on the portion of a Federal Consolidation loan that repaid a subsidized Federal Stafford or subsidized Federal Direct Stafford loan.

## November 25, 1997

*Financial responsibility standards – school:* The Department publishes [final regulations on the standards and provisions of financial responsibility for schools](#). Changes will be effective July 1, 1998.

## November 28, 1997

The Department publishes [final “parity” regulations](#) to eliminate certain differences in the requirements of the FFELP and FDLP and to reduce the regulatory burden on schools. Changes will be effective July 1, 1998.

## December 17, 1997

*Common forms:* The Department formally grants approval of the “Addendum to the Federal Family Education Loan (FFEL) Program Consolidation Application and Promissory Note.” This addendum reflects the changed terms and conditions of the [ESLCA of 1997](#).

## 1998

### January 1, 1998

*Aggregate loan limit:* A Stafford [aggregate loan limit](#) does not include the amount of [capitalized interest](#) or [collection costs](#) that were added to the balance of any of the borrower's prior loans. This applies to loan applications certified by the school on or after January 1, 1998.

*Deferment:* An in-school deferment will remain in effect until the student ceases to be [enrolled](#) full time, or for “new borrowers on or after July 1, 1993,” enrolled at least half time. In the event that the lender receives new enrollment verification information that indicates the borrower has been or will be continuously enrolled, a new deferment request is not required to extend the period of in-school deferment. A new deferment request is required only if the borrower has not been continuously enrolled or if a previous deferment is terminated at the borrower's request. This change is effective for enrollment verification information received by the lender on or after January 1, 1998.

If a borrower, residing on a U.S. military base or embassy compound in a foreign country because his or her spouse is stationed there, requests an unemployment deferment, he or she must provide documentation, equivalent to that required of borrowers residing in the U.S., describing the borrower's conscientious search for full-time employment. However, when identifying employment contacts, the “name of the firm” may be, for example, the U.S. military base employment office or U.S. embassy personnel office.



These borrowers are not required to comply with the requirement that they document further attempts to secure employment during the period of certification, if the borrower has sought employment with the U.S. military base employment office, the U.S. embassy personnel office, or the equivalent. This applies to unemployment deferment requests received by the lender on or after January 1, 1998.

A borrower who is newly self-employed may not be able to provide traditional documentation of income for an [economic hardship](#) deferment. Instead, the borrower must provide the lender with a self-certifying statement of projected monthly income from all sources. In addition, the borrower must provide documentation of the newly formed business and documentation of the borrower's involvement in that business. This change is effective for deferment requests received by the lender on or after January 1, 1998.

*Due diligence:* For loans with a monthly repayment obligation, lenders must send the borrower at least four written notices or collection letters during the 16–180 days [delinquency](#) period, informing the borrower of the delinquency and urging the borrower to make payments. The required notices or collection letters sent during this period must include, at a minimum, information regarding deferment, [forbearance](#), [income-sensitive repayment](#), loan consolidation, and other available options to avoid [default](#). This change became effective on January 1, 1998.

*Electronic processing requirements:* All schools that participate in the [Title IV](#) programs must also participate in the Title IV Wide Area Network (TIV WAN). Also, for the 1998–99 processing year and beyond, schools must achieve a specified level of electronic on-line access to the [National Student Loan Data System \(NSLDS\)](#).

*Forbearance:* If a [lender](#) grants a [deferment](#) based on the borrower's [certification](#) and [documentation](#) received and, after approving the deferment, the lender receives information indicating that the [borrower](#) did not qualify for all or a portion of the deferment, the portion of the deferment for which the borrower did not qualify must be canceled. The lender may grant [administrative forbearance](#) to cover delinquent payments resulting from the cancellation of all or part of the deferment. This change is effective for deferment requests received by the lender on or after January 1, 1998.

*Loan amount – adjustment:* After the loan is guaranteed, the school may identify a need to change (increase or decrease) a borrower's loan amount or to revise the allocation of the student's loans between subsidized Stafford funds and unsubsidized Stafford funds. Changes in the loan amount may be made without obtaining a new [application](#) and [promissory note](#), provided any increased

loan amount will not exceed the amount requested by the borrower on the application and promissory note. Reallocations of subsidized and unsubsidized funds may be made without a new application and promissory note, provided the student requested both subsidized and unsubsidized loan funds. Such loan adjustments or reallocations may occur before any [disbursement](#) is made on the loan, after the first disbursement is made, or even after the final scheduled disbursement is made. In some instances a loan adjustment, made after the first or subsequent disbursements have been made, may result in a single disbursement that exceeds half of the total loan amount. When that excess is clearly documented as a loan increase or reallocation of funds, it is permissible. This policy is effective for adjustment requests received by the [guarantor](#) on or after January 1, 1998, unless the guarantor implements this policy earlier.

*Record retention:* All lender [records](#) must be retrievable in a coherent hard copy format or in other media formats such as microform, computer file, optical disk, or CD-ROM. Any imaged media format used must be capable of reproducing an accurate, legible, and complete copy in approximately the same size as the original document, and must not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes. The media format must record and maintain the original document so that it can be certified as a true copy of the original in order to be admissible in a court of law, if such becomes necessary. If a document contains a signature, seal, [certification](#), or any other validating mark, it must be maintained in original hard copy or in another media format that can produce a copy of the document (e.g., microform, optical disk, CD-ROM). This applies to records recorded by the lender on or after January 1, 1998.

### March 1998

*Audit:* [The Department](#) announces the deadline for the completion of the lender audit is extended to June 30, 1999, for any audit period in which a lender originated or held [FFELP](#) loans totaling \$5 million or less.

### May 15, 1998

*Annual loan limit:* For loan periods beginning on or after May 15, 1998, the absence of borrowing under the HEAL program prior to October 1, 1995, was eliminated as an eligibility requirement for certain health profession students attending HEAL participating schools to be considered for unsubsidized Stafford loans exceeding standard annual and aggregate loan limits.



## June 9, 1998

The president signs into law the [Transportation Equity Act for the 21st Century](#), which enacts the Temporary Student Loan Provisions to amend the Higher Education Act with respect to the applicable [interest](#) rate and [special allowance](#) formula for Stafford and PLUS loans with a first [disbursement](#) on or after July 1, 1998, and before October 1, 1998.

*Interest rates: The following interest rate formulas for Stafford and PLUS loans first disbursed on or after July 1, 1998, were not implemented as a result of this legislation:*

- A Stafford loan has an annual [variable interest rate](#), not to exceed 8.25%, regardless of the [period of enrollment](#) or the interest rate on the borrower's previous loans. The rate is calculated by adding 1.0% to the bond equivalent rate of securities with a comparable maturity as established by the Department.
- A PLUS loan has an annual variable interest rate, not to exceed 9%. The rate is calculated by adding 2.1% to the bond equivalent rate of securities with a comparable maturity as established by the Department.

*Special allowance: The following special allowance formulas for Stafford and PLUS loans first disbursed on or after July 1, 1998, were not implemented as a result of this legislation:*

- The [special allowance](#) rate for both Stafford and PLUS loans is calculated using the following formula:

$$(\text{Bond Equivalent Rate of Securities with a Comparable Maturity as Established by the Department} + 1.0\% - \text{Applicable Interest Rate of the Loan}) \div 4$$

## July 1, 1998

*Cure:* In cases when a lender performs an [ICA/location cure](#) procedure on a loan for which a [preclaim assistance](#) request has not been submitted in the most recent 180-day [delinquency](#) period, the lender is no longer required to submit a request for preclaim assistance after the borrower has been located and before sending the final collection letter. This applies to borrowers located on or after July 1, 1998, unless implemented earlier by the [guarantor](#).

*Disability discharge (total and permanent):* A borrower must be certified [totally and permanently disabled](#) according to [FFELP discharge](#) criteria for all underlying loans included in the Consolidation loan—including any

non-FFELP loans. This applies to Temporary Total and Permanent Disability Certification Request Forms and Total and Permanent Disability Cancellation Request Forms received by the lender on or after July 1, 1998.

*Disclosure requirements:* The Department of Education removed the interest rate formula for Stafford and PLUS loans first disbursed on or after July 1, 1998, from the Borrower's Rights and Responsibilities section of the common Stafford and PLUS loan application materials. Lenders are now required to provide the actual interest rate, including information on the rate's calculation, in the initial disclosure to the borrower at or before the time of the first disbursement of a Stafford or PLUS loan. This change is enforced for Stafford and PLUS loans first disbursed on or after January 1, 1999, unless implemented earlier.

*Electronic processing requirements:* All participating institutions must have access to the Department's Information for Financial Aid Professionals Web site (<http://ifap.ed.gov>) in order to receive regulations, [Dear Colleague Letters](#), and other important communications. Also, institutions must be able to submit the Application for Approval to Participate in Federal Student Aid Programs (recertification, reinstatement, and changes) through the Internet and to electronically submit the Fiscal Operations Report and Application to Participate (FISAP) to the [Title IV](#) Wide Area Network (TIV WAN). Diskettes are eliminated.

*Eligibility – borrower and student:* Stafford loan eligibility is clarified that if a student is eligible for a subsidized Stafford loan in an amount that exceeds \$200, the school must certify an [application](#) for a subsidized Stafford loan prior to certifying an unsubsidized Stafford loan. If the student is eligible for a subsidized Stafford loan in an amount of \$200 or less the school may include the amount of subsidized Stafford eligibility in the unsubsidized Stafford loan. This applies to loan applications certified by the school on or after July 1, 1998.

*Financial responsibility standards – school:* The following changes are effective for schools that submit audited financial statements to the Department on or after July 1, 1998. However, schools that do not meet the composite score standard (see *Composite Score* below) for fiscal years that begin between July 1, 1997, and June 30, 1998, inclusive, may demonstrate that they are financially responsible by meeting the financial responsibility standards specified in [34 CFR 668.175\(e\)](#).

- **General School Financial Responsibility Requirements**

In addition to previous financial standards, schools must also comply with all of the following new financial responsibility requirements:

- The school must provide all services described in its official publications and statements.
- The school must properly administer the Title IV programs in which it participates.
- The school must meet all of its financial obligations.

- **Specific Criteria for Determining School Financial Responsibility**

To fulfill the new cash reserve requirements, a school must meet at least one of the following criteria:

- The school satisfies the financial responsibility standards for public schools.
- The school is licensed to operate in a [state](#) that has a Department-approved tuition recovery fund to which the school contributes.
- The school demonstrates that it has paid its [refunds](#) in a timely manner for both of the school's two most recently completed fiscal years.

A school failing to meet at least one of the criteria listed must submit an irrevocable letter of credit that is acceptable and payable to [the Department](#), equal to 25% of the total dollar amount of [Title IV](#) program refunds paid or that should have been paid by the school in the previous fiscal year.

A public school is considered to be financially responsible if it meets all of the following conditions:

- The school notifies the Department that it is designated as a “public institution” by a government entity that has legal authority to make that designation.
- The school provides a letter from the designating government entity confirming the school's status as a “public institution.”

- The school is not in violation of any past performance requirement.

A proprietary or private nonprofit school is considered to be financially responsible if it meets the following conditions:

- The school is current in its debt obligations.
- The school's financial statements do not contain a statement in which the auditor has expressed doubt about the continued existence of the school.
- The school has not violated a Title IV program requirement or affiliated persons do not owe a liability for Title IV program violations.
- The school has sufficient cash reserves to make required refunds (see *Sufficient Cash Reserves Requirements* above).
- The school's Equity Ratio, Primary Reserve Ratio, and Net Income Ratio yield a composite score of at least 1.5 (see *Composite Score* below).

A proprietary school or private nonprofit school that is not considered to be financially responsible because it failed to meet any of the five standards of financial responsibility listed above may begin or continue to participate in the Title IV programs by qualifying under an alternative standard, as determined by the Department.

- **Composite Score**

One of the factors for determining a school's financial responsibility is a composite score that indicates the overall financial status of a participating proprietary or private nonprofit school. The Department uses the school's audited financial statements to calculate a composite score, which is derived from a combination of the following three ratios:

- The Primary Reserve Ratio, indicating the measure of a school's financial viability and liquidity.
- The Equity Ratio, measuring the amount of total resources financed by an owner's investments, contributions, or accumulated earnings.
- The Net Income Ratio, providing a direct measure of a school's profitability and ability to operate within its means.

The three ratios are adjusted by strength and weighting factors, and are then added together to arrive at a composite score.

Schools must satisfy the standards for a public institution under [34 CFR 668.171\(c\)](#), be located in a [state](#) that has a tuition recovery fund approved by the Department and to which the school contributes, or demonstrate that required refunds by the school have complied with prescribed time periods during the school's two most recently completed fiscal years. This change is effective for [guarantor](#) reviews of a school's compliance with federal financial responsibility standards on or after July 1, 1998.

*Guarantee fee:* A [lender](#) must refund the [guarantee fee](#) or an appropriate prorated amount of the guarantee fee, and apply the [refund](#) as a credit to the borrower's [principal balance](#), if any of the following conditions exist:

- The loan or any portion of the loan is returned by the school to the lender, at any time, to comply with [Title IV](#) program requirements. In the absence of any required notification from the school, the lender may assume that the school is returning funds to comply with these requirements.
- The [disbursement](#) check has not been negotiated within 120 days of disbursement.
- The loan proceeds disbursed by [electronic funds transfer \(EFT\)](#) or [master check](#) have not been released from the school's account within 120 days of disbursement.

*Interest rates:* For Stafford and PLUS loans first disbursed on or after July 1, 1998, but before October 1, 1998, the [interest](#) rate formulas are prescribed by the Temporary Student Loan Provisions of the [Transportation Equity Act for the 21st Century](#). These provisions are as follows:

- A Stafford loan has an annual [variable interest rate](#) not to exceed 8.25%, regardless of the [period of enrollment](#) or the interest rate on the borrower's previous loans. During periods when the loan is in an [in-school](#), [grace](#), or authorized [deferment](#) status, the interest is calculated by adding 1.7% to the bond equivalent rate of the 91-day [Treasury bill](#) auctioned at the final auction before the preceding June 1. During periods when the loan is in repayment or [forbearance](#) status, the interest rate is calculated by adding 2.3% to the 91-day Treasury bill rate.

- A PLUS loan has an annual variable interest rate not to exceed 9%. The variable rate for each July 1 to June 30 period is calculated by adding 3.1% to the bond equivalent rate of the 91-day Treasury bill auctioned at the final auction before the preceding June 1.

*Origination fee:* A [lender](#) must refund the [origination fee](#) or an appropriate prorated amount of the origination fee, and apply the [refund](#) as a credit to the borrower's [principal balance](#), if any of the following conditions exist:

- The loan or any portion of the loan is returned by the school to the lender, at any time, to comply with [Title IV](#) program requirements. In the absence of any required notification from the school, the lender may assume that the school is returning funds to comply with these requirements.
- The [disbursement](#) check has not been negotiated within 120 days of disbursement.
- The loan proceeds disbursed by [electronic funds transfer \(EFT\)](#) or [master check](#) have not been released from the school's account within 120 days of disbursement.

*Payment application:* If a [borrower](#), who does not have any loans in repayment, repays or returns any portion of the disbursement within 120 days of the disbursement, the lender must apply the funds as a cancellation or partial cancellation of the loan and refund the guarantee fee and origination fee or an appropriate prorated amount of the guarantee fee and origination fee, as applicable. The lender must apply the refund of the guarantee fee and origination fee as a credit to the borrower's principal balance. The lender must comply with any borrower request regarding the application of repaid or returned funds. If a borrower has any loans in repayment, a lender must apply funds that are repaid or returned by the borrower within 120 days of the disbursement according to its normal payment processing procedures. The lender must comply with any borrower request that the repaid or returned funds be applied as a cancellation. This clarification is effective for funds received by the lender on or after July 1, 1998.

*Refunds:* Refunds are considered timely only if both of the following conditions are met:

- The reviewing entity did not find in the sample of student [records](#) audited for either fiscal year that the school made late refunds to 5% or more of Title IV recipients who received or should have received a refund, or did not find that the school made more than one late refund in that sample.

- The reviewing entity did not note for either fiscal year a material weakness or a reportable condition in the school's report on internal controls related to refunds.

*Special allowance:* For Stafford and PLUS loans first disbursed on or after July 1, 1998, but before October 1, 1998, the applicable [special allowance](#) formulas are prescribed by the Temporary Student Loan Provisions of the [Transportation Equity Act for the 21st Century](#). These provisions are as follows:

- For Stafford loans only during the in-school, grace and deferment periods, the annual special allowance rate equals the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the quarter, plus 2.5%, less the applicable interest rate on the loan.
- For Stafford loans, except during the in-school, grace and deferment periods, the annual special allowance rate equals the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the quarter, plus 2.8%, less the applicable interest rate on the loan.
- For PLUS loans, the annual special allowance rate equals the average of the bond equivalent rate on of the 91-day Treasury bills auctioned during the quarter plus 3.1% less the applicable interest rate on the loan. However special allowance shall not be paid unless the calculated interest rate exceeds the 9% cap.

Variable-rate PLUS or SLS loans first disbursed before July 1, 1994, and variable-rate PLUS loans first disbursed on or after July 1, 1998, are eligible for [special allowance](#) only when the following criteria are met:

- The loan is accruing at the maximum interest rate specified in law for such a loan (also called the cap).
- The interest rate for each July 1 to June 30 period, as calculated prior to applying the interest rate maximum (or cap), exceeds the maximum interest rate on the loan.

This change, effective for PLUS loans first disbursed on or after July 1, 1998, incorporates the provisions of the Final Rule changes published in the [Federal Register](#) on November 1, 1999, and subsequent amendments to the Higher Education Act resulting from the [Ticket to Work and Work Incentives Improvement Act of 1999](#).

## August 5, 1998

*Deferment:* A borrower whose first disbursement on his or her oldest outstanding loan is on or after July 1, 1993, is now eligible to receive an [economic hardship deferment](#) by providing the lender with [documentation](#) from the Peace Corps showing that he or she is or will be serving as a Peace Corps volunteer. A lender may grant an economic hardship deferment for up to the full 36-month maximum deferment period from a single request. A borrower who qualifies for an economic hardship deferment based on his or her Peace Corps service is not required to submit income documentation. This change is effective for economic hardship deferment requests submitted by eligible Peace Corps volunteers and received by lenders on or after August 5, 1998.

## September 1, 1998

*Common forms:* The Department released [Dear Colleague Letter ANN-98-10](#), which introduced the [Master Promissory Note \(MPN\)](#) for the Federal Family Education Loan Program.

The Preclaim Request Form or an equivalent electronic format is effective for all requests filed by lenders. The [Claim](#) Form or an equivalent electronic format is effective for all claims filed by lenders on or after March 1, 2000, unless implemented earlier by the [guarantor](#). These new forms require lenders to collect and report data, for loans first disbursed on or after September 1, 1998.

All loans included on the Preclaim Request Form must have the same loan type, due date, and interest-paid-through date. Subsidized and unsubsidized Stafford loans that have been combined into one [repayment schedule](#) may be combined in one preclaim request.

For all loans first disbursed on or after September 1, 1998, the [lender](#) *must* provide the following information when requesting [preclaim assistance](#) on the Preclaim Request Form or in an equivalent electronic format. For loans with first disbursements *prior* to September 1, 1998, if the lender has the following additional information, it must provide the information on the request for preclaim assistance:

- Address and last name, first name, and middle initial of two references.
- Full name of the [endorser](#), [comaker](#), or PLUS student and identifying code.
- Endorser's, comaker's, or PLUS student's [Social Security number](#).

- Endorser's or comaker's last-known complete address and validity of the address, and home telephone number and validity of the number.
- Servicer's 6-digit [servicer](#) ID assigned by the [Department](#).

The lender must provide other information only if it is available. The lender may or may not have this information in its servicing records. A lender that cannot provide this information is not required to establish a reporting mechanism.

*Due diligence:*

- **Common Skip Tracing Requirements**

Unless otherwise noted, the following policies will be implemented for loans on which a notice of invalid address or telephone number, as applicable, is received on or after September 1, 1998, unless implemented earlier by the guarantor.

- Simultaneous Address [Skip Tracing](#) and Telephone [Due Diligence](#)

During the period the lender is attempting to obtain a valid *address* for a borrower, the lender must continue to perform all *telephone* due diligence requirements. The lender may cease making such calls only if it determines that a borrower's telephone number is invalid, in which case the lender must perform telephone skip tracing.

- “Commercial” Skip Tracing Activities

The lender's [skip tracing](#) activities must include other normal commercial skip tracing activities that the [lender](#) would conduct in pursuit of information on any other loan in its consumer loan portfolio. Lenders must perform at least two additional normal commercial skip tracing activities but are encouraged to pursue all available sources of information to obtain a valid address.

- Address Skip Tracing Requirements

The lender is not required to perform skip tracing activities if *both* of the following conditions are met:

- The lender has mailed a timely [final demand](#) letter.

- The borrower's loan becomes delinquent 151 or more days (211 or more days for loans payable in installments less frequently than monthly) as a result of the reversal of a payment.

- Repeating Skip Tracing Activities Not Required

If any address skip tracing activities have been performed prior to the lender becoming aware of an invalid telephone number for the borrower, the lender is considered to have begun telephone skip tracing activities and need not repeat any activities already completed. Similarly, if any telephone skip tracing activities have been performed prior to the lender becoming aware of an invalid address for the [borrower](#), the lender must initiate additional address skip tracing activities within 10 days of making the determination that it does not have a valid address for the borrower, but need not repeat any activities already completed when performing required address skip tracing activities.

- Telephone Diligent Effort Exceptions Modified

A lender is not required to make diligent efforts to contact a borrower by telephone in the following cases:

- The lender is advised that the borrower has no telephone number or that there is no telephone service in the general geographic area where the borrower resides and the lender verifies and documents this information in the borrower's file or in the servicing history of the loan.
- The borrower's telephone number is invalid and all required skip tracing activities have been performed.

- Relationship between Endorser Due Diligence and Borrower Skip Tracing Requirements Clarified

A [diligent effort](#) to contact an [endorser](#) on a delinquent account is sufficient to satisfy both an endorser [due diligence](#) requirement and a borrower skip tracing requirement, provided the activity is documented as both in the lender's servicing history. If the endorser is contacted, the lender must discuss both the [delinquency](#) of the



account and the endorser's obligation to repay the debt, and must confirm the borrower's location and telephone number.

- **Final Demand Letter**

Lenders must send a final demand letter to each delinquent borrower in accordance with appropriate due diligence requirements. If a lender fails to mail a final demand letter to a borrower in accordance with due diligence requirements and a “special occurrence” or [rolling delinquency](#) occurs, the lender is still required—regardless of the aging of the delinquency—to send a final demand letter. There are two exceptions to this requirement:

- The loan becomes 151 days or more delinquent (211 days or more delinquent for loans payable less frequently than monthly) and the borrower's address is invalid and remains invalid after the lender has exhausted all required skip tracing activities and required diligent efforts.
- The lender previously mailed a timely final demand letter prior to a rolling delinquency or a special occurrence (see [subsections 12.3.E](#) and [12.3.F](#)) and the borrower is 151 days or more delinquent (211 days or more delinquent for loans payable less frequently than monthly).

These changes are effective for invalid address notifications received by the lender on or after September 1, 1998, unless implemented earlier by the [guarantor](#).

- **Preclaims**

If a lender submits a request for preclaim assistance on which any required information is missing, incomplete, or inaccurate, the guarantor may attempt to obtain the necessary information from its own system or request the information from the lender. The lender must provide any requested information or resubmit any rejected preclaim request within the time frame established by the guarantor. If a lender is unable to provide the requested information within the guarantor's established time frames, the loan may be subject to an interest penalty if a [claim](#) is later filed and paid. Please refer to additional CCI information under the *August 19, 1999* entry in this appendix.

## October 1, 1998

*Annual loan limit:* The specific prorated subsidized Stafford loan limits of \$1,750, \$875, and \$0, and the specific prorated unsubsidized Stafford loan limits of \$2,500, \$1,500, and \$0, are no longer applicable to first- and second-year undergraduate students whose program, or remainder of the program, is less than one academic year. The prorated limits for these students are determined as a ratio of the student's program or remainder of the student's program (as measured in credit or [clock hours](#)) to a full [academic year](#), multiplied by the applicable [annual loan limit](#) for a full academic year. This change is effective for loan [applications](#) certified by the school on or after October 1, 1998.

*Audit:* Generally, a lender is exempt from the annual audit requirement for any fiscal year subject to audit in which the lender made or held \$5 million or less in FFELP loans. On October 1, 1998, any lender that made or held more than \$5 million in [FFELP](#) loans during the fiscal year being audited is required to submit a compliance audit report to the Department no later than 6 months after the close of the audit period—regardless of whether the report identifies findings of noncompliance. This change is enforced as determined by the Department.

*Blanket guarantee:* A blanket certificate of loan [guarantee](#) (blanket guarantee) permits a lender to make Stafford and PLUS loans to eligible borrowers without receiving prior approval from the [guarantor](#). Lenders may contact individual guarantors for information on the availability of, and participation in, a blanket guarantee program. This change is effective for loans originated under a Blanket Certificate of Loan Guarantee approved by the Department on or after October 1, 1998.

*Cohort default rates:* The [Higher Education Amendments of 1998](#) modified [cohort default rate](#) appeal criteria, as follows:

- If a school's cohort default rate or loss of FFELP eligibility appeal based on exceptional mitigating circumstances, erroneous data, or improper loan servicing or collection is unsuccessful, the school is required to pay to the [Department](#) the amount of interest, [special allowance](#), reinsurance, and any related payments made by the Department (or which the Department is obligated to make) with respect to FFELP loans made to students attending or planning to attend the school during the pending appeal.

- A school may appeal its loss of FFELP eligibility on exceptional mitigating circumstances by demonstrating that its participation rate index is equal to or less than 0.0375 for any one of the three most recent fiscal years for which data is available.
- A school may appeal its loss of FFELP eligibility on exceptional mitigating circumstances based on educating low-income students by providing documentary evidence that, for a 12-month period that ended during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the school's cohort default rate is determined, at least two-thirds of the students, enrolled on at least a half-time basis meet either of the following criteria:
  - The student is eligible to receive a [Pell Grant](#) that is at least equal to one-half of the maximum available Pell Grant based on the student's enrollment status.
  - The student has an adjusted gross income that is less than the poverty level, as determined by the Department of Health and Human Services.
- If a school appeals its loss of [FFELP](#) eligibility on exceptional mitigating circumstances based on educating economically disadvantaged or low-income students, both degree- and non-degree-granting schools can add students who entered active duty in the U.S. Armed Forces to the numerator in the calculation of their respective completion and placement rates. For non-degree-granting schools, students or former students for whom the school is the employer should not be included in the numerator of the placement rate calculation.
- In a [cohort default rate](#) or loss of FFELP eligibility appeal based on improper loan servicing or collection, the Department must ensure that a school has access for a reasonable period of time, not to exceed 30 days, to a representative sample of the relevant loan servicing and collection [records](#) used by a [guarantor](#) in paying [default claims](#) or by the Department in determining a school's default rate in the loan program under part D of this title. If a school proves, during the appeal process, that a loan or loans defaulted due to improper loan servicing or collection, the Department will adjust the numerator and denominator of the school's FFELP, [FDLP](#), or weighted average cohort default rate based on statistical inference from the appropriate representative sample.

Except for school appeals of FDLP and weighted average cohort default rates on the basis of improper loan servicing or collection which take effect on July 1, 1999, all of the above changes are effective for school cohort default rates published on or after October 1, 1998.

*Consolidation loans:* The following provisions of the [Higher Education Amendments of 1998](#) are effective for Consolidation loan [applications](#) received by the consolidating lender on or after October 1, 1998:

- A consolidating lender may decline to consolidate Health Professions Student Loans (HPSL), including Loans for Disadvantaged Students (LDS), Nursing Student Loans (NSL), and Health Education Assistance Loans (HEAL).
- Direct loans may be included in a Federal Consolidation loan, making permanent the provision in the [Emergency Student Loan Consolidation Act \(ESLCA\)](#).
- A Consolidation loan borrower may receive another Federal Consolidation loan if the borrower obtains a new eligible loan after the date of the original Consolidation loan. All outstanding eligible loans may be consolidated, including loans made prior to any previous Consolidation.
- A [borrower](#) with loans in a [default](#) status must not be subject to a judgment secured through litigation or an order of [administrative wage garnishment](#) on a [Title IV](#) loan.
- A borrower or married couple with [FFELP](#) loans held by multiple [holders](#) may request consolidation from any participating consolidation [lender](#), regardless of whether the consolidating lender is a holder of any of the borrower's loans.

[Borrowers](#) must use an addendum to the Loan Consolidation Application and Promissory Note. This addendum incorporates changes that resulted from the [Emergency Student Loan Consolidation Act of 1997](#), and that were carried forward with the enactment of the [Higher Education Amendments of 1998](#).

For Consolidation loans made from [applications](#) received during the period beginning October 1, 1998, through January 31, 1999, inclusive, the interest payment rebate fee is equal to 0.62% per annum of the unpaid principal and accrued [interest](#) of the loans.

*Cost of attendance:* Effective for loans certified by the school for periods of enrollment beginning on or after October 1, 1998, the specific minimum allowances to be used for the room and board component of the [cost of attendance \(COA\)](#) were removed. Schools are also now authorized to include a reasonable allowance for the documented rental or purchase of a personal computer. Additionally, the COA for students receiving instruction by telecommunications may include the documented cost of renting or purchasing equipment required for them to complete their educational programs. Previously, the COA for telecommunication students was generally limited to tuition and fees. These changes reflect provisions of the [Higher Education Amendments of 1998](#).

*Deferment:* A new borrower from July 1, 1987, to June 30, 1993, is no longer required to obtain a new loan for a half-time period of enrollment that is to be covered by an in-school [deferment](#). This change is effective for in-school deferments granted by the [lender](#) on or after October 1, 1998.

A lender must determine the eligibility of a borrower—or, as applicable, the [dependent student](#)—for an in-school deferment based upon the receipt of documentation indicating that the borrower is enrolled on at least a half-time basis. The lender may use documentation from an appropriate source (e.g., the borrower, school, guarantor, National Student Clearinghouse, or NSLDS)—provided the documentation supplies sufficient information to ensure that the borrower meets all eligibility criteria. A borrower is not required to request an in-school deferment. If the lender grants an in-school deferment and the borrower has not requested the deferment, the lender must notify the borrower of the in-school deferment and of the option to continue paying on the loan. This change is effective for in-school deferments granted by the lender on or after October 1, 1998.

*Delivering loan funds:* A school with a [cohort default rate](#) of less than 10% for each of the three most recent fiscal years for which data is available are exempt from [delayed delivery](#) provisions. An eligible home school is exempt from the requirements to delay delivery of funds to first-year undergraduate students who are first-time borrowers enrolled in a study-abroad program if the school has a published cohort default rate of less than 5% for the most recent fiscal year for which information is available. A home school must cease to certify loans based on this exemption no later than 30 days after the date it receives notification from the Department of a FFELP cohort default rate, FDLDP cohort default rate, or dual-program cohort default rate that causes the school to no longer qualify for this exemption. These changes are effective for disbursements scheduled by the school to be made on or after October 1, 1998.

*Disbursement rules:* A school with a cohort default rate of less than 10% for each of the three most recent fiscal years for which data is available may schedule loans to be disbursed in single installments, if the loan is for a [period of enrollment](#) that is not more than a single semester, trimester, quarter, or for a school without standard terms, not more than 4 months. A loan made to a student [enrolled](#) in a study-abroad program may be made in a single [disbursement](#) if the eligible [school](#) at which the student will receive course credit for the study-abroad program has a cohort default rate of less than 5%. These exceptions are applicable to disbursements scheduled by the school to be made on or after October 1, 1998.

*Disclosures:* Initial and repayment disclosure information must include the lender's telephone number and, at the lender's option, an electronic address from which the borrower can obtain additional loan information. This change is effective for initial and repayment disclosures issued by the lender on or after October 1, 1998.

*Eligibility – borrower and student:* The [Higher Education Amendments of 1998](#) changed some borrower and student eligibility requirements, effective for loan applications certified by the school on or after October 1, 1998, as follows:

- A student must certify, as part of the [Free Application for Federal Student Aid \(FAFSA\)](#), a [statement of educational purpose](#). A PLUS loan borrower must continue to certify a statement of educational purpose by signing and submitting the application and [promissory note](#) to the lender or school.
- A student who has completed in a home school setting a secondary education that is recognized as equivalent to a high school diploma under applicable [state](#) law is considered to have completed high school for purposes of Title IV eligibility.
- A student enrolled in coursework, offered in part or totally through [telecommunications](#) by a school, will be considered to be enrolled in [correspondence](#) courses *unless* all of the following criteria are met:
  - The school offers less than 50% of all courses by telecommunications or correspondence, and the student's coursework is part of a one-year or longer program leading to a recognized certificate or part of a recognized associate, baccalaureate, or graduate degree program.

- The school offers recognized associate, baccalaureate, or graduate degrees for 50% or more of its programs.
- The school is not an institution or school described in section 521(4)(C) of the [Carl D. Perkins Vocational and Applied Technology Education Act](#).
- Citizens of any one of the Freely Associated States (i.e., The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau) are not eligible for FFELP funds at *any* participating school, but may be eligible for other types of Title IV aid.

*Eligibility – lender:* A bank [as defined in [section 3\(a\)\(1\) of the Federal Deposit Insurance Act](#)] that is a wholly-owned subsidiary of a tax-exempt, nonprofit foundation [as described in [section 501\(c\)\(3\) of IRS Code of 1986](#), and exempt from taxation under [section 501\(c\)\(1\) of the Code](#)], for purposes of making FFELP loans only to [undergraduate students](#) age 22 or younger, provided the bank's FFELP portfolio does not exceed \$5 million, is considered eligible to participate in the FFELP.

*Estimated financial assistance:* [Estimated financial assistance \(EFA\)](#) now includes national service education awards or postservice benefits, except when determining eligibility for a subsidized Stafford loan. In addition, veterans' educational benefits paid under [Title 38, Chapter 30 \(Montgomery GI Bill–Active Duty\)](#) must be excluded from a student's EFA when determining eligibility for a subsidized Stafford loan. This change is effective for Stafford loans certified by the school on or after October 1, 1998.

*Forbearance:* A borrower is not required to request a [mandatory forbearance](#) in writing. This change is effective for mandatory forbearances granted by the lender on or after October 1, 1998.

A lender may grant a [forbearance](#) for a period that does not exceed 60 days if the lender determines it is warranted in order to collect or process supporting [documentation](#) following a borrower's request for deferment, forbearance, a change in repayment plan, or loan consolidation. If such supporting documentation is not received within 60 days, the lender must resume servicing activities on the 61st day. The lender must not capitalize [interest](#) that accrues on the borrower's loan during this period of [administrative forbearance](#). However, the lender may receive documentation or information that results in the granting of a deferment or other forbearance type that would be concurrent with this

period and for which [capitalization](#) is permitted. These changes are effective for administrative forbearance granted by the lender on or after October 1, 1998.

*Grace period:* A Stafford borrower with a loan in a [grace period](#), or with a loan in an in-school status that would subsequently enter a grace period, who is called or ordered to active duty, is entitled to a military extension of the grace period for a period not to exceed 3 years. To qualify for this extension, the borrower must be called or ordered to active duty, on or after October 1, 1998, from a reserve component of the U.S. Armed Forces for a period in excess of 30 days.

*Interest rates:* The [interest](#) rate formulas are prescribed by the Temporary Student Loan Provisions of the [Transportation Equity Act for the 21st Century](#) for Stafford and PLUS loans first disbursed on or after July 1, 1998, but before October 1, 1998, are carried forward with the enactment of the [Higher Education Amendments of 1998](#).

For portions of the Consolidation loan attributable to:

- [FFELP](#), [FDLP](#), [FISL](#), [Perkins](#), [HPSL](#), or [NSL](#) loans, the interest rate is a weighted average of the interest rates on the loans being consolidated, rounded up to the nearest one-eighth of a percent, not to exceed 8.25%.
- [HEAL](#) loans, the interest rate is variable and is based on the 91-day [Treasury bill](#), auctioned for the quarter ending June 30, plus 3%. (There is no interest rate cap on the [HEAL](#) portion.)

*Interest subsidy:* The portion of a Federal Consolidation loan that repays a subsidized Federal Stafford or subsidized Federal Direct Stafford loan is eligible for interest subsidy during periods of authorized [deferment](#), making permanent the provision in the [ESLCA](#).

*Origination fee:* Lenders are permitted to pay [origination fees](#) on both subsidized *and unsubsidized* Stafford loans on the borrower's behalf. This change is effective for unsubsidized Stafford loans first disbursed by the lender on or after October 1, 1998.

*Repayment terms:* All [FFELP borrowers](#)—regardless of the date on which their first funds were disbursed or their outstanding indebtedness—are permitted to change their selection of [repayment schedule](#) annually. A lender must comply with an eligible borrower's request at least once every 12 months. The change is effective for borrower requests received by the lender on or after October 1, 1998.



*Teacher loan forgiveness:* The [Higher Education Amendments of 1998](#) implemented the Loan Forgiveness Program for Teachers. Under this program, effective for “new borrowers” with Stafford loans on or after October 1, 1998, [the Department](#) repays a portion of an eligible borrower’s Stafford loan obligations (and in some cases, Consolidation loan obligations). Unless otherwise instructed by the borrower, the lender must apply the payments received on the borrower’s behalf for teacher loan forgiveness first to any outstanding unsubsidized Federal Stafford loan balances, next to any outstanding subsidized Federal Stafford loan balances, and then to any eligible outstanding Federal Consolidation loan balances.

### October 7, 1998

President Clinton signed into Law the [Higher Education Amendments of 1998](#), which reauthorize the federal student financial assistance programs.

*Eligibility – lender:* A consumer finance company subsidiary of a national bank that acted as a small business lending company (as defined in regulations prescribed by the Small Business Administration) through one or more subsidiaries, is eligible to participate in the [FFELP](#), provided the bank’s direct and indirect subsidiaries together must not have as their primary consumer function the making or holding of education loans.

*Interest payment and capitalization:* A lender may capitalize interest on an unsubsidized Stafford loan first disbursed from October 7, 1998 to June 30, 2000, inclusive, only when the loan enters repayment, the [grace period](#) ends, a [deferment](#) ends, a [forbearance](#) ends, or the loan defaults.

*Repayment terms:* Extended repayment is available to a new borrower on or after October 7, 1998, who has more than \$30,000 in outstanding principal and interest on FFELP loans. An [extended repayment schedule](#) may provide for standard or graduated installments over a period not to exceed 25 years, an exception to the 10-year [repayment period](#) maximum. The \$600 minimum annual payment requirement does not apply to extended repayment schedules.

*Voluntary Flexible Agreement:* An explanation of Voluntary Flexible Agreements (VFAs), approved by the Department of Education for implementation on or after October 7, 1998, advises that guarantors participating under VFAs must work with their school and lender partners to explain any unique requirements.

### October 8, 1998

*Bankruptcy:* [Title 11 of the U.S.C.](#) (the bankruptcy code) is revised to eliminate [bankruptcy discharge](#) on chapter 7, 11, 12, and 13 bankruptcies for FFELP borrowers in repayment for 7 years. The bankruptcy code continues to allow discharge for [undue hardship](#). This change is effective for loans on which a borrower files a petition for bankruptcy on or after October 8, 1998.

*Child care provider loan forgiveness:* The [Higher Education Amendments of 1998](#) implemented the Loan Forgiveness Demonstration Program for Child Care Providers. If funding is made available under this program, effective for “new borrowers” with loans first disbursed on or after October 8, 1998, [the Department](#) repays up to 100% of a borrower’s Stafford loan obligations.

### November 1998

*Common forms:* The Department released [Dear Colleague Letter GEN-98-25](#), which provided detailed information regarding the introduction of the [Master Promissory Note \(MPN\)](#) for Federal Stafford Loans in the [Federal Family Education Loan Program](#). The MPN form will be first available for the 1999–2000 [academic year](#) (for loan periods beginning on or after July 1, 1999), and, beginning with the 2000–2001 academic year, will be the only [promissory note](#) approved for FFELP Stafford Loans. The MPN is a promissory note under which the borrower may receive loans for either a single period of enrollment or multiple periods of enrollment.

## 1999

### January 1, 1999

*Disclosure requirements:* The term “Treasury offset” has been added to clarify that federal offsets managed by the U.S. Treasury Department’s Financial Management Service may include the offset of federal payments other than tax refunds, such as Social Security benefits or federal retirement benefits. References to “state offsets” have been revised to eliminate specific mention of “state income taxes” or “taxes” and will be more generic since states may offset funds other than tax refunds. Guarantors will delay enforcement of FFELP disclosure requirements until such time as the amended provisions are reflected in common application documents. However, lenders should be aware that changes to federal processes have been in place for some time and default consequences to borrowers may be more comprehensive than lenders are currently disclosing to their clients.



*Disclosures:* The Department of Education removed the interest rate formula for Stafford and PLUS loans first disbursed on or after July 1, 1998, from the Borrower's Rights and Responsibilities section of the common Stafford and PLUS loan application materials. Lenders are now required to provide the actual interest rate, *including information on the rate's calculation*, in the initial disclosure to the borrower at or before the time of the first disbursement of a Stafford or PLUS loan. This change is enforced for Stafford and PLUS loans first disbursed on or after January 1, 1999, unless implemented earlier.

*Summer bridge extension:* A borrower who is enrolled through the end of the spring [academic period](#) and who qualifies for an extension of the in-school deferment may advise a lender of his or her intent to reenroll for the fall academic period. The lender must document the borrower's request and the date on which the borrower anticipates the fall academic period to begin. If the lender does not receive a notice from the borrower regarding his or her intent to reenroll for the fall academic period, but subsequently receives documentation of the borrower's in-school deferment eligibility for the fall period, the lender may retroactively process the summer bridge extension. This change is effective for summer bridge extensions processed by the lender on or after January 1, 1999, unless implemented earlier.

#### February 1999

*Annual loan limit:* The Department issued [Dear Colleague Letter GEN-99-7](#), which discussed the extension of eligibility for increased unsubsidized loan amounts due to the phase-out of the Health Education Assistance Loan (HEAL) program.

*Common forms:* The Department issued [Dear Colleague Letter GEN-99-9](#), which discussed the [Master Promissory Note](#) and related instructions and the use of these forms.

#### March 8, 1999

*NSLDS:* The National Student Loan Data System (NSLDS) no longer requires a school to report directly to the NSLDS any changes to a student's permanent address. Instead, the school must report these changes to the guarantor.

#### April 1, 1999

*Exceeding loan limits:* If a borrower inadvertently exceeds an [annual](#) or [aggregate loan limit](#), the borrower may regain eligibility by repaying the excess funds in full, making [satisfactory repayment arrangements](#) with the lender, authorizing the school to adjust the excess loan amount, or authorizing the school to reallocate funds between a subsidized Stafford loan and an unsubsidized Stafford loan

for which the borrower is eligible. Borrowers who exceed the annual or aggregate loan limit as a result of providing false or misleading information must repay such loans in full to regain Title IV eligibility. These revisions are effective for loan applications certified by the school (or in the case of a Consolidation loan application, received by the lender) on or after April 1, 1999, unless implemented earlier by the guarantor.

*Interest subsidy:* If a student fails to check the box on the loan application indicating his or her request for a subsidized Stafford loan, but the school certifies subsidized Stafford loan eligibility for the student, the guarantor will guarantee the subsidized Stafford loan for the lesser of the amount certified by the school or requested by the student. In addition, a student's failure to request a subsidized Stafford loan no longer precludes the reallocation of subsidized and unsubsidized funds (provided the student requested an *unsubsidized* Stafford loan). These changes are effective for loan applications and promissory notes received by the guarantor on or after April 1, 1999, unless implemented earlier by the guarantor.

#### April 16, 1999

The Department published corrections and other technical changes to the final regulations in [34 CFR Part 682](#). The regulations govern the [Federal Family Education Loan Program](#).

*Authorizations and certifications:* For Stafford and PLUS loans made using a common application and promissory note, the school continues to be required to obtain written authorization from the borrower to permit the release of loan proceeds received by EFT or master check from the school's account. The authorization may be obtained on the common application and promissory note or a separate form, and it must be obtained at or before the release of the loan's first disbursement.

Effective for EFT or master check disbursements delivered by the school on or after April 16, 1999, schools are no longer subject to the 30-day time restriction for obtaining EFT or master check authorizations on forms other than the common application and promissory note. For Stafford loans made using the Master Promissory Note (MPN), the school is not required to obtain separate borrower authorization to permit the transfer of loan proceeds received by EFT or master check to the student's account.

*Bankruptcy:* The borrower's attorney has been added as an acceptable source for providing proof of a borrower's [bankruptcy](#) filing. In addition, a lender must react to the Notice of the First Meeting of Creditors or "other proof of filing" of the bankruptcy from the borrower's attorney or the bankruptcy court. This is effective for bankruptcy

notices received by the lender from the borrower's attorney or other proof of filing received by the lender on or after April 16, 1999, unless implemented earlier by the guarantor.

*Claims – returned and refiled:* If a default or **ineligible borrower** claim is returned to the lender solely due to inadequate documentation, the lender's eligibility for interest, **interest benefits**, and **special allowance** payments is triggered from the date the lender received the returned claim. This change is effective for returned default and ineligible borrower claims received by the lender on or after April 16, 1999, unless implemented earlier.

*Consolidation loans:* The eligibility requirement to either make **satisfactory repayment arrangements** or agree to repay a Consolidation loan under an **income-sensitive repayment schedule** is not applicable to defaulted loans other than Title IV loans. If a lender elects to consolidate defaulted Title IV loans, the borrower must first make satisfactory arrangements with the loan holder to repay the defaulted loans, or agree to repay the Consolidation loan under an income-sensitive repayment schedule. This is effective for applications received by the consolidating lender on or after April 16, 1999, unless implemented earlier by the guarantor.

*Credit balance:* A school may hold a borrower's Stafford or PLUS loan proceeds as a fiduciary for the benefit of not only the student but also the guarantor and the Department, if those proceeds represent a credit balance that would otherwise have been paid directly to the student or parent borrower. This revision does not apply to schools that are prohibited by the Department, under reimbursement payment methods, from holding credit balances. This is effective for credit balances held by a school on or after April 16, 1999.

*Deferment:* A borrower's defaulted loan is not eligible for a **deferment** that begins after the date of **default**, unless the borrower makes payment arrangements that are acceptable to the lender and that resolve the default prior to the payment of a default claim by the guarantor. Prior guidance was borrower-specific with respect to deferment of a defaulted loan prior to claim payment. This change is effective for deferment requests on defaulted loans granted by the lender on or after April 16, 1999.

*Disbursement rules:* Unless **disbursement** occurs by **EFT** or **master check**, Stafford loans must be disbursed by individual checks that are either payable to the student or copayable to the student and the school. Lenders must send individual checks for Stafford and PLUS loan borrowers directly to the school (except in the case of a student enrolled at an eligible **foreign school**). A Federal PLUS

loan for a student enrolled in an eligible foreign school must be disbursed by an individual check that is made copayable to the parent borrower and the school. The check must be sent directly to either the parent borrower or the school. These changes are effective for loan proceeds disbursed by individual checks on or after April 16, 1999.

*Eligibility – borrower and student:* Each parent seeking a PLUS loan must not have property subject to a judgment lien for a debt owed to the United States. PLUS loans can no longer be made to two parents as comakers. This is effective for PLUS loans certified by the school on or after April 16, 1999.

*Entrance counseling:* Touch-tone telephone technology has been added to the list of methods by which schools may conduct **entrance counseling** on or after April 16, 1999.

*Forbearance:* For borrowers who are jointly liable for repayment of a PLUS loan or Consolidation loan, a lender may grant a **forbearance** on repayment of the loan only if the ability of each individual to make scheduled payments has been impaired based on the same or different conditions. Lenders may grant a forbearance to a borrower or endorser to permit the resumption of payments following the date of default only if the forbearance is granted prior to the lender's receipt of the claim payment. These changes are effective for forbearances granted by the lender on or after April 16, 1999.

*Interest subsidy:* Lenders may not bill for interest benefits on a loan from the date the lender determines or receives notice of the guarantor's determination that the borrower is eligible for a **discharge** due to closed school or false certification provisions. This is effective for loans determined by the lender to be eligible for discharge due to closed school or false certification on or after April 16, 1999, or for which the lender receives notice of the guarantor's determination of discharge eligibility on or after such date, unless implemented earlier by the guarantor.

*Loan certification:* The minimum **period of enrollment** for which the school may certify a loan for a defaulted borrower who has regained eligibility during the **academic year** is the academic year during which the borrower has regained eligibility. This change is effective for loans certified by the school on or after April 16, 1999.

*Repayment start:* On Stafford, SLS, and PLUS loans, a borrower's first payment due date must be no later than 45 days after the last day of the **post-deferment grace period**, unless the borrower makes a **prepayment** that advances the due date during this period. Exceptions to the establishment of a first payment due date no later than 45 days after the

last day of a deferment or forbearance period may occur as a result of a borrower making a prepayment that advances the due date. These changes are effective for deferment, forbearance, and post-deferment grace periods ending on or after April 16, 1999, unless implemented earlier by the guarantor. For Consolidation loans, the lender must establish a first payment due date that is no more than 60 days after the date on which the last disbursement discharging underlying loans is made. This change is effective for Consolidation loans disbursed by the lender on or after April 16, 1999, unless implemented earlier by the guarantor.

*Repayment terms:* For [repayment schedules](#) issued by the lender on or after April 16, 1999, lenders must combine, to the extent practicable, all of a borrower's FFELP loans into a single account to be repaid under a single repayment schedule.

*Special allowance:* The lender may bill for [special allowance](#) on a loan only through the 60th day following the date of default, unless the lender files a [claim](#) on the loan on or before the 60th day following that default. This change is effective for claims filed by the lender on or after April 16, 1999, unless implemented earlier by the guarantor.

#### May 1, 1999

*Annual loan limit:* For [loan periods](#) beginning on or after May 1, 1999, all institutions offering eligible health profession programs are eligible to award the increased unsubsidized loan amounts regardless of past participation in the HEAL Program. Foreign schools are not eligible to award the increased unsubsidized Stafford loan amounts.

#### June 1999

*Eligibility – borrower and student:* The Department issued [Dear Colleague Letter GEN-99-16](#), which announces that the provision of the HEA related to student eligibility for Title IV financial aid due to drug convictions will not become effective until July 1, 2000.

#### July 1999

*Common forms:* The Department issued [Dear Colleague Letter GEN-99-23](#), indicating their approval of new deferment forms for the following [deferment](#) types:

- Unemployment
- Public Service
- Parental Leave/Working Mother
- PLUS Borrower with Dependent Student
- In-School
- Economic Hardship
- Education Related
- Temporary Total Disability

#### July 1, 1999

*Additional unsubsidized Stafford funding:* A school may certify an additional unsubsidized Stafford loan for a student whose parent is unable to obtain a PLUS loan. However, if either parent later becomes eligible for a PLUS loan, the school must return to the lender any additional unsubsidized Stafford loan funds received by the school but not yet delivered to the student for that [loan period](#). This change is effective for loans certified on or after July 1, 1999, unless implemented earlier by the guarantor.

*Common forms:* The [Master Promissory Note \(MPN\)](#) must be used for Stafford loans certified by the school for loan periods beginning on or after July 1, 1999, implementing policy guidance provided in [Dear Colleague Letters GEN 98-25](#) and [GEN 99-9](#).

*Delivering loan funds:* For Stafford and PLUS loan proceeds disbursed by [EFT](#) or [master check](#) and received by the school on or after July 1, 1999, the school must deliver the funds directly to the student, or credit the student's account at the school, within three business days after the school's receipt of the loan proceeds.

*Deferment:* [Deferments](#) generally are borrower-specific—not loan-specific. However, if all of the borrower's loans are paid in full and the borrower subsequently obtains a new loan, the borrower is eligible for all deferments applicable to that new loan, despite any previous periods of deferment.

Parental leave deferments are neither borrower-specific nor loan-specific, but are based on occurrence. A borrower is eligible for a parental leave deferment for each newborn or adoption and may obtain a deferment for the maximum period for each occurrence. These changes are effective for deferment requests received by the lender on or after July 1, 1999, unless implemented earlier by the guarantor.

*Eligibility – borrower and student:* For loans certified by the school for periods of enrollment beginning on or after July 1, 1999, legal guardians have been eliminated from the definition of a [parent](#) for the purpose of PLUS loan eligibility.

*Guarantee transfer:* A borrower-requested [guarantee](#) transfer may occur only if the borrower's request is obtained in writing, and the holder and both guarantors agree to the transfer. In the case of a loan made to two borrowers as [comakers](#), both borrowers must request the transfer in writing. A guarantor will not accept a borrower-requested transfer of guarantee on any loan that is 30 or more days delinquent, that is currently filed as a claim with the transferring guarantor, or that reflects or should reflect a stay of collection activities based on the borrower's filing of a [bankruptcy](#) action, or if the lender does not know the current address of the borrower. The lender must provide written certification to the guarantor accepting the transfer that, according to its records at the time of transfer, none of these conditions exists for the loan being transferred. A guarantee may be transferred without the borrower's request only with the prior approval of the Department, the loan's holder, and both guarantors. Prior to any guarantee transfer, the lender of the loan must have an active [agreement](#) with the guarantor accepting the transfer. The lender also must obtain the borrower's written request or the Department's written approval, as applicable, and supply the guarantor accepting the transfer with copies of those documents, if required by the guarantor. [Guarantee fees](#) paid on the loan will not be transferred. This is effective for guarantee transfer requests submitted by the lender on or after July 1, 1999, unless implemented earlier by the guarantor.

*Loan origination:* A lender may elect not to make subsequent loans under an existing Stafford Master Promissory Note (Stafford MPN). The lender's decision may be based on any number of circumstances—for instance, if there is a change in the borrower's circumstances (such as bankruptcy or delinquency) or because the loan is being requested under a Lender of Last Resort Program. This change is effective on exercise of a lender's option to discontinue making loans under an existing Stafford MPN on or after July 1, 1999.

### August 1, 1999

*Closed school loan discharge:* In the case of a closed school discharge request, a borrower must certify under penalty of perjury that all of the information that is provided by the borrower in the request and in any accompanying documents is true and accurate. This change is effective for all new loan discharge forms sent to borrowers on or after

August 1, 1999. Other loan discharge applications sent to borrowers prior to that date may still be processed after that date.

*False certification loan discharge:* A borrower must complete, certify, and submit to the lender the applicable loan [discharge](#) form approved by the Department to qualify for a false certification discharge. For a loan discharge based on a disqualifying status, the borrower must complete, certify, and submit to the lender the Loan Discharge Application: False Certification (Disqualifying Status) form, in which the borrower states that he or she (or the student in the case of a PLUS borrower) was unable to meet the legal requirements for employment in the student's state of residence in the occupation for which the program of study was intended, due to age, physical or mental condition, criminal record, or other reason. The borrower must also provide information about the state legal requirement for employment that the student could not meet, including a reference to—or a copy of—the specific state law or regulation, and provide supporting documentation proving that the borrower had the disqualifying status at the time the loan was made. If the guarantor determines that a borrower is eligible for a loan discharge or a discharge of one or more disbursements on a loan, the discharge cancels the obligation of the borrower to repay the applicable outstanding principal, accrued interest, [collection costs](#), and late fees. It also qualifies the borrower for reimbursement of any amounts paid voluntarily or through forced collection on the amount discharged. The lender or guarantor must ensure that a discharge is reported to credit bureaus, such that adverse credit history associated with the amount discharged is removed. This is effective for all new loan discharge forms sent to borrowers on or after August 1, 1999. Other loan discharge applications sent to borrowers prior to August 1, 1999, may still be processed.

### August 5, 1999

*Forbearance:* A lender may grant an [administrative forbearance](#) to a borrower—or [endorser](#), if applicable—who contacts the lender and requests temporary relief from his or her loan obligation because he or she has been adversely affected by a natural disaster. The lender may grant an administrative forbearance for a period not to exceed 3 months, based on the borrower's or endorser's verbal or written request. Continuation of the [forbearance](#) beyond this 3-month period requires supporting documentation and a written agreement from the borrower or endorser. This change is effective for administrative forbearance granted by the lender on or after August 5, 1999, for a borrower or endorser who has been adversely affected by a natural disaster.



**August 9, 1999**

*Common forms:* The Department issued [Dear Colleague Letter 99-G-319](#), which provides information regarding the approved Plain Language Disclosure (PLD) text for Stafford loans made under a [Master Promissory Note \(MPN\)](#) in the FFELP.

**August 19, 1999**

*Common forms:* Implementation of the Common Claim Initiative (CCI) policies originally included in chapter <sup>CCI8</sup> (now [chapters 12, 13, and 14](#)) of this manual, and referenced under the *September 1, 1998* entry in this appendix, is delayed.

The new effective date for the implementation of the CCI policies originally in chapter <sup>CCI8</sup> (now [chapters 12, 13, and 14](#)) will be as follows: A guarantor will establish the date on which it is ready to trade CCI electronic records with its trading partners. This date is referred to as the “G” date. All guarantor “G” dates will be established based on the final publication of the CCI electronic formats with one “G” date for preclaims and another “G” date for claims. The earliest “G” date that a guarantor may establish is two months after the final release of the CCI preclaim and claim documentation, respectively. The latest “G” date that a guarantor may use is 12 months following the final release of the CCI documentation. All CCI trading partners will be provided a window of 6 months from each guarantor’s “G” date to start reporting data using the CCI electronic format. Therefore, the preclaims and claims effective dates will be the guarantor “G” date plus 6 months. For example:

July 6, 1999      Preclaims Documentation Released

September 6, 1999      Earliest Guarantor “G” Date

March 6, 2000      Earliest Required  
Implementation Date

July 6, 2000      Latest Guarantor “G” Date

January 6, 2001      Latest Required  
Implementation Date

**September 1999**

*Common forms:* The Department issued [Dear Colleague Letter GEN-99-28](#), announcing their approval of the following new PLUS Loan application forms, which must be used for applications issued on or after March 1, 2000:

- Application and Promissory Note for Federal PLUS Loan and instructions.

- Borrower’s Rights and Responsibilities.
- Endorser Addendum to Federal PLUS Loan Application and Promissory Note and instructions.

The Department issued [Dear Colleague Letter GEN-99-30](#), announcing their approval of an extension of the expiration date of the Federal Stafford Loan Master Promissory Note (MPN) to August 31, 2002.

**September 9, 1999**

*Disbursement rules:* A lender must cancel all unmade disbursements if it receives reliable information that a federal student loan borrower—or the dependent student for whom a parent borrowed a PLUS loan—died before the disbursement was consummated. A school must return to the lender all loan funds that were disbursed to the school or delivered to the borrower or the student after the date of the borrower or dependent student’s death, as applicable.

*Insurance:* A Stafford or PLUS loan disbursement is not insured if it is unconsummated at the time of the borrower’s or student’s death, as applicable.

**October 22, 1999**

The Department published [Final Rules on student eligibility](#).

**October 29, 1999**

The Department published [Final Rules on institutional eligibility and guarantors and FFELP lenders](#).

**November 1999**

*Common forms:* The Department issued [Dear Colleague Letter GEN-99-35](#), indicating their approval of a new Total and Permanent Disability Cancellation Request Form, which must be implemented no later than January 1, 2000.

**November 1, 1999**

The Department published [Final Rules on refunds \(return of Title IV aid\), FFELP and Direct Loan program common provisions, consumerism, and cohort default rates](#).

*Common forms:* The Department issued [Dear Colleague Letter GEN-99-23](#) to implement revised common [deferment](#) forms that were approved by the Department in July 1999. Lenders must distribute the new deferment forms to borrowers no later than November 1, 1999.



*Forbearance:* The Department issued [Dear Colleague Letter GEN-99-36](#) to authorize lenders to grant an [administrative forbearance](#) in order to extend the period of suspension of [due diligence](#) for up to an additional 60 days if it is found, during the initial suspension period, that further time is needed to obtain the required death claim documentation.

## December 2, 1999

*Common forms:* The Department issued [Dear Colleague Letter GEN-99-37](#), indicating their approval of four new loan [discharge](#) applications for the following reasons.

- School Closure
- False Certification of Ability to Benefit
- False Certification (Disqualifying Status)
- Unauthorized Signature/Unauthorized Payment

## 2000

### January 1, 2000

*Consummated loans:* For recordkeeping and reporting purposes, rather than making a loan-level determination, a lender must determine whether a [disbursement](#) is consummated or unconsummated. This change is effective for disbursements made by the lender on or after January 1, 2000.

*Special allowance:* The average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in the quarter (also called the 3-month [commercial paper rate](#)) is now a factor in calculating [special allowance](#) payable on the following loans:

- Stafford and PLUS loans first disbursed on or after January 1, 2000.
- Federal Consolidation loans made from [applications](#) received by lenders on or after January 1, 2000.

### January 3, 2000

*Audit:* At the request of a school, [the Department](#) may waive the annual audit submission requirement for schools that meet certain criteria. If the Department grants the

waiver, the school will not need to submit a compliance audit or audited financial statement until six months after one of the following:

- The end of the third fiscal year following the fiscal year for which the school last submitted a compliance audit and audited financial statement.
- The end of the second fiscal year following the fiscal year for which the school last submitted compliance and financial statement audits if the [award year](#) in which the school will apply for recertification is part of the third fiscal year.

This change is effective for annual audit submission waiver requests submitted by the school on or after January 3, 2000, such that the Department may begin granting waivers on or after July 1, 2000.

### February 1, 2000

*Deferment:* For [economic hardship deferment](#) requests received by the lender on or after February 1, 2000, the lender must include defaulted loans on which the borrower has made [satisfactory repayment arrangements](#) with the [holder](#) when determining a borrower's federal education debt burden for purposes of establishing economic hardship deferment eligibility.

### March 1, 2000

*Bankruptcy:* A lender must file a bankruptcy claim if a Chapter 7 or 11 [bankruptcy](#) converts to a Chapter 12 or 13 bankruptcy. This is effective for bankruptcy filing or conversion notifications received by the lender on or after March 1, 2000, unless implemented earlier by the guarantor.

*Deferment:* A borrower who is unemployed, incarcerated, disabled, or on a temporary unpaid leave of absence from work may qualify for an economic hardship deferment if he or she provides the lender with documentation of his or her income. In addition, any borrower who does not have income when applying for an economic hardship deferment must provide to the lender a self-certifying statement, either on the deferment form or in a separate statement, indicating that he or she has no income. This is effective for economic hardship deferment requests received by the lender on or after March 1, 2000, unless implemented earlier by the guarantor.

*Payment application:* A lender is no longer required to document in the [claim](#) file the borrower's instructions regarding the application of [prepayments](#). However, the [guarantor](#) may require the lender to provide documentation

of any borrower request regarding the application of payments as part of a [program review](#) or to substantiate a claim in the event of a borrower dispute. This change is effective for claims filed by the lender on or after March 1, 2000, unless implemented earlier by the guarantor.

### March 13, 2000

*Common forms:* Schools located outside of the United States may not use the multi-year feature of the [MPN](#). Also, if a school has been deemed eligible by the Department to use the multi-year feature, the feature is applicable to all of the institution's students, even those who are not enrolled in four-year, graduate, or professional programs. This change is effective for loans certified by the school on or after March 13, 2000.

### April 1, 2000

*Deferment:* If the [dependent student](#) for whom a parent borrower obtained one or more PLUS loans meets the conditions required for an in-school deferment or rehabilitation training deferment, the parent borrower may defer all of his or her PLUS loans based on the status of that one student—provided that the parent borrower, on the date he or she signs the [promissory note](#), had an outstanding balance on a FFELP loan disbursed before July 1, 1993. Previously, the manual inadvertently limited such eligibility to borrowers with a loan first disbursed on or after July 1, 1987, but prior to July 1, 1993. In addition, a PLUS borrower is no longer eligible for a graduate fellowship [deferment](#) based on the status of a [dependent student](#). These changes are effective for deferments granted by the lender on or after April 1, 2000, unless implemented earlier by the [guarantor](#).

### May 1, 2000

*Forbearance:* When granting a reduced-payment [forbearance](#), the lender must provide the following information to the borrower:

- Information on the payment amount due during the forbearance.
- The address to which payments must be sent.
- The consequences, if any, of [delinquency](#) on payments required during the forbearance.

If a borrower becomes delinquent on required payments during a reduced-payment forbearance, the lender must comply with the terms of the forbearance agreement. Such terms may include the borrower being considered delinquent and ultimately defaulting if the agreed upon

reduced payments are not made. This is effective for forbearances granted by the lender on or after May 1, 2000, unless implemented earlier by the guarantor.

### July 1, 2000

*Additional unsubsidized Stafford funds:* A school may not certify additional unsubsidized Stafford loan funds for a dependent student based on the school's decision not to participate in the PLUS Loan Program. This clarification is effective for unsubsidized Stafford loan funds certified by the school beginning no later than July 1, 2000.

*Bankruptcy:* If a borrower files a Chapter 12 or 13 [bankruptcy](#), the lender must suspend any collection efforts against any [comaker](#) or [endorser](#). Suspension of collection efforts against any comaker or endorser is optional if the borrower filed a Chapter 7 or 11 bankruptcy. If the lender is notified that a comaker or endorser has filed a petition for relief in bankruptcy, the lender must immediately suspend any collection efforts against the comaker or endorser that are outside the bankruptcy proceeding. If the comaker or endorser filed a Chapter 12 or 13 bankruptcy, the lender must also suspend any collection efforts against the borrower and any other parties to the note. Suspension of any collection efforts against the borrower and any other parties to the note is optional if the comaker or endorser filed a Chapter 7 or 11 bankruptcy. These changes are effective for active bankruptcies on or after July 1, 2000, unless implemented earlier by the [guarantor](#).

*Borrower dispute:* If a borrower disputes the terms of a loan in writing, and the lender does not resolve the dispute, the lender must inform the borrower of an appropriate guarantor contact for the resolution of the dispute. This is effective for borrower disputes received by the lender on or after July 1, 2000.

*Claim filing requirements:* When filing a [claim](#), a lender must include both the loan [application](#) (if separate) and the [promissory note](#) assigned to the guarantor (or a copy of the promissory note certified by the lender as true and accurate). This change is effective for claims filed by the lender on or after July 1, 2000—or prior to July 1, 2000, if the loan was made using the [Master Promissory Note](#).

*Claim repurchase/recall:* A lender will be required to [repurchase](#) a claim if the loan is ruled by a court to be legally unenforceable solely due to the lack of evidence of a [Confirmation](#) or [Notification](#) process for loans generated from the Master Promissory Note. This change is effective for loans ruled unenforceable by a court of law on or after July 1, 2000.

A lender must repurchase a default claim if a delay occurred in the processing of a [deferment](#) that began prior to the date of default. This is effective for deferment documentation processed by the lender on or after July 1, 2000, unless implemented earlier by the guarantor.

A lender must [recall](#) a [default](#) claim if the loan is reduced to 210 or fewer days delinquent before the guarantor pays the claim. This change is effective for loans on which the delinquency is reduced to 210 or fewer days on or after July 1, 2000, in cases where the lender has filed a claim based on the 270th day of [delinquency](#) but the guarantor has not yet paid the claim. This change may have been implemented by the guarantor on or after October 7, 1998.

*Closed school loan discharge:* A borrower may qualify for a closed school loan [discharge](#) without submitting a request if the borrower received a closed school discharge on a loan under the Federal Perkins Loan Program or the [Federal Direct Loan Program](#) for the same [program of study](#) at the same school, or if the [Department](#) or the guarantor, with the Department's permission, determines that the borrower qualifies for a discharge based on information in the Department's or guarantor's possession. This change is effective for closed school loan discharge determinations made on or after July 1, 2000.

*Cohort default rate:* Provisions related to the calculation of a school's FFELP [cohort default rate](#), [FDLP cohort default rate](#), or [dual-program cohort default rate](#) are revised as follows:

- A school may become ineligible to participate in the Federal [Pell Grant](#) Program as a result of ineligibility to participate in the FFELP or FDLP due to excessive cohort default rates.
- When the Department notifies a school of its draft cohort default rate, it will also provide a school which has a draft cohort default rate of 10% or more a copy of the supporting data used in calculating its draft rate.
- If a school is planning a challenge to its draft cohort default rate, the school now has 45 calendar days to provide information supporting its challenge to the guarantor(s). If the school is planning to challenge the anticipated loss of participation in the FFELP based on a draft cohort default rate of 25% or more for the three most recent years, the school has 30 calendar days after the date on which the school received its draft cohort rate information from the Department to challenge the data based on exceptional mitigating circumstances.

- If the school continues to participate in the [FFELP](#) during an appeal and the appeal is unsuccessful, the school is required to pay to the [Department](#) the amount of [interest](#), [special allowance](#), reinsurance, and any related payments made by the Department with respect to loans that the school certified and delivered more than 30 calendar days after the date the school received notification of the rate from the Department.
- In addition, the Department may determine that a school's appeal is valid under exceptional mitigating circumstances. In this case, a school's appeal must generally be based on the Participation Rate Index or based upon its service to economically disadvantaged students.

These changes are effective for [cohort default rates](#) issued by the Department on or after July 1, 2000.

*Common forms:* Use of the [common application](#) and [promissory note](#) for Stafford loans is discontinued on July 1, 2000, when use of the Federal Stafford Loan [Master Promissory Note](#) becomes mandatory. This is effective for Stafford loans certified by the school for any [period of enrollment](#) beginning on or after July 1, 2000, and for any loan certified on or after July 1, 2000, regardless of the loan period begin date.

For loans disbursed on or after July 1, 2000, or earlier if the loan was made using the Master Promissory Note (MPN), the following provisions exist:

- The MPN authorizes the lender to defer all of a borrower's [FFELP](#) loans based on information indicating that the borrower is enrolled at least half time.
- The MPN authorizes the lender to capitalize accrued interest on all the borrower's FFELP loans, including those made under the MPN.
- The MPN authorizes the lender to align repayment of the borrower's Stafford and SLS loans.

*Consolidation loans:* A Federal Consolidation loan borrower is not eligible for a subsequent consolidation loan unless the borrower meets one of the following conditions:

- The borrower has obtained a new eligible loan after the date the existing Consolidation loan was made.

- The borrower is consolidating an existing Consolidation loan with at least one other eligible loan, regardless of whether it was made before or after the date the existing Consolidation loan was made.

In either case, if the borrower meets all eligibility requirements, any or all outstanding eligible loans may be consolidated, including existing Consolidation loans and loans made before or after any existing Consolidation loan. However, a borrower or a married couple may not reconsolidate a single Consolidation loan. This change is effective for Consolidation loans made on or after July 1, 2000.

If a borrower, or either spouse in the case of a married couple, has [FFELP](#) loans held by multiple lenders, consolidation may be requested from any participating consolidation lender, regardless of whether the consolidating lender is a [holder](#) of any of the borrower's loans. This is effective for consolidation loan applications received by the lender on or after July 1, 2000, unless implemented earlier by the lender.

*Deferment:* In-school deferments are not bound to the 6-month backdating rule that applies to other types of deferment. The lender must grant an in-school deferment for each eligible period of enrollment and may bill the [Department](#) for [interest benefits](#) on a subsidized Stafford loan, regardless of the date enrollment began. This change is effective for in-school deferments granted on or after July 1, 2000, unless implemented earlier by the lender. Lenders may implement this provision earlier than the regulatory effective date (but not before October 29, 1999, date of the regulatory change published in the [Federal Register](#)) to maximize the benefit to [FFELP](#) borrowers.

A lender must use any information certified by the school indicating that the borrower is enrolled at least half time in determining the eligibility of a borrower for an in-school [deferment](#). If a lender grants an in-school deferment based on other information certified by the school and the borrower did not request the deferment, the lender must notify the borrower of the in-school deferment. The notification must advise the borrower of the option to pay the interest that accrues on an [unsubsidized loan](#), the option to cancel the deferment and continue paying on the loan, and the consequences of these options. This is effective for in-school deferments granted on or after July 1, 2000, unless implemented earlier by the lender.

A lender may grant an unemployment deferment to a borrower who requests an unemployment deferment and provides to the lender evidence of the borrower's eligibility to receive unemployment benefits. In this case, the borrower need not provide the lender with the common

deferment form or other additional information or documentation. This is effective for unemployment deferments granted on or after July 1, 2000, unless implemented earlier by the lender.

For unemployment deferments, a reference to the [Freely Associated States](#) has been added and the reference to the Trust Territory of the Pacific Islands has been deleted, when referring to borrowers residing in and seeking employment in a "state". The Freely Associated States are the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. This is effective for deferments granted on or after July 1, 2000, unless implemented earlier by the lender.

*Disbursement rules:* A school must cease certifying loans based on exemptions to the [multiple disbursement](#) and [delayed delivery](#) requirements no later than 30 days after receiving notice from the Department of a [FFELP cohort default rate](#), [FDLP cohort default rate](#), or [dual program cohort default rate](#) that causes the school to no longer meet the necessary qualifications for these exemptions. In addition, eligible foreign schools are exempt from the requirement to delay delivery of funds to first-year undergraduate students who are first-time borrowers. These changes are effective for loans certified on or after July 1, 2000, by schools that have received notice from the Department that a cohort default rate causes the school to no longer meet the necessary qualifications.

If requested by the school, a lender may make disbursements after a [disbursement](#) has been returned, unless the lender or school has information that the student is no longer enrolled. This change is effective for school requests for disbursements received by the lender on or after July 1, 2000.

#### *Disclosure requirements:*

- Student Consumer Information – The school must provide consumer information on an annual basis and prior to a student enrolling in or entering into any financial obligation with the school. Information may be provided on an Internet website accessible to the general public. However, an Intranet website, which is accessible only to persons within the school, may not be used to provide information to prospective students. When providing the required information for student athletes, schools should follow the requirements of [34 CFR 668.48](#). Information provided to these students must also be provided by report to the [Department](#) by July 1 each year. A school's student consumer information must include a description of student rights and responsibilities specifically addressing



financial assistance under the [Title IV](#) programs. Information that schools furnish regarding provisions for [cancellation](#), [deferment](#), or forgiveness of [FFELP](#) loans must now also indicate the availability of deferment for service in the Peace Corps, service under the [Domestic Volunteer Service Act of 1973](#), or comparable volunteer service for a tax-exempt organization. These changes are effective for consumer information provided by the school on or after July 1, 2000.

- Repayment information – At or before the first [disbursement](#) of a Stafford or PLUS loan, the lender must provide the borrower, in a written or electronic format, the following information (in addition to that already required):
  - Information on the availability of income-sensitive repayment. The lender must provide, together or separately, all of the following:
    - A statement that the borrower is eligible for [income-sensitive repayment](#), including through loan consolidation.
    - Procedures by which the borrower may choose income-sensitive repayment.
    - Where and how the borrower may obtain more information on income-sensitive repayment.

The lender meets the preceding disclosure requirement by providing the borrower with the promissory note and associated materials approved by [the Department](#).

These changes are effective for initial disclosure notifications issued by the lender to the borrower on or after July 1, 2000.

A lender may rely on the PLUS promissory note and associated materials approved by the Department to satisfy the requirement to provide the borrower with sample projections of monthly repayment amounts assuming different levels of borrowing and [interest](#) accruals. This change is effective for repayment disclosures issued by the lender on or after July 1, 2000.

A lender must provide to borrowers, at the time repayment options are offered, a telephone number accessible at no cost to the borrower from within the U.S. from which the borrower can obtain additional loan information. A lender may disclose its own toll-

free number or an alternative number (for example, a lender may offer a toll number at which the borrower can call collect; or with the permission of the guarantor, arrange to provide the guarantor's toll-free number). This change is effective for repayment disclosures issued by the lender on or after July 1, 2000.

A lender must offer *all* borrowers the choice of a [standard](#), income-sensitive, [graduated](#), or, if applicable, an [extended repayment schedule](#). In addition, the lender must inform the borrower through repayment notification that he or she is eligible for income-sensitive repayment (including through loan consolidation), the procedures by which the borrower can choose income-sensitive repayment, and where and how more information on income-sensitive repayment may be obtained. These changes are effective for repayment disclosures issued by the lender on or after July 1, 2000.

*Due diligence:* A lender must complete [endorser due diligence](#) requirements before filing a [default claim](#), rather than during the delinquency period of the loan. This is effective for default claims for which the first day of delinquency on the oldest outstanding due date is on or after July 1, 2000, unless implemented earlier by the guarantor.

The following expanded requirements are effective for [skip tracing](#) initiated by the lender on or after July 1, 2001, unless implemented earlier by the guarantor:

- In performing telephone skip tracing with the [financial aid administrator](#) or other school official, lenders must direct written or telephone contact to the school identified on the most recent school certification or the most recent loan [application](#).
- In performing address skip tracing, lenders must contact the schools in the borrower's loan file. This contact should be with the financial aid administrator or other school official who may reasonably be expected to know the borrower's address.

The period during which a lender must submit a request for [default aversion assistance](#) from a guarantor is defined as the Default Aversion Assistance Request (DAAR) period. This period begins no earlier than the 60th day and ends no later than the 120th day of the borrower's [delinquency](#). If a lender fails to request default aversion during the DAAR period, and the lender later submits a [claim](#) on that loan, the lender is subject to an interest penalty. If the lender fails to file a request by the 330th day, it will not be entitled to receive interest, [interest benefits](#), and [special allowance](#) for



the 270 days immediately preceding the date on which the loan defaulted. After initially submitting a default aversion assistance request, a lender must provide any additional information requested by the guarantor or resubmit any rejected default aversion assistance request. This change is effective for loans for which the first day of delinquency on the oldest outstanding due date is on or after July 1, 2000, unless implemented earlier by the guarantor.

**Due diligence** requirements for lenders are expanded for loans for which the first day of **delinquency** on the oldest outstanding due date is on or after July 1, 2000, unless implemented earlier by the **guarantor**, as follows:

- The lender must continue due diligence efforts, urging the borrower to make the required loan payments between the 181st and 270th days of delinquency (between the 241st and 330th day of delinquency for loans payable in installments less frequent than monthly). Efforts made after the **final demand** letter has been sent must support the final demand, although these efforts are no longer restricted to **diligent efforts** to contact the borrower by telephone.
- The lender must mail the final demand letter when the loan becomes 241 or more days delinquent (301 or more days delinquent for loans payable in installments less frequent than monthly).

In at least one of the collection activities required of lenders under **34 CFR 682.411**, the lender must inform the borrower of the availability of the Department's Student Loan Ombudsman's office. This is effective for loans with a first day of delinquency on the oldest outstanding due date that is on or after July 1, 2000.

**Eligibility – borrower and student:** Students convicted of the possession or sale of an illegal drug may not be eligible for Title IV funds. The Department determines the borrower's eligibility under this subsection based on the student's self-certification on the **Free Application for Federal Student Aid (FAFSA)**. The school is notified of the student's eligibility on the **Institutional Student Information Record (ISIR)**. However, if the financial aid office has conflicting information regarding a drug conviction that affects the student's eligibility, this discrepancy must be resolved. This is effective for student eligibility determinations made for award years beginning on or after July 1, 2000.

A student enrolled in correspondence courses is eligible to receive Title IV assistance only if the correspondence courses are part of a program that leads to an associate, bachelor's, or graduate degree. A student enrolled in a **telecommunications course** at an institution of higher

education is not considered to be enrolled in a correspondence course, if both of the following criteria apply:

- The student is enrolled in a program that leads to a certificate for a program of study of one year or longer, or to an associate, bachelor's, or graduate degree.
- The number of telecommunications and correspondence courses the school offered during its most recently completed **award year** was fewer than 50% of all the courses the school offered during the same year.

These changes are effective for award years beginning on or after July 1, 2000, unless implemented earlier by the school.

**Eligibility – school:** A **branch campus** may apply for participation as a main campus or freestanding institution if the branch campus of an eligible school has been in existence for at least two years following its certification by the Department as a branch campus. This is effective for branch campuses that apply for designation as a main campus or a freestanding institution on or after July 1, 2000, unless implemented earlier by the school.

A school no longer meets the definition of an eligible institution if the percentage of regularly enrolled students who are incarcerated is more than 25%, or if the percentage of regularly enrolled students who do not have a high school diploma or its equivalent is more than 50%. The Department may offer a waiver of the limit on the percentage of incarcerated students if the school is a nonprofit institution that provides 2-year or 4-year educational programs for which it awards an associate or bachelor's degree, or a postsecondary diploma. This is effective for school compliance with the definition of an eligible institution on or after July 1, 2000.

A proprietary school must receive no more than 90% of its revenues from **Title IV** funds. This calculation must be based on the school's most recently completed fiscal year. This is effective for revenues received by proprietary schools for fiscal years beginning on or after July 1, 2000, unless implemented earlier by the school on or after October 7, 1998.

A school may be prohibited from delivering **Title IV** funds to students if a school's Program Participation Agreement (PPA) expires or if a school undergoes a change in ownership resulting in a change of control or when a school changes status as a nonprofit, for-profit, or public school. Provisions regarding the expiration of the school's Program Participation Agreement are effective retroactively to the

implementation of the *Common Manual*. Provisions relating to a change of ownership resulting in a change in control are effective for Program Participation Agreements initiated on or after July 1, 2000, and Provisional Certifications granted by the Department on or after October 29, 1999.

*Entrance counseling:* Schools must include an explanation of the use of the MPN when conducting [entrance counseling](#), and are authorized to use interactive electronic means as a method to conduct entrance counseling. Electronic means must be interactive, which at a minimum require schools to take reasonable steps to ensure that each borrower receives the counseling materials and participates in and completes the counseling. This change is effective for entrance counseling conducted by the school on or after July 1, 2000, unless implemented earlier by the school.

Effective for [entrance counseling](#) conducted by the school on or after July 1, 2000, unless implemented earlier by the school, [the Department](#) stipulates that a school must:

- Explain the use of the Master Promissory Note.
- Emphasize to the student the seriousness and importance of the repayment obligation the student is assuming.
- Describe in forceful terms the likely consequences of [default](#), including adverse credit reports and litigation.
- Except for a student who receives a loan made or originated by the school, the school must emphasize that the student is obligated to repay the full amount of the Stafford loan, even if the student does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student purchased from the school.

In an effort to improve a student's understanding of his or her loan repayment obligation, the Department recommends that the school provide additional information as outlined in [Appendix D of 34 CFR 668](#) and the *Federal Student Aid Handbook* as part of the entrance counseling.

*Exit counseling:* The following are new regulatory requirements for [exit counseling](#) for students who cease half-time attendance on or after July 1, 2000, unless implemented earlier by the school:

- Schools may use audiovisual or interactive electronic means to conduct exit counseling.

- Schools may provide exit counseling materials to study-abroad students by mail.
- Schools may use interactive electronic means for students who withdraw or fail to complete exit counseling.
- Schools are now required to provide the information listed in regulations and in [subsection 4.4.C](#) of the *Common Manual*.
- Schools must inform students with SLS loans that refinancing of SLS loans is available.
- Schools must explain conditions for full [cancellation](#) of the loan, as well as partial cancellation.
- Schools must provide each student with information about the Department's Student Loan Ombudsman's office.
- Schools must explain the use of the [Master Promissory Note](#).
- Schools must take reasonable steps to ensure that the student receives, participates in, and completes exit counseling if it is conducted by interactive electronic means.
- Schools must ensure that the average anticipated monthly repayment amount based on the student's indebtedness is provided to the borrower during exit counseling.

*False certification loan discharge:* When requesting a false certification loan [discharge](#), borrowers are no longer required to certify that a reasonable attempt was made to obtain employment in the occupation for which the program was intended to provide training. This change is effective for false certification loan discharge requests received by the lender on or after July 1, 2000.

*Federal reporting:* If a lender owes [origination fees](#) or lender loan fees, the lender must submit ED Form 799 to [the Department](#) even if the lender is not owed or does not wish to receive [interest benefits](#) or [special allowance](#) payments.

*Forbearance:* A lender may grant an [administrative forbearance](#) to resolve an outstanding [delinquency](#) that precedes an administrative forbearance granted for a natural disaster, and that precedes a [mandatory administrative forbearance](#) granted for military mobilization, local or national emergency, or a designated disaster. This change is effective for disaster-related

administrative forbearance and mandatory administrative forbearance granted for military mobilization, local or national emergency, or a designated disaster area on or after July 1, 2000.

A lender may grant subsequent periods of administrative forbearance, not to exceed 60 days each, if the lender determines that it is warranted in order to collect or process supporting documentation following a borrower's request for a deferment, forbearance, change in repayment plan, or loan consolidation. The lender may grant a new administrative forbearance period for each occurrence. The lender must document the reasons for granting each forbearance of this type in the borrower's loan history. This change is effective for subsequent administrative forbearances granted in order to collect and process supporting documentation following a borrower's request for a deferment, forbearance, change in repayment plan, or loan consolidation on or after July 1, 2000.

*Grace period:* A borrower who is called or ordered to active duty may receive multiple extensions of the [grace period](#) and no single extension may exceed 3 years. A borrower's full grace period is restored at the end of this period. This change is effective for second and subsequent notifications of active duty status received by the lender on or after July 1, 2000.

*Holder:* An eligible lender owning a FFELP loan is the new definition of a "holder." This change is effective July 1, 2000.

*Inducements:* Lenders are authorized to provide assistance to schools comparable to the kinds of assistance provided by the Department to schools under, or in furtherance of, the FDLP. This change is effective for assistance provided by lenders to schools on or after July 1, 2000, unless implemented earlier by the lender.

*Interest payment and capitalization:* For subsidized and unsubsidized Stafford loans first disbursed on or after July 1, 2000, the lender may capitalize [interest](#) only when the loan enters repayment, when a deferment ends, when a [forbearance](#) ends, and when the loan defaults.

*Interest subsidy:* For Federal Consolidation loans made from applications received by lenders on or after November 13, 1997, the portion of the loan that is eligible for interest subsidy is the portion that repaid any subsidized [FFEL](#) or Direct loan. This is effective for Consolidation loan applications received by the lender on or after July 1, 2000, unless implemented earlier by the lender.

*Late disbursement/post-withdrawal disbursement:* A [post-withdrawal disbursement](#) is a [disbursement](#) made to a student who has withdrawn, but who has earned more aid

than has been disbursed. If the student has earned more [Title IV](#) aid than has been disbursed and is otherwise eligible to receive funds, the school must deliver a post-withdrawal disbursement to the student (or parent, in the case of a PLUS loan). No return of funds is required when the student is eligible to receive a post-withdrawal disbursement. The school may credit all or a portion of the post-withdrawal disbursement to the student's account, up to the amount of outstanding charges. To assist schools, [the Department](#) has provided a Post-Withdrawal Disbursement Tracking Sheet.

A post-withdrawal disbursement is different from a [late disbursement](#) in the following ways:

- The school is required to offer an eligible borrower a post-withdrawal disbursement, and if accepted, to deliver the post-withdrawal disbursement.
- The post-withdrawal disbursement must be made from available Title IV grant funds before available loan funds.
- The 90-day period for the school to deliver the post-withdrawal disbursement is calculated from the date of the school's *determination* that the student withdrew rather than from the student's withdrawal date.

If the student is eligible for a post-withdrawal [disbursement](#), it must be offered to the student within 30 days of the date of determination. If any amount of a post-withdrawal disbursement remains after the student's institutional charges are paid, the school must offer that amount to the borrower within 30 days of determining that the student withdrew. The school must provide a written notice to the borrower regarding the funds to be delivered.

*Leave of absence:* Federal regulations effective July 1, 2000, provide for implementation of these changes on or before October 7, 2000. If a school chooses to implement these regulations prior to October 7, 2000, it must implement them in their entirety.

A [leave of absence](#) is an approved leave if the following conditions are met:

- The school has a written policy regarding leaves of absence that is publicized to students and that requires a written, signed, and dated request from the student prior to the leave of absence.
- The student has requested the leave of absence according to the school's policy, and the school has approved the leave.

- The leave of absence does not involve additional charges by the school to the student.
- Upon return, the student is permitted to complete the coursework he or she began prior to the leave of absence.
- The leave of absence does not exceed 180 days in any 12-month period. The 12-month period begins on the first day of the student's leave of absence (or initial leave of absence, if applicable).
- Prior to granting the leave, the school explains to the student the effects that the student's failure to return from a leave of absence may have on repayment of the student's loans, including the depletion of some or all of the student's [grace period](#).
- The student is eligible for a combined subsidized and unsubsidized Stafford loan amount of at least \$200.
- The student is otherwise unable to obtain loans from another eligible lender for the same period of enrollment or is attending a school that has been designated an LLR school.

In any 12-month period, the school should grant no more than one leave of absence to each student, except in the following situations:

- One subsequent leave of absence may be granted if the leave of absence does not exceed 30 days and the school determines that it is necessary due to unforeseen circumstances.
- Subsequent leaves of absence may be granted for jury duty, military reasons, or circumstances covered under the [Family and Medical Leave Act of 1993](#). The school must document the reason for each subsequent leave of absence.

The total number of days of all leaves of absence may never exceed 180 days in any 12-month period.

The [last date of attendance](#) for students who fail to return from an approved leave of absence is based upon whether the school is required to take attendance. For schools required to take attendance, the last date of attendance is the last date of academic attendance reflected in the school's attendance records. For schools not required to take attendance, the last date of attendance is the date the student began the leave of absence.

*Lender of last resort:* A student is entitled to receive Stafford loans under the [Lender of Last Resort \(LLR\) program](#) if the student is eligible to participate in the FFELP and meets all of the following conditions:

- The student qualifies for [interest benefits](#).

In addition, an LLR may offer unsubsidized Stafford loans and PLUS loans through LLR programs to eligible borrowers who have been otherwise unable to obtain those loans from another eligible lender. Within 60 days of receiving a complete request from the borrower for an LLR loan, the [guarantor](#) must respond to the borrower with an approval or denial. If the LLR loan is approved, the guarantor will either serve as the lender or designate an eligible lender to make the LLR loan. This is effective for loan applications received by the LLR on or after July 1, 2000.

*Loan sales and transfers:* A school may request that the lender assign the original or a true and exact copy of the promissory note to the school in those cases where a school repays the entire loan amount for an ineligible borrower. This revision is effective for all loans made using a Master Promissory Note (MPN) for any period of enrollment beginning on or after July 1, 2000, and for any loan certified on or after July 1, 2000, regardless of the loan period begin date.

*Origination fee:* The lender must ensure that origination fees are assessed equally to all Stafford borrowers who reside in a particular state or who attend school in that state. The exception is that the lender may charge a lesser fee to a Stafford borrower who demonstrates "greater financial need" based on any one of the following qualifications:

- The borrower's [expected family contribution \(EFC\)](#), used to determine loan eligibility, is equal to or less than the maximum qualifying EFC for a Federal [Pell Grant](#) at the time the loan is certified.
- The borrower qualifies for a subsidized Stafford loan.
- The borrower meets a comparable standard approved by the Department.

If a lender charges a lesser origination fee to a Stafford borrower who has been determined by the lender to have a "greater financial need," the lender must charge all such borrowers who reside in that state or attend school in that state the same origination fee. In addition, if the lender charges the borrower a lesser origination fee on an unsubsidized Stafford loan, the lender must charge the



borrower the same fee on a subsidized Stafford loan. These changes are effective for fees owed by the lender on or after July 1, 2000.

*Program Participation Agreement:* The following are additional requirements for schools that are completing a [program participation agreement](#):

- A school located in a state not covered by [section 4\(b\) of the National Voter Registration Act](#) (commonly known as the Motor Voter Registration Act) is required to make a good faith effort to mail a voter registration form to each enrolled student who is physically in attendance at the school and to make the forms widely available. This requirement includes elections for a state's governor or other chief executive or for federal office elections.
- A school seeking to participate in the [FFELP](#) for the first time must use a default management plan approved by [the Department](#) for at least the first two years of its participation in the FFELP if the owner of the school owns or owned any other school that had a [cohort default rate](#) greater than 10%.
- A FFELP-participating school undergoing a change of ownership that results in a [change in control](#) may be required to use a default management plan approved by the Department for at least the first two years following the change.

A school must submit a default management plan if it is seeking to re-establish eligibility based on a change in ownership that resulted in a change of control or if the school has a cohort default rate greater than 10%. This is effective for program participation agreements initiated on or after July 1, 2000, and provisional certifications granted by the Department on or after October 29, 1999.

*Record retention:* The list of required documentation that must be retained by the lender has been expanded to include all of the following:

- Documentation of any [Master Promissory Note \(MPN\) Confirmation](#) or [Notification](#) process or processes.
- A copy of the loan application, if a separate application was provided to the lender.
- A copy of the signed [promissory note](#). The original or a true and exact copy of the promissory note must be retained until the loan is paid in full or assigned to the Department.

For loans made under a MPN, these changes are effective upon [disbursement](#). For all other loans, changes apply to the lender's retention of the application and promissory note on or after July 1, 2000.

A lender must retain loan records for a period of not less than:

- 3 years after the date the loan is paid in full by the borrower.
- 5 years after the date the lender receives payment in full from any other source.

When a loan is paid in full by the borrower, the lender must either return the original [promissory note](#) or a true and exact copy of the promissory note to the borrower, or notify the borrower that the loan is paid in full. Revised policy deletes the requirement that any paid-in-full notification to the borrower be made by an alternative procedure acceptable under state law. Revisions regarding [record](#) retention time frames are effective for loan records retained by the lender on or after July 1, 2000. Revisions regarding lender notification that a loan has been paid in full by the borrower are effective for loans paid in full on or after July 1, 2000, unless the lender implements this provision earlier for loans made under an [MPN](#).

Record-keeping requirements for schools are revised as follows:

- A school must retain a copy of the MPN certification, or certification data if submitted electronically.
- A school must retain the [cost of attendance](#), [estimated financial assistance](#), and [expected family contribution](#) (instead of records of the calculations used to determine the loan amount).
- A school must retain a record of any MPN [Confirmation](#) or [Notification](#) process it used.
- The requirement that the school retain the name and address of the lender for each loan certified has been removed.

This change is effective for loan [application](#)/certification-related records maintained for loans certified on or after July 1, 2000, unless implemented earlier by the school as a result of initiating the MPN process.



*Status changes and reporting:* The in-school period end date for students enrolled in correspondence programs is the earliest of:

- The date the student borrower completes the program.
- The date of withdrawal.
- 60 days from the last day for completing the program, as established by the school.

The one-time provision by which a correspondence school was allowed to restore the student's in-school status if the student failed to submit an assignment has been deleted. These changes are effective for in-school period end dates determined by the school on or after July 1, 2000.

Effective for official and unofficial withdrawal determinations made by the school on or after October 7, 2000, unless implemented earlier by the school on or after November 1, 1999, a student who leaves school or fails to return to school as expected is considered to have withdrawn. The school must determine the [withdrawal date](#) and report that date to the lender or [guarantor](#). For the purposes of reporting enrollment status and [deferment](#) information, if a student does not return for the next scheduled term following a summer break or a period of summer bridge deferment (including periods during which classes are offered but attendance is not required), the school must determine the student's withdrawal date within 30 days after the first day of the next scheduled term. For any student for whom the school is required to take attendance, the withdrawal date is the student's last recorded date of academic attendance, as determined by the school from its attendance records. If such a student does not resume attendance by the end of an approved leave of absence at the school, or takes an unapproved leave of absence, the withdrawal date is the student's last recorded date of academic attendance. The school must maintain documentation of the [withdrawal date](#), beginning on the date the school determines that the student withdrew.

A school that is not required to take attendance must describe its withdrawal process to students and designate the persons or offices the student must contact to provide official notification of withdrawal. If the student provides notice of his or her intent to withdraw, the withdrawal date is the earlier of the following:

- The date the student began the school's withdrawal process.

- The date the student provided official notification to the school, in writing or orally, of his or her intent to withdraw.

If the student does not initiate the withdrawal process, the withdrawal date is one of the following:

- The midpoint of the [payment period](#) (or [period of enrollment](#), if applicable).
- The date the student began a [leave of absence](#) if the student fails to return from an approved leave of absence or takes an unapproved leave of absence.
- The school may use certain alternatives to these methods of determining the withdrawal date when a student does not initiate the withdrawal process.

If the student does not provide official notice of his or her intent to withdraw to a school that is not required to take attendance, the school must determine the student's withdrawal date within 30 days after the last day of the earliest of:

- The period of enrollment for which the student has been charged.
- The academic year during which the student withdrew.
- The educational program from which the student withdrew.

The school may allow a student to rescind his or her official notification to withdraw one time if the student signs a written statement that he or she is continuing to participate in academically related activities and intends to complete the payment period or period of enrollment, as applicable. The school must report the withdrawal date to the lender. This date determines the beginning of the student's [grace period](#). A withdrawal date must consist of a month, day, and year.

*Unpaid refund discharge:* If the lender learns that an open school did not pay a required refund, the lender must provide the borrower a discharge request form and an explanation of the qualifications and procedures for obtaining a [discharge](#). The lender must also promptly suspend any collection activities on the loan for at least 60 days or until the lender receives the guarantor's determination, whichever is earlier. To qualify for an unpaid refund discharge, a borrower must complete, certify, and submit to his or her lender or [guarantor](#) a written request and a sworn statement (notarization is not required), made under penalty of perjury. The guarantor may, with the

Department's consent, grant an unpaid refund discharge without a borrower's request if the guarantor determines, based on information in the guarantor's possession, that the borrower qualifies for a discharge. If the lender does not receive the borrower's completed discharge request within 60 days of the date on which the lender sent the request to the borrower, the lender must resume collection activities and grant a [forbearance](#) for the period when collection activities were suspended. Any [interest](#) accrued and not paid during this period may be capitalized. If the lender receives the borrower's unpaid refund discharge request more than 60 days from the date on which the lender sent the request to the borrower, the lender may grant an additional [administrative forbearance](#) on any affected loan. The unpaid refund provisions are effective for completed unpaid refund discharge requests received by the lender or guarantor and unpaid refund allegations received by the school on or after July 1, 2000.

For an unpaid refund discharge request for a closed school, the guarantor is required to purchase an approved discharge request or return the request to the lender within 45 days. For an unpaid refund discharge request for an open school, the guarantor may take up to 120 days to resolve the unpaid refund with the school. The guarantor is required to purchase an approved discharge request or return it to the lender within 45 days from the date the eligibility determination is made. These time frames are effective for unpaid refund discharges granted on or after July 1, 2000, for loans disbursed, in whole or in part, on or after January 1, 1986.

### October 2000

*Consolidation loans:* The following changes apply to Consolidation loans made using the common Consolidation loan forms approved for use by [the Department](#) in October 2000:

- Married couples applying for a spousal consolidation loan no longer need to complete a separate form, but must complete all applicable sections of the common Consolidation loan forms, including those that apply to spousal consolidation.
- The borrower's authorization for the release of information is now included on the [application](#) and [promissory note](#).
- A borrower must certify that he or she does not owe an overpayment on a Pell, SEOG or LEAP Grant and that all loans being consolidated were used to finance the education of the borrower, the borrower's spouse, or the borrower's child.

- Borrowers who wish to add eligible loans to a Consolidation loan must complete and return the *Request to Add Loans* form to the lender so that the lender receives it within 180 days of the date the original Consolidation loan was made. In addition, the lender must disclose new repayment terms to the borrower, if the terms of the borrower's Consolidation loan change due to the addition of loans within the 180-day add-on period.

### October 1, 2000

The Department publishes [Dear Partner Letter GEN-01-06](#), which provides voluntary standards for lenders to use for electronic signatures in electronic student loan transactions. The voluntary standards protect lenders from loss of guarantee, federal interest benefits, and special allowance payments if a loan is determined to be legally unenforceable based solely on the processes used for the electronic signature or related records. If a lender's processes for electronic signatures and related records do not satisfy these standards and a loan is held by a court to be unenforceable based solely on these processes, the Department will determine on a case-by-case basis whether federal benefits will be denied or paid. A lender is not protected from these losses on loans made using electronic signatures in electronic student loan transactions to students attending foreign schools even if the lender complies with these standards. This guidance is effective for FFELP documents signed electronically by the borrower on or after October 1, 2000.

### October 7, 2000

*Eligibility – borrower and student:* In addition to having the option of making satisfactory repayment arrangements with the school, borrowers have the option of making satisfactory repayment arrangements with the Department to resolve an overpayment of \$25 or more in order to be considered eligible for additional Title IV funds.

*Leave of absence:* "Leave of absence" is defined as a status in which the student is considered to be continuously enrolled for Title IV program purposes. Effective for official and unofficial withdrawal determinations made by the school on or after October 7, 2000, unless implemented earlier by the school on or after November 1, 1999.

*Payment period:* For an eligible program that combines a series of modules into a semester, trimester, or quarter and measures progress in credit hours, the payment period includes all of the modules the student was scheduled to attend in the semester, trimester, or quarter beginning with the module that included the student's first day of attendance. Effective for official and unofficial withdrawal

determinations made by the school on or after October 7, 2000, unless implemented earlier by the school on or after November 1, 1999.

*Return of Title IV funds:* Effective for official and unofficial withdrawal determinations made by the school on or after October 7, 2000, unless implemented earlier by the school on or after November 1, 1999:

- If a student dies during the loan period, the school must perform a return of Title IV funds calculation and must return all Title IV funds for which it is responsible. However, the student's estate is not responsible for returning any unearned funds that would be the responsibility of the student to repay.
- If a student is enrolled in a clock-hour program where scheduled hours are used to determine the percentage of aid earned in the return of Title IV funds calculation, then a student does *not* earn 100% of his or her Title IV aid if the percentage of the payment period or period of enrollment completed exceeds 60%.
- The amount of Title IV loan and grant aid earned by the student equals the amount of aid that was delivered to the student plus the amount of aid that could have been disbursed or delivered during the payment period or period of enrollment, multiplied by the calculated percentage of Title IV aid earned. The amount of Title IV loan and grant aid that is unearned and must be returned is equal to the total amount of disbursed Title IV aid minus the amount of Title IV aid that has been earned.
- Institutional charges used in the return of Title IV funds calculations are always the institutional charges that were initially assessed the student for the payment period or period of enrollment, unless the school adjusted the student's institutional charges before the student withdrew (e.g., tuition was adjusted for a change in enrollment status). If the school waives all or some of the tuition and fees for certain students, the waiver of tuition and fees under the return of Title IV funds requirements must be consistent with the required treatment of the waiver for purposes of calculating the student's cost of attendance for Title IV purposes.

A new method of performing withdrawal calculations (replacing the pro rata refund policy), called the "[return of Title IV funds](#)" specifies changes in the granting of leaves of absence, determination of withdrawal dates, and in the order in which funds are to be returned to the [Title IV](#) aid

programs. Federal regulations effective July 1, 2000, provide for implementation of these changes on or before October 7, 2000. If a school chooses to implement these regulations prior to October 7, 2000, it must implement them in their entirety.

A school must return [Title IV](#) program funds for which the school is responsible no later than 30 days after the date on which the school makes the determination that the student has withdrawn, or the "date of determination."

#### • **Calculations**

For each Title IV aid recipient who withdraws, the school must calculate the amount of Title IV assistance the student has earned. This amount is based on the length of time the student was enrolled. The school must return any portion of unearned Title IV funds for which the school is responsible. The school must also advise the student of the amount of unearned Title IV grant aid that he or she must return, if applicable. The student (or parent, in the case of a PLUS loan) must repay any unearned funds that the school was not responsible to return according to the normal terms of the loan. To assist schools, the [Department](#) has provided [Return of Title IV Funds](#) worksheets. The school must provide to enrolled and prospective students a copy of any [refund](#) policy with which the school is required to comply and that addresses the refund of tuition and fees or other refundable costs paid by the student. The written policy must include the requirements and procedures a student should follow to officially withdraw from the school. The school must also provide a summary of the federal requirements for the return of Title IV funds.

#### • **Return Amounts for Title IV Grant and Loan Programs**

If a student has completed more than 60% of the payment period, he or she is considered to have earned 100% of the Title IV grant and loan aid received for the payment period. In this case, no funds need to be returned to the Title IV aid programs. However, if a student withdraws before completing more than 60% of the payment period or period of enrollment, the amount of any Title IV grant and loan aid the student received for the payment period or period of enrollment must be recalculated to reflect the portion of the payment period that he or she completed prior to withdrawal. The unearned Title IV grant and loan aid for the percentage of the payment period not completed must be returned to the applicable Title IV aid programs.

Calculations for the [return of Title IV funds](#) may be based upon the [period of enrollment](#). Schools must consistently use either the [payment period](#) or the period of enrollment as the basis for all calculations for the return of Title IV funds for the following categories of students:

- Students who have attended an educational program from the beginning of the period of enrollment or payment period.
- Students who re-enter the school during a period of enrollment or payment period.
- Students who transfer into the school during a period of enrollment or a payment period.

#### • **Percentage of Title IV Aid Returned**

For programs measured in credit hours, the total number of calendar days the student completed is divided by the total number of calendar days in the payment period or period of enrollment. For programs measured in clock hours, the total number of clock hours the student completed is divided by the total number of clock hours in the payment period or period of enrollment.

The order in which unearned funds must be returned has been changed. Schools must ensure that returned funds are applied to eliminate outstanding balances on loans and grants for the payment period, or period of enrollment, in the following order:

- Unsubsidized Stafford loans
- Subsidized Stafford loans
- Direct Unsubsidized Stafford loans
- Direct Subsidized Stafford loans
- Federal Perkins Loans
- PLUS loans received on behalf of the student
- Direct PLUS loans received on behalf of the student
- Federal [Pell Grants](#)
- Federal SEOG Program aid
- Other Title IV grant or loan assistance

When returning loan funds to the lender, the school should return the net amount that was received from the lender (the gross amount minus the guarantee and [origination fees](#)). The lender will adjust the guarantee and origination fees.

The July 1, 2000, regulations provide that these changes are effective for Title IV recipients who withdraw on or after October 7, 2000, unless implemented earlier by the school on or after November 1, 1999. If a school chooses to implement these regulations prior to October 7, 2000, it must implement them in their entirety.

*Status changes and reporting:* Effective for official and unofficial withdrawal determinations made by the school on or after October 7, 2000, unless implemented earlier by the school on or after November 1, 1999:

- The school must maintain documentation of the withdrawal date as of the date the school determines the student withdrew, and must report the withdrawal date to the lender. This date determines the beginning of the borrower's grace period or repayment period. A withdrawal date must consist of month, day, and year.
- A school must describe its withdrawal process to students, including those actions which constitute the "beginning" of the withdrawal process, and designate one or more offices the student must contact to provide official notification of withdrawal. The school may allow a student to rescind his or her official notification to withdraw if the student signs a written statement that he or she is continuing to participate in academically related activities and intends to complete the payment period or period of enrollment, as applicable. If the student subsequently fails to attend or ceases attendance without completing the payment period or period of enrollment, the student's withdrawal date is the original date of notification of intent to withdraw, unless the school records a later date on which the student participated in an academically related activity.

*Withdrawal:* At a school that is required to record attendance, the withdrawal date for a student who has died is the last date of attendance as determined from the school's attendance records. At a school that is not required to record attendance, the withdrawal date for a student who has died is the date the student died.

#### **November 8, 2000**

*Delivering loan funds:* [Dear Partner Letter \(DPL\) GEN-00-18](#) published November 8, 2000, provides procedures a school should use to ensure that it does not deliver [FFELP](#) loan funds to students who are ineligible due to an unresolved overpayment of [Title IV](#) funds or an unresolved [default](#) on a Title IV loan. In all cases, the school must retain documentation that clearly substantiates its determination that a prior overpayment or default has been



resolved. Documentation that the reporting entity has “no record” of the prior overpayment or default is not considered adequate for the release of FFELP funds. This change is effective for loans certified by the school on or after November 8, 2000.

## December 1, 2000

*Return of Title IV funds:* A school may include funds from a second or subsequent disbursement of FFELP funds as aid that could have been disbursed when completing return of Title IV funds calculations if the school would have been permitted to deliver the funds on or before the date the student withdrew. This provision is effective for return of Title IV funds calculations completed on or after December 1, 2000.

## 2001

### January 1, 2001

*Death discharge:* PLUS loan borrowers, who were not eligible for discharge due to the fact that the student for whom they obtained the PLUS loan died prior to July 23, 1992, are now eligible for [discharge](#). This change is effective for PLUS loan death [claims](#) based on the student’s death occurring prior to July 23, 1992 and filed by the lender within 60 days of determining or redetermining eligibility on or after January 1, 2001, unless implemented earlier by the [guarantor](#).

*Interest payment and capitalization:* A lender may capitalize interest accrued from the date a claim is paid through the date the claim is later repurchased—regardless of whether the lender or guarantor initiated the repurchase. In all cases, the lender must document the reason for capitalization in the borrower’s loan record. This change is effective for repurchase transactions completed on or after January 1, 2001, unless implemented earlier by the guarantor.

### January 5, 2001

*Common forms:* The Common Claim Initiative (CCI) establishes new, standard formats for lenders to use when requesting default aversion assistance and claim reimbursement. To standardize the default aversion assistance request process for lenders, the *Common Manual* guarantors have adopted a common Default Aversion Assistance Request Form and related common policies.

A lender must request default aversion assistance through the Default Aversion Assistance Request Form or an equivalent electronic process, such as the Common Account Maintenance (CAM) reporting process.

A guarantor establishes the date on which it is ready to trade CCI electronic records with its trading partners (i.e., lenders and servicers). This date is referred to as the “G” date. All guarantor “G” dates will be established based on the final publication of the CCI electronic formats, with one “G” date for default aversion assistance and another “G” date for claims. The final “G” date for implementing the Default Aversion Assistance Request Form and its related policies was January 5, 2001.

## May 2001

*Notification – borrower and student:* A school may use electronic means to deliver notices that the school is required to provide to a student and/or parent borrower. Before such notices are sent electronically to a borrower and/or student, the individual must consent to the use of an electronic record in a manner that demonstrates reasonably that the individual is able to access the information to be provided in an electronic form. The borrower’s and/or student’s consent must be voluntary and based on accurate information about the transactions to be completed. These electronic notifications must be sent in accordance with the [Electronic Signatures in Global and National Commerce Act \(P.L. 106-229\)](#).

### June 29, 2001

*Period of enrollment:* The maximum period of enrollment for which the school can certify a loan for a defaulted borrower whose eligibility to borrow FFELP loans has been reinstated during the current academic year is the academic year during which the borrower regained eligibility, unless the borrower is not eligible for other reasons. This provision is effective for loans certified by the school on or after June 29, 2001.

### July 1, 2001

*Claim filing requirements:* Effective for claim documentation submitted by the lender on or after July 1, 2001, the lender must submit either the original promissory note or a copy of the promissory note certified by the lender as “true and exact” rather than the previously required “true and accurate.”

An original or certified copy of the death certificate is the only acceptable proof of death documentation permitted for death claims. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor’s chief executive officer (CEO) may approve a discharge based on other reliable documentation. This change is effective for death claims filed by the lender on or after July 1, 2001, unless implemented earlier by the guarantor.



*Cohort default rates:* Substantive regulatory and policy changes effective for cohort default rates calculated on or after July 1, 2001, are as follows:

- A school will lose eligibility to participate in the FFELP and the FDLP 30 days after receiving notice that its official cohort default rate for the most recent fiscal year exceeds 40%, unless the school appeals or requests an adjustment to that rate. The loss of eligibility is applicable to the remainder of the fiscal year in which the notice is received and the next 2 fiscal years.
- A school will lose eligibility to participate in the FFELP, the FDLP, and the Federal Pell Grant Program 30 days after receiving notice that its three most recent official cohort default rates equal or exceed 25%, unless the school appeals or requests an adjustment to that rate. The loss of eligibility is applicable to the remainder of the fiscal year in which the notice is received and the next 2 fiscal years.
- Any school may appeal its most recent cohort default rate based on improper servicing and collection. A school subject to an initial loss of eligibility may appeal any cohort default rate upon which the loss of eligibility is based. A school subject to an extended loss of eligibility may appeal only its most recent official cohort default rate.
- A school subject to provisional certification may appeal its cohort default rate using the erroneous data appeal.
- The calculation of the Participation Rate Index (PRI) challenge or appeal has been expanded to address schools with a single cohort default rate over 40%. A school that is subject to a loss of FFELP eligibility may use the PRI appeal based on either of the following conditions:
  - The school has one cohort default rate over 40% and the PRI for that cohort’s fiscal year is less than or equal to 0.06015.
  - The school has three consecutive cohort default rates of 25% or more and the PRI for any one of the three cohorts’ fiscal years is less than or equal to 0.0375.
- A school remains accountable for the consequences of a high official cohort default rate after its merger with or acquisition of another school, or after a branch campus becomes a separate, freestanding school.
- Any school that merges with or acquires another school and that is otherwise eligible to participate in the FFELP loses FFELP eligibility based on a single official cohort default rate greater than 40% or equal to or greater than 25% for each of its three most recent official cohort rates if all of the following criteria apply:
  - Both schools are parties to a transaction that results in a change in structure or identity.
  - The FFELP-eligible school offers an educational program at substantially the same address as that at which the FFELP-ineligible school offered programs before the change in structure or identity.
  - There is a commonality of ownership or management between the two schools.
- A school subject to a loss of eligibility due to a single cohort default rate exceeding 40% may submit an “average rate appeal” if at least two of the school’s three most recent cohort default rates of 25% or more are calculated at an average rate, and at least two of those rates would be less than 25% if calculated for the applicable fiscal year alone.
- All references to “days” in cohort default rate regulations are changed to refer to calendar days. Previously, various time frames and deadlines carried their own specific definition of days, sometimes “business days” and sometimes “calendar days.”
- All references to the “weighted average cohort default rate” have been changed to the “dual-program cohort default rate,” as the latter term is the one used by the Department in its publications.
- References to the Department’s *Draft Cohort Default Rate Guide* and *Official Cohort Default Rate Guide* are replaced with a reference to the *Cohort Default Rate Guide*. It is the Department’s intention to consolidate both the draft and official information into a single publication that will be updated annually.

*Deferment:* Documentation requirements are made more flexible for a borrower who wants to continue an unemployment deferment based on his or her search for employment following the initial period of deferment. The information provided showing that the borrower made at least six diligent attempts to secure full-time employment during the prior 6-month period must be acceptable to the lender and may include the employer's name, address, telephone number, and electronic addresses. This flexibility applies to unemployment deferments granted on or after July 1, 2001.

Lenders must use evidence of the borrower's "monthly income," rather than "total monthly gross income," when determining a borrower's eligibility for an economic hardship deferment. "Monthly income" is defined as the gross amount of income received by the borrower from employment and other sources, or one-twelfth of the borrower's adjusted gross income, as recorded on the borrower's most recently filed federal income tax return. There is no longer a difference in required documentation for an initial and a subsequent economic hardship deferment. Any retroactive period of economic hardship granted under this revised policy must include July 1, 2000, or a later date. This deferment may be granted for periods of up to 1 year at a time and may be renewed for a total that, collectively, does not exceed 3 years. For a borrower who is serving as a volunteer in the Peace Corps, the deferment may be granted for the lesser of the borrower's full term of service or the borrower's remaining period of economic hardship deferment eligibility under the 3-year maximum. In all cases, the lender must ensure that the borrower's required documentation supports the begin date of the economic hardship period. This change is effective for economic hardship deferments granted by the lender on or after July 1, 2001.

The 6-month backdating restrictions are removed from all deferments except the initial unemployment deferment. An initial unemployment deferment based on a borrower's self-certification may not begin more than 6 months before the date the lender receives a request and documentation required for the deferment. Any extension of an existing unemployment deferment or an unemployment deferment that is based on evidence of the borrower's eligibility for unemployment benefits is not subject to the 6-month backdating restriction. For all deferment types, other than an in-school deferment, elimination of the 6-month backdating restriction is only applicable for deferments granted on or after July 1, 2001, for any period of deferment that includes July 1, 2001, or a later date.

*Delivering loan funds:* The prescriptive process that required a school to confirm a borrower's eligibility prior to delivering each disbursement is removed. The revised

policy clarifies that a school may deliver the proceeds of any loan disbursement only if it determines that the student has maintained continuous eligibility for the loan period certified by the school. This change is effective July 1, 2001.

A school may not deliver Stafford or PLUS loan proceeds to a student or parent of a student who previously attended another eligible school until the school determines, from information obtained from the National Student Loan Data System (NSLDS) or its successor system, that the student meets eligibility requirements pertaining to his or her financial aid history. For a student who transfers from one school to another during the same award year (i.e., a current-year transfer student), the school the student is attending must request or access through the NSLDS updated information about that student in order to determine the student's eligibility for Stafford or PLUS loan proceeds. The school must wait for 7 days following a request to the NSLDS before delivering Stafford or PLUS loan proceeds. However, if, before the end of 7 days, the school receives the information from the NSLDS in response to its request or obtains that information itself by directly accessing the NSLDS, the school may deliver the loan proceeds as long as the student is otherwise eligible. Schools may no longer delay delivery of loan proceeds by 45 days while waiting for paper financial aid transcripts to arrive. These changes are applicable to Stafford and PLUS loan funds delivered by the school on or after July 1, 2001.

A school with a program measuring academic progress in credit hours, but not using a standard semester, trimester, or quarter system, may deliver loan proceeds in each term as long as the terms are substantially equal in length throughout the loan period. Terms within a loan period will be considered substantially equal in length if no term in the loan period is more than two weeks longer than any other term in the loan period. This requirement applies to Stafford and PLUS loan funds delivered by the school on or after July 1, 2001.

*Disability discharge (total and permanent):* A borrower who has had a prior loan discharged due to total and permanent disability on or after July 1, 2001, but before July 1, 2002, must reaffirm the discharged loan if the borrower *applies* for a loan within 3 years from the date the borrower became totally and permanently disabled, as certified by a physician. In this case, the borrower must reaffirm the previously discharged loan before receiving any new Stafford or PLUS loan. This provision is effective for Stafford and PLUS loan eligibility determinations made on or after July 1, 2001.

A borrower who has had a prior loan discharged due to total and permanent disability must meet the following requirements to be eligible to receive a new Stafford or PLUS loan:

- Obtain a physician's statement certifying that the borrower may now engage in "substantial gainful activity."
- Sign a statement acknowledging that any new loan the borrower receives may not be discharged due to the same or any disability existing at the time the new loan is made, unless the disabling condition substantially deteriorates to the extent that the definition of total and permanent disability is met.
- Reaffirm any loan that had been discharged due to total and permanent disability on or after July 1, 2001, but before July 1, 2002, if the borrower receives a new loan within three years of the date the borrower became totally and permanently disabled, as certified by a physician. (A borrower who has had a prior loan discharged due to total and permanent disability before July 1, 2001, is *not* required to reaffirm the discharged obligation.)

This change is effective for Stafford and PLUS loan eligibility determinations made on or after July 1, 2001.

A new definition of a total and permanent disability for the purpose of obtaining a loan discharge provides that the certifying physician (i.e., a doctor of medicine or osteopathy, legally authorized to practice in a state) is not required to consider the borrower's ability to attend school as a condition of his or her eligibility for discharge. In addition, the physician is no longer required to consider the date the borrower became unable to attend school when providing the begin date of the borrower's total and permanent disability. This change is effective for total and permanent disability claims filed by the lender on or after July 1, 2001.

*Due diligence:* Lenders must notify the guarantor of any changes in delinquency status on a loan that result in a change to the payment due date, even if the delinquency is not reduced below the point at which the guarantor requires the lender to cancel a request for default aversion assistance. This change is effective for default aversion assistance requests filed by the lender on or after July 1, 2001, or the date the guarantor implements the Common Claim Initiative (CCI), whichever is later, unless implemented earlier by the guarantor.

*Eligibility – school:* To participate in any Title IV program, a school must establish its eligibility under the Higher Education Act of 1965, as amended, in accordance with the procedures specified by the Department. A school must submit an Application for Approval to Participate in the Federal Student Financial Aid Programs (E-App) to the Department to request a determination that it qualifies as an eligible institution and must include a request for certification to participate in the FFELP. To be certified for participation, a school must meet the qualifications of an eligible institution; the school must meet administrative capability and financial responsibility requirements; and if the school is participating for the first time in Title IV programs, and it has not requested and been granted a training waiver, designated school administrators defined by the Department must complete Title IV training within 12 months after the school executes the Program Participation Agreement. A school that is currently participating in some Title IV programs is not required to have certification training if it is only requesting approval to participate in additional Title IV programs. This clarification is effective for schools establishing eligibility on or after July 1, 2001.

A school that adds a licensed and accredited location that offers at least 50% of an educational program must report to the Department before delivering Title IV funds to eligible students attending the added location. In addition, after reporting, a school must have approval from the Department before it can deliver Title IV funds to eligible students attending the added location if it meets any of the following criteria:

- The school is provisionally certified.
- The school is on the reimbursement or cash monitoring system of payment.
- The school has acquired the assets of another school that provided educational programs at that location during the preceding year, and the other school participated in Title IV programs during that year.
- The school would be subject to a loss of eligibility due to its cohort default rate if it adds the location.
- The school has been notified by the Department that it must apply for approval of an additional location.

This change is effective for school locations added on or after July 1, 2001.

A school must apply to the Department and wait for approval to convert an eligible location to a branch campus. The school may continue to deliver Title IV funds to students attending that location. This change is applicable to schools that convert an eligible location to a branch campus on or after July 1, 2001.

A school must apply to the Department to increase the level of program offering (e.g., offering graduate degree programs when it previously offered only baccalaureate degree programs) and obtain approval before delivering Title IV funds to students enrolled in the new programs at the increased level. This change is effective for schools increasing the level of program offering on or after July 1, 2001.

A school may enter into a single written agreement with a study-abroad organization representing one or more foreign schools rather than a separate agreement with each individual foreign school that its students attend. This clarification is effective for written agreements consummated by schools on or after July 1, 2001, or implemented at the school's discretion on or after November 1, 2000.

Private nonprofit, private for-profit, and public schools that experience a change of ownership resulting in a change of control and schools that change status as nonprofit, for-profit, or public schools may continue eligibility by submitting an E-App to the Department. In response to a school's application, the Department may approve a provisional Program Participation Agreement (PPA) (previously referred to as a TPPPA). To obtain an extension of the provisional PPA prior to its expiration, the school must provide to the Department a "same day" balance sheet, required documentation of accrediting agency and state licensing approval, and a default management plan (unless the school is exempt from providing the plan). This change is applicable to private nonprofit, private for-profit, or public schools that experience a change of ownership resulting in a change of control or to schools that change status as nonprofit, for-profit, or public schools on or after July 1, 2001, unless implemented earlier.

A change in governance for a public school is not considered to be a change of ownership that results in a change in control if the school remains a public school after the change and the new governing authority is in the same state and has acknowledged the school's continued responsibilities under its Program Participation Agreement (PPA). A public school must, within 10 days of a change in governance, report the change to the Department and each applicable guarantor. This change is applicable to a school's reporting of changes for the purpose of maintaining eligibility on or after July 1, 2001.

School reporting requirements for the purpose of maintaining eligibility on or after July 1, 2001, include the reporting of decreases in levels of program offering and changes in the governance of a public school. Periods of time counted toward a "week of instruction" may include only preparation for final examination occurring after the last scheduled day of classes for a payment period. In addition, homework has been added to the list of activities that are not considered as instructional time. This change applies to a "week of instruction" as determined by the school for purposes of establishing or maintaining school program eligibility on or after July 1, 2001.

*False certification loan discharge:* The guarantor or Department may initiate a false certification discharge process if either possesses knowledge of false certification eligibility. If the guarantor or Department initiates the discharge process, the borrower may not be required to complete, and the lender may not be required to submit, a discharge request. This clarification is effective for discharge eligibility determined by the guarantor or Department on or after July 1, 2001, unless implemented earlier by the guarantor.

*Financial aid transcript (FAT):* Schools are no longer required to respond to a paper financial aid transcript request for a prior-year or current-year transfer student, unless it is a request to report assistance that a student has received through the Department of Health and Human Services. The elimination of paper financial aid transcripts is effective for requests received by the school on or after July 1, 2001.

*Forbearance:* A lender must grant a mandatory forbearance annually, at the borrower's request, while the borrower maintains eligibility for loan forgiveness under the Teacher Loan Forgiveness Program. The lender must also grant a forbearance for a period not to exceed 60 days while the lender is awaiting a completed Teacher Loan Forgiveness Application from the borrower. In addition, after receiving the application, the lender must grant a forbearance to cover the period needed by the guarantor to determine the borrower's eligibility for forgiveness. The forbearance begins on the date the lender receives the completed Teacher Loan Forgiveness Application and ends on the date the lender receives a denial of the request or the loan forgiveness amount from the guarantor. This change applies to forbearance requests granted by the lender on or after July 1, 2001, unless implemented earlier by the guarantor.

*Interest rates:* Beginning July 1, 2001, the variable interest rate for PLUS and SLS loans first disbursed during the period beginning July 1, 1987, and ending June 30, 1998, will be adjusted annually on July 1, and calculated by adding 3.1% or 3.25%, as applicable, to the weekly average

one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26 of that year.

*Late disbursement/post-withdrawal disbursement:* A lender, when knowingly making a late disbursement on or after July 1, 2001, is no longer required to provide a notice to the school indicating that the loan proceeds should be delivered as a late disbursement.

*Loan guarantee:* Guarantors will pay ineligible borrower claims at 98% rather than 100%. This change is effective for ineligible borrower claims received by the guarantor on or after July 1, 2001, unless implemented earlier by the guarantor.

*Notification to borrower and student:* A school that credits a student's school account with Stafford or PLUS loan proceeds and sends the student or parent borrower the required notification electronically, must also confirm receipt of the electronic notification by the student or parent borrower and maintain documentation of that confirmation. This requirement applies to electronic notifications sent by the school on or after July 1, 2001.

*PLUS credit check:* In those cases in which a lender approves a PLUS loan for an applicant with an adverse credit history, the lender must retain a record supporting its decision based on extenuating circumstances. This requirement is effective for PLUS loans made on or after July 1, 2001, unless implemented earlier by the lender.

*Teacher Loan Forgiveness:* The new Teacher Loan Forgiveness Program requirements replace prior references and requirements related to the Loan Forgiveness Program for Teachers. Under the Teacher Loan Forgiveness Program, the Department repays all or a portion of a borrower's Stafford loan obligations, and Consolidation loan obligations to the extent that a Consolidation loan repaid a borrower's Stafford loans. The Department will repay, on behalf of a qualified borrower, no more than a combined total of \$5,000 under both the FFELP and FDLP for outstanding principal and accrued interest on his or her qualifying Stafford loans, or the outstanding portion of a Consolidation loan used to repay qualifying Stafford loans, at the end of the 5th complete year of teaching. The loan for which forgiveness is sought must have been made before the end of the 5th year of qualifying teaching service. After completing the qualifying teaching service, a borrower may request loan forgiveness by completing a Teacher Loan Forgiveness Application and forwarding it to the lender or guarantor. The lender must forward the borrower's completed application, including any supporting documentation, to the guarantor no later than 60 days after

the lender received the application. After the guarantor notifies the lender of its determination of the borrower's eligibility for loan forgiveness, the lender must inform the borrower of the determination within 30 days. If loan forgiveness is granted and a loan balance remains, the lender must also provide the borrower with information regarding new repayment terms. If the lender files a request for payment later than 60 days after it receives the completed Teacher Loan Forgiveness Application, the lender must repay all interest and special allowance received on the forgiven loan amount for periods after the expiration of the 60-day filing period. The lender is prohibited from collecting this interest from the borrower. These provisions are effective for Teacher Loan Forgiveness Applications received by the lender on or after July 1, 2001, from a "new borrower" on or after October 1, 1998, who has been employed as a full-time teacher for 5 consecutive, complete years, as long as one of the years is after the 1997-1998 academic year— unless implemented earlier by the guarantor.

*Unpaid refund discharge:* If the guarantor and the borrower are unable to resolve an unpaid refund with an open school and the borrower has ceased to attend the school that owes the refund, the guarantor must approve the request within 120 days of the date the guarantor receives the completed unpaid refund discharge request, rather than 120 days from the date the borrower submits the request. This provision is effective for completed unpaid refund discharge requests received by the guarantor on or after July 1, 2001.

To be considered for an unpaid refund discharge, a borrower must declare that he or she, or the student in the case of a PLUS loan, received at least part of the proceeds of a FFELP loan on or after January 1, 1986. This provision is effective for completed unpaid refund discharge requests received by the guarantor on or after July 1, 2001.

### July 27, 2001

*Child-care provider loan forgiveness:* A borrower may qualify for mandatory forbearance by performing service under the Loan Forgiveness Demonstration Program for Child Care Providers. A lender must grant forbearance to a borrower who is performing a service that would qualify the borrower for forgiveness under the Loan Forgiveness Demonstration Program for Child Care Providers, unless the borrower has been granted a deferment for the service period. Before granting this forbearance to a borrower, the lender must receive a completed FFELP Child Care Provider Loan Forgiveness Forbearance Form. This change is effective on child care provider loan forgiveness forbearances granted by a lender to initial applicants on or after July 27, 2001, and to renewal applicants on or after August 29, 2002.



August 21, 2001

*Forbearance:* After a lender receives reliable but unofficial notification of a borrower’s or dependent student’s death, the lender must grant a mandatory administrative forbearance, for a period not to exceed 60 days, until the lender receives documentation of the death. This forbearance does not require a written request nor is the lender required to notify the borrower or endorser that a mandatory administrative forbearance was granted. The lender may grant an administrative forbearance for up to an additional 60 days if more time is needed to obtain this documentation. This additional forbearance does not require a written request, but the lender is required to send notice to the borrower or endorser that the additional period of administrative forbearance was granted. This provision is effective for reliable but unofficial notifications of a borrower’s or, in the case of a PLUS loan, the borrower’s or dependent student’s death received by the lender on or after August 21, 2001.

2002

January 1, 2002

*Bankruptcy:* If a bankruptcy action does not require the filing of a claim with the guarantor, the lender may—but is not required to—make subsequent disbursements of a loan. If the lender chooses not to make the remaining disbursements, the lender must notify the school, the borrower, and the guarantor of the disbursement cancellations. The lender also must notify the borrower that he or she may reapply for the loan funds in the same amount that was not disbursed. If the lender cancels any of the undisbursed or undelivered funds because of a bankruptcy action, the lender must agree to make a new loan for the amount that was canceled or any remaining loan eligibility as determined by the school. This clarification is effective for bankruptcy notices received by the lender on or after January 1, 2002, unless implemented earlier by the guarantor.

*Common forms:* The common Consolidation loan forms, issued by the Department in October 2000 in [GEN-00-16](#), are required for all Consolidation loan applications signed by borrowers on or after January 1, 2002.

The Common Claim Initiative (CCI) establishes new, standard formats for lenders to use when requesting default aversion assistance and claim reimbursement. To standardize the claim filing process for lenders, the *Common Manual* guarantors have adopted a common Claim Form and related common policies. The Claim Form is designed to permit a lender to file a claim reimbursement

request in a single format with any guarantor, and to improve operational efficiencies for lenders and servicers that have relationships with more than one guarantor.

A guarantor establishes the date on which it is ready to trade CCI electronic records with its trading partners (i.e., lenders and servicers). This date is referred to as the “G” date. All guarantor “G” dates will be established based on the final publication of the CCI electronic formats, with one “G” date for default aversion assistance and another “G” date for claims. The final “G” date for implementing the Default Aversion Assistance Request Form and its related policies was January 5, 2001.

Regarding the Claim Form and its related policies, the earliest “G” date that a guarantor may establish is six months after the final release of the CCI claim documentation. All CCI trading partners (i.e., lenders, servicers, and guarantors) will be provided a window of nine months from each guarantor’s “G” date to start reporting data using the CCI electronic format. Therefore, the claim effective date will be the guarantor’s “G” date plus nine months.

July 1, 2001	Claim documentation released
January 1, 2002	Earliest guarantor “G” date
September 30, 2002	Earliest required implementation date
September 30, 2002	Latest guarantor “G” date
June 30, 2003	Latest required implementation date

*Repayment terms:* “New borrowers” on or after October 7, 1998, may qualify for an extended repayment schedule if they have multiple lenders and more than \$30,000 in outstanding principal and interest in FFELP loans. A lender must retain a record of the basis for determining a borrower’s eligibility for an extended repayment schedule, if the total loan amount it holds is not more than \$30,000. This change is effective for extended repayment schedules disclosed on or after January 1, 2002.

January 2, 2002

*NSLDS:* The Department of Education updated the National Student Loan Data System (NSLDS) Enrollment Reporting process effective January 2, 2002, to enhance both the batch process of enrollment records and the [NSLDS/FAP Web site](#) for financial aid professionals. The Department also renamed the former *SSCR Users Guide* the *NSLDS Enrollment Reporting Guide*.

**April 1, 2002**

*NSLDS*: The National Student Loan Data System (NSLDS) no longer requires a school to report directly to the NSLDS any changes to student identifiers including a student's name, date of birth, and Social Security number (SSN). Instead, the school must report these changes to the guarantor. This change is effective for student identifier changes received on or after April 1, 2002.

**July 1, 2002**

The Department issues [Dear Colleague Letter GEN-02-03](#), which provides clarification regarding the implementation of the total and permanent disability discharge regulations that are effective July 1, 2002.

*Bankruptcy*: A bankruptcy claim and proof of claim, if applicable, must be filed with all required documents within 30 days after the lender's receipt of the Notice of the First Meeting of Creditors or other confirmation issued by the debtor's attorney or the bankruptcy court, or within 30 days after the date the guarantor provides the lender with bankruptcy information and instructs the lender to file a bankruptcy claim, whichever is earlier. This provision is effective for bankruptcy notifications received by the lender on or after July 1, 2002, unless implemented earlier by the guarantor.

If the guarantor purchases a default claim and later receives documentation that the date of the bankruptcy petition preceded the date of the default (the 270th day of delinquency), the lender will be required to repurchase the loan unless the loan is determined by the court to be dischargeable in the bankruptcy action. The lender is not required to repurchase a claim for a loan that is filed as a default claim and the date of default precedes the petition date. This policy is effective for bankruptcy petitions received by the guarantor on or after July 1, 2002, unless implemented earlier by the guarantor.

If a borrower's bankruptcy action will not result in the lender filing a claim with the guarantor and the lender chooses to make subsequent disbursements of the loan, then the lender must not ask the school to return any loan funds not yet delivered by the school to the borrower. This provision is effective for bankruptcy notices received by the lender on or after July 1, 2002, unless implemented earlier by the guarantor.

*Common Forms*: The Common Claim Initiative (CCI) establishes new, standard formats for lenders to use when requesting default aversion assistance and claim reimbursement. To standardize the supplemental claim

filing process for lenders, the *Common Manual* guarantors have adopted a common Supplemental Claim Form and the following related common policies:

- The lender may not file a supplemental claim for less than \$50. This amount may include principal, interest, or both.
- The lender must submit the common Supplemental Claim Form to request claim payment increases.

This policy is effective for supplemental claim requests filed by the lender on or after July 1, 2002, unless implemented earlier by the guarantor.

The National Council of Higher Education Loan Programs (NCHELP) Program Operations Committee's Default Aversion and Claims Standardization (DACS) Workgroup has revised the Supplemental Claim Form to coordinate the language with the terminology of the other CCI forms. For lenders filing supplemental claims under the CCI, the chart of data elements has been revised to coordinate with the revisions made to the Supplemental Claim Form. In addition, the requirement that a lender provide the date the lender or servicer prepared the form has been deleted. The revisions are effective for supplemental claims filed under the CCI by the lender on or after July 1, 2002.

*Disability discharge (total and permanent)*: Effective for total and permanent disability discharge determinations made by the lender on or after July 1, 2002:

- **General Discharge Requirements for Total and Permanent Disability Claims**

A borrower's obligation to repay a loan may be discharged if a doctor of medicine or osteopathy, legally authorized to practice in a state, certifies that the borrower is totally and permanently disabled, but does not assume the loan is canceled in this case. In addition, the criteria for establishing the borrower's eligibility for discharge provide that the borrower is not considered totally and permanently disabled on the basis of a condition that existed at the time the loan was made, rather than before he or she applied for the loan.

- **Borrower Notification Requirements after Total and Permanent Disability Claim Filing**

If the guarantor pays the claim, the lender must notify the borrower that the loan will be assigned to the Department for determination of eligibility for a total and permanent disability discharge. If the guarantor determines that the borrower is not eligible, the claim

will be returned to the lender with an explanation of the reason for the denial. The lender must notify the borrower that the application for a disability discharge has been denied. The notification to the borrower must include the basis for the denial and inform the borrower that the lender will resume collection on the loan.

• **Borrower Payments and the Conditional Disability Discharge**

At the time the claim is filed, the lender must provide the guarantor with a record of any payments received after the date, certified by the physician, that the borrower became unable to work and earn money (i.e., the date of total and permanent disability). Under the new regulatory requirements, the borrower will not be eligible for a refund of these payments until after the 3-year “conditional” discharge period. In addition, the Department of Education, rather than the lender or guarantor, will make this refund.

Completed total and permanent disability discharge requests received by the lender on or after July 1, 2002, and subsequently paid as a claim by the guarantor, are permanently assigned to the Department. If the Department determines that the certification and information provided by the borrower do not support the conclusion that the borrower meets the criteria for a total and permanent disability discharge, the Department notifies the borrower that the application for a disability discharge has been denied and that the loan is due and payable under the terms of the promissory note.

If the Department makes an initial determination that the borrower is totally and permanently disabled, the Department notifies the borrower that the loan is conditionally discharged and that the conditional discharge period will last for up to 3 years after the date the borrower became totally and permanently disabled, as certified by the physician. The Department’s notification specifies that all or part of the 3-year period may predate the Department’s initial determination, and identifies the following conditions that apply during the 3-year conditional discharge period:

- The borrower is not required to make any payments on the loan.
- The borrower is not considered delinquent or in default on the loan, unless the borrower was delinquent or in default at the time the conditional discharge was granted.

- The borrower must promptly notify the Department of any changes in address or phone number.
- The borrower must promptly notify the Department if his or her annual earnings from employment exceed 100 percent of the poverty line for a family of two.
- The borrower must provide the Department, upon request, with additional documentation or information related to the borrower’s eligibility for a total and permanent disability discharge.
- The borrower must not receive a new loan under the Perkins, FFEL, or Direct Loan Programs, except for a FFELP or Direct Consolidation loan that does not include any loans that are in a conditional discharge status.

The Department also notifies the borrower that, if at any time during the 3-year conditional discharge period, the borrower does not continue to meet the eligibility requirements for a total and permanent disability discharge, the Department will resume collection activity on the loan but will not require the borrower to pay any interest that accrued on the loan from the date of the initial determination of total and permanent disability through the end of the conditional discharge period.

*Due diligence:* If a lender determines that a borrower does not meet the definition of totally and permanently disabled, or if a lender does not receive the physician’s certification of total and permanent disability within 60 days of the receipt of the physician’s written request for additional time, the lender must resume collection activity and treat the loan as though forbearance had been granted during this period. This policy is effective for total and permanent disability discharge requests received by the lender on or after July 1, 2002.

*Forbearance:* Guarantors will continue to permit a lender to grant an administrative forbearance if the lender receives reliable information indicating that a borrower has become totally and permanently disabled. The lender may grant the borrower an administrative forbearance, not to exceed 60 days, until the lender receives certification of the borrower’s total and permanent disability. In addition, if the lender does not grant the borrower an administrative forbearance, the lender must continue collection activity until it receives the certification—or until it receives a physician’s “written request,” rather than a specific “letter,” that additional time is needed to determine whether the borrower is totally and permanently disabled. This policy is effective for total and permanent disability discharge requests received by the lender on or after July 1, 2002.

*Eligibility – borrower and student:* A borrower who has received a conditional discharge of a prior loan due to an initial determination that the borrower is totally and permanently disabled must do all of the following to be eligible to receive a new Stafford or PLUS loan:

- Obtain a physician’s statement certifying that the borrower may now engage in “substantial gainful activity.” For these purposes, “substantial gainful activity” is defined as the ability to work and earn money.
- Sign a statement acknowledging that any loan that has been conditionally discharged may not be discharged due to the same or any disability existing at the time the borrower applied for a total and permanent disability discharge or when the new loan is made, unless the disabling condition substantially deteriorates to the extent that the definition of total and permanent disability is met.
- Sign a statement acknowledging that collection activity will resume on any loans in a conditional discharge period.

The borrower’s receipt of a new Stafford or PLUS loan terminates the borrower’s conditional discharge and the Department reinstates collection activities on any loan on which collection activity had been previously suspended based on an initial determination of total and permanent disability. This policy is effective for Stafford and PLUS loan eligibility determinations made on or after July 1, 2002.

*Loan origination:* A borrower may grant power of attorney to a third party to sign a Master Promissory Note (MPN) if the borrower provides the school with a separate written authorization to credit the funds to the student’s school account. When a third party using power of attorney signs the MPN on the borrower’s behalf, the school must pay any credit balance to the student or parent borrower, as applicable, using a check or other instrument that requires the borrower’s endorsement. If the MPN is submitted through the school, the school must retain a copy of the original power of attorney and either the school or the individual with power of attorney must provide a copy of the power of attorney document to the lender—a photocopy or fax of the document is acceptable. Information permitting the use of power of attorney is effective July 1, 2002, unless implemented earlier by the guarantor.

## August 15, 2002

The Department issues [Dear Colleague Letter GEN-02-05](#), which provides the following approved loan discharge application forms that must be used on or after August 15, 2002.

- Loan Discharge Application: School Closure – for use by borrowers who are unable to complete their program of study because their school closed.
- Loan Discharge Application: False Certification of Ability to Benefit – for use by borrowers whose ability to benefit was falsely certified by their school.
- Loan Discharge Application: False Certification (Disqualifying Status) – for use by borrowers whose eligibility was falsely certified by their school due to a disqualifying status or condition of the student.
- Loan Discharge Application: Unauthorized Signature/Unauthorized Payment – for use by borrowers when there was an unauthorized signature or endorsement of an unauthorized payment by the school.

## August 29, 2002

*Child care provider loan forgiveness:* Loan forgiveness under the Loan Forgiveness Demonstration Program for Child Care Providers is contingent upon annual appropriations. In addition to the other eligibility requirements for this program is the condition that the borrower’s eligible loans must have been made before the borrower began his or her qualifying child care service. In addition, the borrower’s degree must be an associate’s or bachelor’s degree in early childhood education, child care, or any other educational area related to child care that the Department deems appropriate. This change is effective beginning August 29, 2002.

## September 30, 2002

The Department issues [Dear Colleague Letter GEN-02-06](#) announcing the expiration of two statutory exceptions available to low cohort default rate schools, specifically, the exemptions from the multiple disbursement and delayed delivery requirements.

## October 1, 2002

*Disbursement rules:* The references to the statutory exceptions authorized in [HEA 428G\(a\)\(3\)](#) and [\(b\)\(1\)](#) are eliminated. These exceptions had waived, for schools with low cohort default rates, the multiple disbursement

requirement for a single-term loan and the 30-day delayed delivery requirement for a first-year undergraduate student who is a first-time borrower. The statutory authority for these exceptions expired on September 30, 2002. This change is effective for loans certified on or after October 1, 2002.

*Special allowance:* Quarterly billings submitted by the lender on or after October 1, 2002, must be made using the paper Lender's Interest and Special Allowance Request and Report (LaRS report) or via the electronic LaRS process. This change is effective for quarterly billings submitted by a lender on or after October 1, 2002.

#### **November 1, 2002**

*Repayment start:* When establishing the next payment due date on a PLUS or SLS loan following a period of forbearance, deferment, or post-deferment grace, the lender may provide the borrower a due date that is no later than 60 days after the end of the forbearance, deferment, or post-deferment grace period. The due date may be later than 60 days if the borrower makes a prepayment during the period that advances the due date. This policy is effective for next payment due dates for PLUS and SLS loans established by the lender on or after November 1, 2002.

When establishing the next payment due date on a Stafford loan following a period of forbearance, deferment, or post-deferment grace, the lender must provide the borrower a due date that is no later than 60 days after the end of the forbearance, deferment, or post-deferment grace period. Lenders also are required to establish a first payment due date no later than 60 days after the repayment start date. This policy is effective for first payment due dates and next payment due dates established by the lender on or after November 1, 2002.

Due dates are also revised following a lender's reconversion of loans when certain claim-type activity is involved. Effective for next payment due dates established by the lender on or after November 1, 2002:

- When notified that a bankruptcy action has concluded on a loan that was not eligible for bankruptcy claim payment, a lender must establish a next payment due date that is within 60 days of the date the lender receives that notification.
- When the lender receives a full payment or a signed repayment agreement on a loan that has lost its guarantee, the lender must establish a next payment due date that is within 60 days of the date that payment or signed repayment agreement is received.

#### **November 27, 2002**

*Eligibility – borrower and student:* An underage home-schooled student is considered 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.

#### **2003**

##### **January 1, 2003**

*Claim filing requirements:* When reporting a loan's loss of guarantee or reinstatement of that guarantee, lenders are to utilize existing National Student Loan Data System (NSLDS) requirements. In addition, lenders are required to ensure that, if the guarantor does not utilize the lender's NSLDS reporting data to update its records, the guarantor is notified of the loan's loss of guarantee and the reinstatement of that guarantee at the time each of those events occur or are identified. The lender must also include the curing instrument or a legible copy of the curing instrument in any claim filed after the guarantee reinstatement. This change is effective for guarantee reinstatements completed by the lender on or after January 1, 2003, unless implemented earlier by the guarantor.

*Common forms:* The Department issues [Dear Colleague Letter GEN-02-07](#) announcing approval of the revised Federal Stafford Loan Master Promissory Note (Stafford MPN) that must be provided to Stafford loan borrowers beginning January 1, 2003.

##### **March 1, 2003**

*Loan certification:* All schools located in the United States, unless notified otherwise by the Department, are authorized to offer the multi-year feature of the Federal Stafford Loan Master Promissory Note (Stafford MPN). This extension has a retroactive feature. Schools that are not four-year colleges or graduate or professional schools may certify Stafford loans on or after March 1, 2003, regardless of the loan period covered by the loan, using the Stafford MPN. A borrower attending a school may receive loans for subsequent academic years based on a previously signed Stafford MPN even if the borrower signed the MPN before March 1, 2003. This change is effective for Stafford loans certified by the school on or after March 1, 2003, regardless of the loan period.



**March 3, 2003**

*Disability discharge (total and permanent):* If a lender receives a payment from or on behalf of a borrower after the lender has filed a total and permanent disability claim and the claim has been paid, the lender is no longer required to notify the borrower, or other party who sent the payment on the borrower's behalf, that there is no obligation to make further payments. The *Responses to Total and Permanent Disability Outstanding Issues* letter received on March 3, 2003, from Jeff Baker, Program Development, U.S. Department of Education, clarifies in Q&A #2 that the lender is required only to forward to the guarantor a payment received from or on behalf of the borrower after it has filed a total and permanent disability claim and received the claim payment. The Department acknowledges in this letter that requiring both the lender and guarantor to provide a notice to the party who submitted the payment is duplicative.

**March 14, 2003**

*Deferment:* A borrower may request that the period of an initial unemployment deferment begin on a date that is *later* than the date on which he or she would otherwise be entitled. In addition, the ending of the condition that entitled the borrower to the deferment is one of the events that determines the end date of an unemployment deferment period. This change is effective for unemployment deferment requests processed by the lender on or after March 14, 2003.

**March 25, 2003**

The Department issues [Dear Colleague Letter GEN-03-06](#) announcing administrative relief for students and borrowers affected by military mobilization.

**March 31, 2003**

*Common forms:* Lenders must send borrowers requesting discharge due to a total and permanent disability the Loan Discharge Application: Total and Permanent Disability or other form(s) approved by the Department, as specified in [Dear Colleague Letter GEN-02-12](#). This change is effective on total and permanent disability discharge applications provided to borrowers by the lender on or after March 31, 2003.

**April 1, 2003**

*Disability discharge (total and permanent):* If a lender receives a payment from or on behalf of a borrower after the lender has filed a total and permanent disability claim but before the claim payment is received, the lender must

forward the borrower payment to the guarantor and notify the borrower or other party who sent the payment that there is no obligation to make further payments, unless otherwise directed. This change is effective for borrower payments received by the lender on or after April 1, 2003, unless implemented earlier by the guarantor.

**May 14, 2003**

*Teacher loan forgiveness:* A lender should not consider the time that a borrower is on active duty as a result of a military mobilization as an interruption in the 5 consecutive, complete academic years that a borrower must serve as a full-time teacher at a qualifying school to be eligible for teacher loan forgiveness. This applies to a borrower who is a member of a reserve component of the Armed Forces and is called or ordered to active duty for more than 30 days, and to a borrower who is a regular active duty member of the Armed Forces and is reassigned to a different duty station for more than 30 days. This change is effective on Teacher Loan Forgiveness Applications submitted by the lender to the guarantor on or after May 14, 2003.

**June 16, 2003**

*Audit:* A school participating in a Title IV program is required to submit audited financial statements and compliance audits to the Department electronically through eZ-Audit. A non-profit or public school must submit copies of the A-133 reports in writing to the Federal Audit Clearinghouse, in addition to submitting the A-133 reports to the Department through eZ-Audit.

**July 1, 2003**

The Department issues [Dear Colleague Letter GEN-03-04](#) announcing the approval of the revised unemployment deferment and economic hardship deferment forms. These forms must be used in response to borrower requests received on or after July 1, 2003.

*Ability to benefit:* The requirement for a student to take and pass an approved, properly administered ability-to-benefit (ATB) test during the 12-month period prior to receiving Title IV aid has been eliminated. A passing score received by the student at any time prior to the student's receipt of Title IV aid is acceptable, provided that the school obtains the test results from the test publisher or assessment center. This change is effective on official notification of a student's ability to benefit accepted by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

*Authorizations and certifications:* If a school uses electronic transmission to notify the student or parent borrower that it has credited the student's school account with Stafford or PLUS loan proceeds, the school is no longer required to confirm and document the student or parent borrower's receipt of this notice. This change is effective on notices issued by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement this provision no earlier than November 1, 2002.

*Claim filing requirements:* A lender that files its claims using the common Claim Form is not required to provide any other information or certifications. This change is effective for claims filed by the lender on or after July 1, 2003, unless implemented earlier by the guarantor.

*Claim payment:* Guarantors are required to purchase an approved total and permanent disability claim or return the claim not later than 90 days after the claim was received by the guarantor. This change is effective for total and permanent disability claims received by the guarantor on or after July 1, 2003, unless implemented earlier by the guarantor.

*Closed school loan discharge:* Lenders are no longer required to provide the "true and exact" certification of a copy of a promissory note provided in a claim file. This change is effective on claims filed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

*Common forms:* The Department issues [Dear Colleague Letter GEN-03-03](#) announcing approval of the Federal PLUS Loan Application and Master Promissory Note (PLUS MPN) that may be used for PLUS loans certified by the school for loan periods beginning on or after July 1, 2003. The PLUS MPN must be used for loan periods beginning on or after July 1, 2004, or for any loan certified on or after July 1, 2004, regardless of the loan period.

*Death discharge:* The underlying portion of a Federal Consolidation loan may be discharged under the following circumstances:

- The underlying portion of a Consolidation loan attributable to a PLUS loan obtained for a dependent student is eligible for discharge if that student dies. The borrower of the Consolidation loan (or both comakers in the case of a joint Consolidation loan made to a married couple) is obligated to repay the remaining Consolidation loan balance.

- Upon the death of one of the comakers of a joint Consolidation loan made to a married couple, the portion of the Consolidation loan attributable to the comaker who has died is eligible for discharge. The surviving comaker is obligated to repay the remaining Consolidation loan balance.

This change is effective on death claims filed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

*Deferment:* Borrowers may provide evidence of eligibility for unemployment benefits or may certify that they are currently seeking full-time employment and making all required attempts to obtain full-time employment. Borrowers are no longer required to provide information regarding potential employers contacted during the job search or to document the employment agency with which they are registered. Borrowers must certify—in writing or in a format approved by the Department—that they are registered with an employment agency if one is available within 50 miles of their current address, and that they have made six diligent attempts in the preceding 6-month period to find full-time employment. Borrowers applying for an initial period of unemployment deferment are not required to certify that they have made attempts to obtain full-time employment.

An initial period of unemployment deferment based on the borrower's self-certification may be backdated up to 6 months prior to the date the lender receives the necessary documentation from the borrower, and must be scheduled to end not later than 6 months after the date the lender receives required documentation. An extension to an unemployment deferment and any unemployment deferment based on the borrower's eligibility for unemployment benefits is not subject to the 6-month backdating limitation. An extension of a deferment may be granted for up to 6 months following the date the borrower provides the lender with evidence or certification of deferment eligibility. These changes are effective for borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

For an economic hardship deferment, if the borrower's loans are scheduled to be repaid in 10 years or less, the lender must use the actual repayment amount in determining the borrower's federal postsecondary education debt burden. If the borrower's loans are scheduled to be repaid in more than 10 years, the lender must use the monthly payment amounts that would have been owed on federal postsecondary education loans based

on a 10-year repayment schedule. Lenders must continue to count a proportional share of any payments due—or that would have been due—less frequently than monthly, and must include payments due on a defaulted loan if the borrower has made repayment arrangements satisfactory to the holder of the defaulted loan. This change is effective for borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

*Delivering loan funds:* Some of the requirements applicable to the late delivery of loan proceeds have changed. In order for a school to make a late delivery of loan proceeds, the following conditions are applicable:

- Except in the case of a PLUS loan, the Department must have *processed* a Student Aid Report (SAR) or Institutional Student Information Record (ISIR) with an official expected family contribution (EFC) before the student became ineligible. The requirement that the school *receive* a valid SAR or ISIR prior to the date the student became ineligible is eliminated.
- In the case of a second or subsequent disbursement, the student must have graduated or successfully completed the period of enrollment for which the loan was intended. In this circumstance, the school must offer the borrower the amount of Stafford or PLUS funds the student (or parent) was eligible to receive while the student was enrolled in school. The school may credit the student's account to pay for current and allowable institutional charges, but must pay or offer any remaining amount to the student or, in the case of a PLUS loan, to the parent.
- The time frame in which the school may deliver the funds is extended from 90 to 120 days from the date the school determines the student has withdrawn. If the student has not withdrawn, the school may make a late delivery of loan funds up to 120 days after the earlier of the end of the loan period or the date on which the student ceased to be enrolled at least half time.
- On an exception basis, and with the approval of the Department, the school may make a late delivery of loan funds after the applicable 120-day period, if the reason the late delivery was not made within the 120-day period was not the fault of the student.

These changes are effective for late delivery of FFELP loan proceeds by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

A student who is enrolled in a modular program is not eligible to receive Stafford loan funds until the first module that he or she will actually attend. A borrower subject to delayed delivery who is enrolled in a summer or winter mini-session that is less than 30 days in length is not eligible to receive Stafford loan funds until the student completes the first 30 days of his or her program of study. This change is effective loan funds delivered by the school on or after July 1, 2003.

*Disability discharge (total and permanent):* If a Consolidation loan is made jointly to a married couple as comakers, and one of the borrowers becomes totally and permanently disabled, the portion of the Consolidation loan attributable to the disabled borrower may be discharged. However, both borrowers remain jointly and severally liable for any remaining balance after the discharge. This change is effective on total and permanent disability claims filed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

*Disbursement rules:* Upon the receipt of a school's request, the lender may reissue a disbursement no later than 120 days after the earlier of the last day of the period of enrollment for which the loan is intended or the student's last date of at least half-time enrollment. For proceeds disbursed as a late disbursement, the lender must reissue a disbursement no later than 120 days after the date on which the original late disbursement was made. In exceptional cases, the lender may reissue a loan disbursement more than 120 days after the last date of the student's eligible enrollment or more than 120 days after the date on which the original late disbursement was made, so that the student will not be harmed by circumstances beyond his or her control. The request for reissue under this exception should come from both the student and the school, and the lender should document the exceptional circumstances. This change is effective for disbursements reissued by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

*Eligibility – borrower and student:* A student is allowed to maintain Title IV eligibility despite an overpayment in the Federal Perkins Loan Program or any Title IV grant program of less than \$25. The overpayment amount cannot be the balance of an original overpayment of \$25 or more that is reduced to less than \$25 based on payments received. In this case, even though the remaining balance of the original overpayment is less than \$25, the borrower is still responsible for repaying the overpayment in full or making satisfactory arrangements to repay it before the borrower can regain Title IV eligibility. This change is effective on

loans certified by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

A student who is enrolled simultaneously on at least a half-time basis in more than one school may be eligible to receive a Stafford loan—and the parent may be eligible to receive a PLUS loan—at both schools for the same payment period or period of enrollment. If one school has already certified a loan for the student, the other school is required to take the following actions:

- Eliminate the student's living costs from the cost of attendance (COA) because those costs were included in the COA at the first school.
- Ensure that the student does not receive loan funds in excess of annual loan limits at that school and that the total amount of the loans received by the student for enrollment at both schools does not exceed the student's highest applicable annual Stafford loan limit.

If neither school is aware of the student's simultaneous enrollment in two different schools until after both schools have certified Stafford loans and the student receives loan funds in excess of his or her highest applicable annual Stafford loan limit, the schools must coordinate with one another to adjust the student's aid package at one or both schools to eliminate the excess loan amount. If neither school is able to eliminate the excess loan amount, the excess loan amount must be reported to the lender. These changes are effective for loans certified by the school on or after July 1, 2003.

*Eligibility – school:* A school is prohibited from providing any commission, bonus, or other incentive payment to any person or entity engaged in student recruiting or admission activities or in making decisions regarding the awarding of Title IV aid, based directly or indirectly on the success of securing enrollments or financial aid. This prohibition does not apply to the recruitment of foreign students residing in foreign countries. This change is effective for incentive compensation plans offered by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

A standard definition of “week of instruction” has been implemented for all schools. A “week of instruction” is defined as any period of 7 consecutive days in which the school provides for at least one day of regularly scheduled instruction, examination, or, after the last day of classes, at least one day of study in preparation for final examination. This change is effective for program eligibility

determinations made by a school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

*Entrance counseling:* Schools must ensure that entrance counseling is conducted with each student who is obtaining his or her first Stafford loan for attendance at that school—unless the student previously received a Stafford, SLS, or Federal Direct Stafford loan for attendance at another school. When counseling is conducted by another party or by interactive electronic means, the school remains responsible for ensuring that each student borrower receives the counseling material and participates in and completes entrance counseling. Schools are responsible for ensuring that the student receives information on the following:

- The likely consequences of default, including adverse credit reports, federal offset, and litigation.
- The student's obligation to repay the full amount of the Stafford loan, even if the student does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student purchased from the school (the school or the school designee must provide this information to all of the school's student borrowers except those who receive a loan made or originated by the school). The student must be provided with sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.

This change is effective entrance counseling conducted by or on behalf of the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

*Exit counseling:* Schools must ensure that exit counseling is conducted with each Stafford loan borrower shortly before the student borrower ceases enrollment on at least a half-time basis, recognizing that a school may rely on an outside entity to conduct counseling. When exit counseling is conducted by interactive electronic means or by another party, the school remains responsible for ensuring that each student borrower receives the counseling materials and participates in and completes the counseling. Schools are responsible for ensuring that the student borrower receives information on the following:

- Sample monthly repayment amounts based on a range of levels of student indebtedness or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.
- Available repayment options including standard, graduated, extended, and income-sensitive repayment plans and loan consolidation.
- Debt-management strategies that would facilitate repayment.
- The conditions under which the student may defer or forbear repayment or obtain a full or partial discharge of the loan.
- The seriousness and importance of the repayment obligation that the student has assumed.
- The likely consequences of default, including adverse credit reports, Federal offset, and litigation.
- The availability of the Student Loan Ombudsman's Office.
- The use of the Federal Stafford Loan Master Promissory Note (Stafford MPN).
- The availability of Title IV loan information in the National Student Loan Data System (NSLDS).

These changes are effective on exit counseling conducted by or on behalf of the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

*Forbearance:* The requirement that the forbearance agreement between a borrower or endorser and a lender for a discretionary forbearance be in writing is removed. A lender is permitted to negotiate a verbal agreement with the borrower or endorser. In addition, this change extends to the reduced-payment forbearance guarantor policy, which has been amended to permit a lender to negotiate a reduced-payment forbearance with a borrower via a verbal agreement, consistent with regulatory changes applicable to other types of discretionary forbearance.

In both situations, if the forbearance agreement is verbal, the lender is required to send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the agreement. The lender must document the borrower's request for forbearance, the reason for the forbearance, and the terms of the forbearance agreement. This change is effective for borrower requests processed by

the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

Lenders are able to grant an administrative forbearance based solely on the lender's determination that a borrower's or endorser's ability to make payments has been 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 the administrative forbearance for a 3-month period and must document in the borrower's loan file the reason for the forbearance. To grant an extension of the administrative forbearance for the same situation, the lender must document an agreement with the borrower or endorser and obtain documentation supporting the borrower's reason for extending the forbearance period. This change is effective for administrative forbearances granted by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

The requirement that a lender contact a borrower who is in a forbearance every 3 months has been eliminated. If a lender grants a forbearance that involves postponing all payments on the loan, the lender must contact the borrower or endorser at least once every 6 months during the forbearance period. The lender must inform the borrower or endorser of all the following information in each such contact:

- The obligation to repay the loan.
- The outstanding balance of principal and interest on the loan.
- That interest will accrue on the loan for the entire forbearance period.
- That the borrower or endorser may opt to discontinue the forbearance at any time.

This notification requirement does not apply for postponement of interest payments during a deferment period, a period of forbearance for an internship or residency, or a period of mandatory administrative forbearance. This change is effective for borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

*Late disbursement/Post-withdrawal disbursement:* A school must offer a late delivery of Stafford or PLUS loan funds the student or parent borrower was eligible to receive while the student was still enrolled during a payment period



or period of enrollment that the student successfully completed. If a student ceases to be enrolled at least half time but does not withdraw, the school may, but is not required to, offer a late delivery of Stafford or PLUS loan funds to the student or parent borrower.

Before making a post-withdrawal disbursement of FFELP funds, the school must determine that the borrower is eligible for a late delivery. If the borrower is determined eligible for a late delivery, the school must offer a post-withdrawal disbursement of FFELP funds and, if accepted, must deliver the funds to the borrower. A school must make the post-withdrawal disbursement of a credit balance within 120 days of the date the school determined that the student withdrew. This change is effective for post-withdrawal disbursements made by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement the post-withdrawal determination time frame change no earlier than November 1, 2002.

*Leave of absence:* A school may grant multiple leaves of absence to a student as long as the total number of days for all leaves does not exceed 180 days in a 12-month period. The student's request for the leave of absence must include the reason for leave. A student enrolled in a clock-hour or non-term-based credit-hour program who returns from a leave of absence is not required to complete the same coursework she or he began prior to the leave of absence. This change is effective for leaves of absence granted by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

*Loan amount:* The length of the program of study or academic year in which the student is currently enrolled determines the annual loan limit, regardless of the length of time it takes the student to complete the program or academic year of the program, as applicable. These provisions apply to all undergraduate students, including transfer students and students who have completed programs of study at other schools. In addition, a school may not link separate, stand-alone programs of study to allow a student to qualify for higher annual loan limits than the student would otherwise be eligible to receive based on the length of the program. These changes are effective on Stafford loan amounts certified by the school on or after July 1, 2003, unless implemented earlier by the school.

The Department issues [Dear Colleague Letter GEN-03-03](#) announcing the Federal PLUS Loan Application and Master Promissory Note (PLUS MPN) procedures for obtaining the requested loan amount from the parent borrower as one of the key items that may be included in

guarantor on-site school and lender reviews. These requirements are effective for PLUS loans certified by the school for loan periods beginning on or after July 1, 2003.

*Loan guarantee:* The Department issues [Dear Colleague Letter GEN-03-03](#) to clarify signature requirements related to the making of PLUS loans. The revision requires the student to complete and sign the appropriate section of the common PLUS application and promissory note. However, the student is not required to complete any portion of the Federal PLUS Loan Application and Master Promissory Note (PLUS MPN). This change is effective for PLUS loans certified by the school for loan periods beginning on or after July 1, 2003.

*Loan origination:* The Department issues [Dear Colleague Letter GEN-03-03](#) announcing that the Federal PLUS Loan Application and Master Promissory Note (PLUS MPN) may be used to obtain one or more PLUS loans for a dependent student. A parent borrower must complete a separate PLUS MPN for each dependent student for whom he or she wishes to borrow. Before a PLUS loan may be disbursed, the parent borrower must indicate to either the school or the lender the PLUS loan amount that he or she wishes to borrow (the requested loan amount). The student is not required to complete or sign the PLUS MPN. If the lender determines that the parent has an adverse credit history and an endorser is used, a separate Endorser Addendum is required for each PLUS loan. In any case where an endorser is required, a new PLUS MPN is required for each loan. Any increase in the requested loan amount by the parent borrower must be approved by the endorser and requires a new PLUS MPN and Endorser Addendum. This policy is effective for PLUS loans certified by the school for loan periods beginning on or after July 1, 2003.

The lender has additional responsibilities when making loans using the Master Promissory Note (MPN). The lender must determine the school's authorization to certify Stafford or PLUS loans using the multi-year feature of the MPN for each subsequent loan made under an existing MPN, based on information provided by the Department. The lender must provide the borrower with a Plain Language Disclosure for each subsequent loan made under the multi-year feature of the MPN; ensure that either a Confirmation or Notification process is in place for Stafford loans made using the multi-year feature of the MPN; and ensure that a process is in place to obtain the parent borrower's requested loan amount before each loan is disbursed under a PLUS MPN.

[GEN-03-03](#) also announces information regarding the expiration of the ability of a lender to make new loans under an MPN. In addition to the current revocation guidance, a

lender may elect not to make subsequent loans under an existing MPN. The lender's decision may be based on any number of circumstances—for instance, if there is a change in the borrower's circumstances (such as bankruptcy or delinquency), or because the loan is being requested under a Lender of Last Resort Program. If the lender chooses to cancel unmade disbursements due to a borrower's bankruptcy filing, the lender may choose to cancel an existing MPN and require the borrower to sign a new note to obtain loan funds for which the school determines the borrower to be eligible. In the case of a PLUS MPN, a new MPN is required if the dependent student changes. For each new loan that requires an endorser, a new PLUS MPN with a new Endorser Addendum is required. Any increase in the requested loan amount by the parent borrower must also be approved by the endorser and requires a new PLUS MPN and Endorser Addendum.

If a borrower has completed an MPN, the borrower may obtain additional loans under the same Stafford Master Promissory Note (Stafford MPN) or PLUS MPN, as applicable, for a student who transfers, regardless of any change in school or guarantor, provided all of the following apply:

- The new school is not a foreign school.
- The new school has not been notified of restricted multi-year use by the Department.
- The MPN remains valid.
- The new school, lender, or guarantor does not require a new MPN.
- The borrower does not choose a new lender.

If a PLUS loan is made to a parent borrower who completed a PLUS MPN to benefit a dependent student and that student transfers to a school that is not eligible to, or chooses not to, offer the multi-year feature of the PLUS MPN, or if an endorser is required, the borrower must complete a new PLUS MPN for the new school.

*Payment period:* The payment period for an eligible credit-hour program that offers academic terms (standard or nonstandard) is simply the academic term. The first payment period is the period of time when the student completes half the number of credit hours *and* half the number of weeks in the program. The payment period for clock-hour programs no longer mirrors the non-term-based credit-hour program definition. This change is effective on payment periods established by the school on or after

July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

*Record Retention:* The Department issues [Dear Colleague Letter GEN-03-03](#) to announce recordkeeping requirements for loans made using the Federal PLUS Loan Application and Master Promissory Note (PLUS MPN).

Records that a lender must maintain include documentation of the process under which either the school or lender obtains the parent borrower's requested loan amount for loans made under the PLUS MPN; a record of the parent borrower's requested loan amount for loans made under the PLUS MPN, if the lender is the party responsible for obtaining this information; and a record of any adjustments that the lender receives to the parent borrower's requested loan amount.

Records that a school must maintain include documentation of the process under which either the school or lender obtains the parent borrower's requested loan amount for loans made under the PLUS MPN; a record of the parent borrower's requested loan amount for loans made under a PLUS MPN, if the school is the party responsible for obtaining this information; and a record of any adjustments that the school receives to the parent borrower's requested loan amount. These requirements are effective for PLUS loans certified by the school for loan periods beginning on or after July 1, 2003.

*Rehabilitation of defaulted loans:* A borrower who has a defaulted loan for which a judgment has been obtained is no longer permitted to include that loan in a guarantor's rehabilitation program. This change is effective on requests for loan rehabilitation received by the guarantor on or after July 1, 2003, unless implemented earlier by the guarantor. Guarantors may implement these provisions no earlier than November 1, 2002.

*Repayment terms:* A request from a borrower to extend his or her repayment period beyond the scheduled 5 years no longer must be in writing. This change is effective for borrower requests received by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.

*Return of Title IV funds:* New federal regulations establish a clear requirement for returning unearned Title IV program funds and the conditions under which a school must submit a letter of credit if it does not return those funds in a timely manner. In addition, if a school can demonstrate exceptional circumstances beyond the school's control, the Department will not hold the school responsible for

untimely return of Title IV funds and will not require the school to submit a letter of credit. Specifically, a school is considered to have sufficient cash reserves to make the required return of unearned Title IV funds if the school meets at least one of the following:

- The school satisfies the financial responsibility standards for public schools.
- The school is located in, and is licensed to operate in, a state that has a Department-approved tuition recovery fund to which the school contributes.
- The school demonstrates that it returns in a timely manner unearned Title IV funds for students that withdraw from the school.

This change does not have an effective date as the provision will be implemented and enforced by the Department.

In accordance with the revised guidance issued by the Department of Education, there are times when a school may include FFELP funds as aid that could have been disbursed in the return of Title IV funds calculation even if the school was prohibited from delivering the funds on or before the date the student withdrew. This includes:

- Loan funds for a first-year, first-time undergraduate borrower who withdraws before completing the 30th day of his or her program of study.
- The second or subsequent disbursement(s) of a loan even if the school was prohibited from delivering the funds on or before the date the student withdrew.

However, in all cases, the following conditions for making a late disbursement must be met in order for FFELP funds to be included as aid that could have been disbursed:

- Except in the case of a PLUS loan, the Department processed a valid Student Aid Report (SAR) or Institutional Student Information Record (ISIR) with an official expected family contribution (EFC) on or before the date of the student's withdrawal.
- The school certified the loan on or before the date of the student's withdrawal.

In these cases, although the loan funds may be included as aid that could have been disbursed in the return of Title IV funds calculation, under no circumstances may the school deliver the loan funds to the borrower as a post-withdrawal disbursement.

If a school is completing the return of Title IV funds calculation on a payment period basis, FFELP funds scheduled for disbursement in a subsequent payment period may not be included as aid that could have been disbursed.

This change is effective for any student who withdraws on or after July 1, 2003.

Unearned FFELP funds are considered returned timely if, no later than 30 days after the date the school determines that the student withdrew, the school does one of the following:

- Deposits or transfers the amount of funds to be returned into an account the school maintains for federal funds (see [subsection 6.3.D](#)).
- 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 that check no more than 45 days after the date the school determined that the student withdrew.

This change is effective on unearned FFELP funds returned by the school to the lender on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

*Withdrawal:* A school is required to record attendance if an outside entity requires this activity even for a limited period of time. An exception to this requirement, however, is if the outside entity requires a school to record attendance for a single event (i.e., a one-day census activity). This change is effective for all withdrawal determinations made by the school on or after July 1, 2003, or on or after the date of implementation if implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

The Department of Education issued [Dear Colleague Letter GEN-04-03](#) and new guidance provided in the 2003-2004 *Federal Student Aid Handbook* to provide more complete information about schools that are required to record attendance for a limited period of time or for a specific group of students. A school that is required to record attendance for a limited period of time must document the student's attendance through that 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 record attendance but the student subsequently withdraws, the student's withdrawal date is determined according to the requirements for a school that is not required to record attendance. A school that is required by an outside entity (e.g., a state workforce development agency), to record attendance for a specific group of students must use the attendance records for only that specific group of students under that outside entity's jurisdiction to determine the student's withdrawal date. These provisions are effective for any student who withdraws on or after July 1, 2003.

If a student withdraws from a program but re-enters the same program within 180 days, the school is required to place the student in the same payment period in which he or she was enrolled when the withdrawal occurred. If, however, a student returns to the same program *after* 180 days or, at any time, either transfers into a different program at the same school or enrolls in another school, the applicable school must calculate a new payment period for the remainder of the student's program based on how program progress is measured. For purposes of calculating payment periods only, the length of the program is the number of credit hours and the number of weeks, or the number of clock hours, that the student has remaining in the program he or she entered or re-entered. If the remaining hours (and weeks, if applicable) constitute one half of an academic year or less, the remaining hours constitute one payment period. This change is effective on eligibility determinations made by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.

#### July 15, 2003

The Department issues [Dear Colleague Letter GEN-03-08](#) that discusses the use of long-term debt in the calculation of the Primary Reserve Ratio used to determine whether institutions demonstrate financial responsibility. This letter replaces the guidance provided by the Department in [Dear Colleague Letter GEN-01-02](#) and is effective for all annual financial statement audits for fiscal years ending on or after December 31, 2002.

#### August 25, 2003

The Department issues [Dear Colleague Letter L-03-242](#) informing lenders of actions required to assist in the oversight of FFELP funds for students attending foreign

schools. The additional requirements are effective for disbursements made directly to students attending foreign schools on or after November 25, 2003.

#### October 12, 2003

The Department issues [Dear Colleague Letter GEN-03-12](#) that describes new procedures used by the National Student Loan Data System (NSLDS) to calculate aggregate loan limits when a student has consolidated some or all of their student loans.

#### October 20, 2003

*Consolidation loans:* Portions of a Consolidation loan that are attributed to subsidized Stafford and unsubsidized Stafford loans must be included when calculating a student's aggregate loan balance. The financial aid administrator (FAA) should use the National Student Loan Data System (NSLDS) or loan records provided by the student to determine the portion of the Consolidation loan that should be applied to the subsidized Stafford loan limit and the portion that should be applied to the unsubsidized Stafford loan limit.

#### November 26, 2003

*Disbursement rules:* Before a lender may release funds directly to a student for attendance at a foreign school, the lender must receive confirmation from the guarantor indicating that the school the student plans to attend is eligible to participate in the FFELP and that the student has been accepted for enrollment at the foreign school. In addition, the lender is required to notify the foreign school when it disburses FFELP funds directly to the student.

#### December 12, 2003

The Department announces [Higher Education Relief Opportunities for Students \(HEROES\) Act](#) waivers in a *Federal Register* notice (Vol. 68, No. 239, issued December 12, 2003), including a number of waivers and modifications of statutory and regulatory provisions that are appropriate to assist individuals who are applicants and recipients of federal student aid under Title IV of the Higher Education Act (HEA). See [section H.4](#) for detailed information about the areas of Title IV administration that these waivers affect.



## 2004

### January 2004

*Disbursement rules:* Schools and lenders are prohibited from obtaining a borrower's power of attorney or other authorization to endorse or otherwise approve the cashing of a loan check, or the delivery of loan funds disbursed through electronic funds transfer (EFT). Schools and lenders are also prohibited from using a document containing the borrower's power of attorney to support another party's endorsement or other method used to approve the cashing of a loan check, or the delivery of loan funds disbursed through EFT. This change reflects a regulatory technical correction published in the *Federal Register* on December 31, 2003. The technical correction was necessary because the text was previously included in regulations but was inadvertently omitted. The changes regarding a power of attorney received by the school or lender and used to negotiate loan documents are effective on or after January 30, 2004, unless implemented earlier by the guarantor.

*Rehabilitation of defaulted loans:* A lender is required to use the loan's balance at the time it is rehabilitated when establishing the maximum repayment period for a rehabilitated Consolidation loan. This policy is effective for Consolidation loans reentering repayment after rehabilitation on or after January 30, 2004. This change is based on technical corrections to the federal regulations published in the *Federal Register* (Volume 68, number 250), page 75429, dated December 31, 2003.

### February 13, 2004

*Return of Title IV funds:* The Department of Education issues [Dear Colleague Letter GEN-04-03](#) to announce a revision regarding the treatment of inadvertent overpayments in the return of Title IV funds calculation. An inadvertent overpayment exists when a school delivers loan funds to a student who is no longer in attendance. When the school completes a return of Title IV funds calculation, an inadvertent overpayment must be included as "aid that could have been disbursed." Previous guidance had indicated that inadvertent overpayments were to be included as "disbursed aid." The student must qualify for a late disbursement to be eligible to retain funds that were delivered as an inadvertent overpayment. If the student is ineligible for all or a portion of the inadvertent overpayment, the school must return the ineligible amount to the lender within 30 days of the date of the school's determination that the student withdrew. This change is effective for any student who withdraws on or after February 13, 2004.

[Dear Colleague Letter GEN-04-03](#) and new guidance provided in the 2003-2004 *Federal Student Aid Handbook* clarify that, except in unusual cases, if a student is absent without explanation, a school that is required to record attendance is expected to make a determination that the student withdrew no later than one week after the student's last date of academic attendance as determined from the school's attendance records. The school does not have to make a withdrawal determination if, during that one week period, the student verifies that he or she plans to return to school. Provisions for determining a student's withdrawal date are effective for any student who withdraws on or after February 13, 2004.

The Letter also includes guidance for schools regarding the treatment of Title IV credit balances under the return of Title IV funds requirements. If a student withdraws and has a Title IV credit balance on his or her account, the school must not deliver any portion of the credit balance to the student or return any portion to the Title IV student aid programs before it completes a return of Title IV funds calculation. The school must hold the funds even if it results in the school not being in compliance with the 14-day payment requirement for credit balances. In this case, the school does not need the student's or parent's authorization to hold the Title IV credit balance beyond the original 14-day period. However, within 14 days of the date that the school performs the return of Title IV funds calculation, the school must pay any remaining Title IV credit balance. The school must first allocate the Title IV credit balance to repay any grant overpayment owed by the student as a result of the current withdrawal. If there is no grant overpayment owed or if an additional credit balance exists on the account after the grant overpayment is repaid, it must be paid in one or more of the following ways:

- In accordance with cash management regulations, the school may use the credit balance to pay authorized charges at the school (including previously paid charges that are now unpaid due to a return of Title IV funds by the school).
- With the student's authorization, the school may use the credit balance to reduce the student's Title IV loan debt (not limited to loan debt incurred for the payment period or period of enrollment during which the student withdrew).
- The school may deliver the credit balance to the student, or the parent in the case of a PLUS loan. If the school cannot locate the student or parent to whom a Title IV credit balance is due, the school must return the credit balance to the Title IV programs. In this case, there is no specific order of return to the Title IV



programs, but schools are encouraged to make determinations that are in the best interest of the individual student.

This policy is effective for students who withdraw on or after February 13, 2004, as determined by the school.

If a student is selected for verification but withdraws prior to providing all required verification documentation, the school must complete the return of Title IV funds calculation in time to comply with the 30-day return of Title IV funds deadlines. If the student did not provide the required verification documentation, the school must include as disbursed aid or aid that could have been disbursed only those funds not subject to verification (i.e., PLUS loans and unsubsidized Stafford loans) in the return of Title IV funds calculation. However, if the student subsequently provides the documentation before the verification deadline, the school is required to perform a new return of Title IV funds calculation and make the appropriate adjustments. If the school is unable to offer the post-withdrawal disbursement to the student, or parent in the case of a PLUS loan, within the required 30 days after the date that the school determined that the student withdrew, the school must offer the funds as soon as possible. Also, whenever possible, the school must provide the student or parent with the minimum 14-day period to respond to the offer of a post-withdrawal disbursement. This policy is effective for students who withdraw on or after February 13, 2004, as determined by the school.

The Letter also includes guidance for schools that offer non-term-based credit-hour programs to determine the number of calendar days in the payment period or period of enrollment. If a student withdraws from a non-term-based credit-hour program where the completion date is dependent upon an individual student's progress, the school must project the completion date based on the student's progress as of the date of his or her withdrawal to determine the total number of calendar days in the period. If the student does not earn credits or complete lessons as he or she progresses through the program, the school is required to have a reasonable procedure for projecting the completion date based on the student's progress before withdrawal. If the completion date for all students in a non-term-based credit-hour program is the same, the total number of calendar days in the period will be the same for all students. This policy is effective for students who withdraw on or after February 13, 2004, as determined by the school.

## March 2004

*Claims – returned and refiled:* If a lender is unable to provide a complete claim or if the loan is otherwise ineligible for claim payment (due, for example, to a previous, unresolved loss of loan guarantee) the claim file must be returned despite the lender's or servicer's exceptional performer designation.

## July 1, 2004

*Disbursement rules:* There is one exception to the 120-day loan disbursement reissue policy. The exception permits a lender to reissue a loan disbursement more than 120 days after the last date of the student's eligible enrollment or more than 120 days after the date on which the original late disbursement was made, so that the student will not be harmed by circumstances beyond his or her control. The location in the manual's text of this exception implies that it is only applicable to the reissue of a late disbursement, which is not the intent of the policy. To correct this, a new subheading was added to separate the exception to the 120-day reissue limitation from the policy regarding late disbursement, thereby clarifying that the exception applies both to timely disbursements and to late disbursements. In addition, a new requirement has been added that stipulates that the lender must document the reason for the reissue of the loan disbursement in all reissue situations. This policy is effective for disbursements reissued by the lender on or after July 1, 2004.

*Loan certification:* A school may certify a parent borrower's eligibility for a PLUS loan without performing need analysis and without determining the student's eligibility for either a Pell grant or a subsidized or unsubsidized Stafford loan.

*Repayment start:* A lender must establish a first payment due date on a Consolidation loan that is no more than 60 days after the last day of a deferment or forbearance period, unless the borrower makes prepayments during that period that cause the due date to be advanced. When a lender is required to redisclose repayment terms because of the addition of a loan(s) during the 180-day add-on period, the lender may establish a new effective date for the revised payment amount. The new effective date must be no more than 60 days after the date of the last disbursement that discharged the add-on loan(s). This policy is effective for Consolidation loan repayment disclosures issued by a lender on or after July 1, 2004.

**October 1, 2004**

*Loan origination:* If a power of attorney is used to sign a Master Promissory Note (MPN), the MPN is only valid for one loan. This single loan restriction is effective October 1, 2004, unless implemented earlier by the guarantor.

*Special allowance:* A loan financed with proceeds of a tax-exempt obligation originally issued prior to October 1, 1993, will revert to the regular special allowance rates paid on other loans if such a tax-exempt obligation is refunded, retired, or defeased on or after September 30, 2004.

**October 30, 2004**

*Teacher loan forgiveness:* **The Taxpayer-Teacher Protection Act of 2004**, which includes new statutory loan forgiveness eligibility criteria and an increased forgiveness amount for certain borrowers, was enacted on October 30, 2004. Subsequently, the Department issued **GEN-05-02/FP-05-02** to announce the increased loan forgiveness maximum of \$17,500—the previous maximum was \$5,000. The DCL also includes the new criteria for borrowers who begin their qualifying teaching service on or after October 30, 2004, to qualify for the \$5,000 forgiveness maximum and provides definitions applicable to additional teacher qualifications required to obtain that increased forgiveness amount. These provisions are applicable to Stafford loans and Consolidation loans—to the extent that the Consolidation loan repaid a borrower’s eligible underlying Stafford loan(s). The new statutory loan forgiveness criteria are as follows:

For a borrower who begins a period of qualifying teaching service prior to October 30, 2004, the borrower may be eligible for loan forgiveness of up to \$5,000 if he or she is either:

- A full-time elementary school teacher who demonstrates knowledge and teaching skills in reading, writing, mathematics, or other areas of the elementary school curriculum.
- A full-time secondary school teacher teaching in a subject area that is relevant to his or her academic major.

For a borrower who begins a period of qualifying teaching service prior to October 30, 2004, the borrower may be eligible for up to \$17,500 in loan forgiveness (less any forgiveness amount received under the previous criteria) if the borrower has completed the period of qualifying teaching service as a highly qualified full-time mathematics or science teacher in a qualifying secondary school or as a highly qualified special education teacher.

A borrower may also complete the 5-year teaching service requirement by combining years of full-time service at qualifying elementary and secondary schools in order to qualify for teacher loan forgiveness, provided that he or she is otherwise eligible.

For a borrower who began a period of qualifying teaching service on or after October 30, 2004, the borrower may be eligible for loan forgiveness of either:

- A maximum of \$5,000 for teaching as a highly qualified full-time teacher in an eligible elementary or secondary school.
- A maximum of \$17,500 for teaching as a highly qualified full-time mathematics or science teacher in an eligible secondary school or as a highly qualified special education teacher.

The term “highly qualified” is a critical eligibility criterion for teacher loan forgiveness at the increased amount of \$17,500 and for loan forgiveness for periods of qualifying teaching service that begin on or after October 30, 2004. A *highly qualified* teacher is a teacher in a public or nonprofit elementary or secondary school who has obtained a full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination and holds a license to teach in that state, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State’s public charter school law; and has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis. In addition, the teacher must be one of the following:

- An elementary school teacher who is new to the teaching profession; holds a bachelor’s degree; and has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum).
- A middle or secondary school teacher who is new to the profession; holds a bachelor’s degree; and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a state-required certification or licensing test or tests

in each of the academic subjects in which the teacher teaches), or by successfully completing, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.

- An elementary, middle, or secondary school teacher who is not new to the profession, holds at least a bachelor's degree, and meets the applicable standards of an elementary, middle, or secondary school teacher who is new to the profession; or demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform state standard of evaluation that meets all of the following criteria:
  - Is set by the state for both grade appropriate academic subject matter knowledge and teaching skills.
  - Is aligned with challenging state academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators.
  - Provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches.
  - Is applied uniformly to all teachers in the same academic subject and the same grade level throughout the state.
  - Takes into consideration, but is not based primarily on, the time the teacher has been teaching in the academic subject.
  - Is made available to the public upon request.
  - May involve multiple, objective measures of teacher competency.

A lender is required to grant a teacher loan forgiveness forbearance if the lender believes that the anticipated forgiveness amount will satisfy the outstanding loan balance at the time the borrower will complete the qualifying period of teaching service.

## November 2004

*Withdrawal:* The Department of Education issues [Dear Colleague Letter GEN-04-12](#) to announce a revised time frame for certain schools to determine a student's withdrawal date. For a school that is required to record attendance, the date of determination that the student withdrew must be no later than 14 days after the student's last date of academic attendance as determined from the school's attendance records. Previous guidance required schools to make this determination no later than 7 days after the student's last date of academic attendance. The change is effective for withdrawal determinations made by the school on or after November 17, 2004.

## 2005

*Annual loan limits:* To determine the academic year and the frequency of Stafford annual loan limits, a school may use either a scheduled academic year or a borrower-based academic year for its standard term-based credit-hour programs. A school must use a borrower-based academic year for its nonstandard term-based and non-term-based credit-hour programs, as well as for its clock-hour programs. These provisions are effective on the publication date of the [2005-2006 Federal Student Aid Handbook](#), unless implemented earlier by the school.

Stafford loan eligibility for a transfer student is the annual loan limit applicable to the student's current grade level minus the loan amount the student has already received for the final academic year of the prior program. For a student who transfers to a standard term-based credit-hour program, the student's Stafford loan eligibility for a subsequent term that begins within the initial academic year of the new program, but after the end of the final academic year of the prior program, is the annual loan limit applicable to the student's current grade level minus the outstanding loan amount the student has already received for that academic year in the new program. These provisions are effective on the publication date of the [2005-2006 Federal Student Aid Handbook](#), unless implemented earlier by the school.

## May 1, 2005

*Annual loan limits:* For loan periods beginning on or after May 1, 2005, schools offering Naturopathic Medicine programs that lead to a Doctor of Naturopathic Medicine Degree or a Doctor of Naturopathy Degree and are accredited by the Council on Naturopathic Medical Education are eligible to award increased unsubsidized Stafford loan limits to students enrolled in those programs.

**June 1, 2005**

*Cohort default rate:* The Department sends a domestic school its draft and official electronic cohort default rates (eCDR) through the Student Aid Internet Gateway (SAIG). All domestic schools are required to enroll in the SAIG and designate a SAIG destination point for the receipt of the eCDR notifications. The Department mails draft and official cohort default rate notifications to foreign schools.

**July 1, 2005**

*Aggregate loan limit:* If a borrower inadvertently exceeds an aggregate loan limit under a Title IV loan program, the borrower may make arrangements satisfactory to the holder of the loan to repay the excess loan amount and these arrangements may include having the borrower sign an agreement acknowledging the debt and affirming his or intention to repay the excess amount as part of the normal repayment process. Consolidation of the loan(s) that exceeded the aggregate loan limit (provided that the loan(s) is otherwise eligible for consolidation) is also considered to be a satisfactory repayment arrangement.

*Annual loan limit:* If a borrower inadvertently exceeds an annual loan limit under a Title IV program, the borrower may make arrangements satisfactory to the holder of the loan to repay the excess loan amount and these arrangements may include having the borrower sign an agreement acknowledging the debt and affirming his or intention to repay the excess amount as part of the normal repayment process. Consolidation of the loan(s) that exceeded the annual loan limit (provided that the loan(s) is otherwise eligible for consolidation) is also considered to be a satisfactory repayment arrangement.

*Closed school loan discharge:* If the lender receives notification that a closed school discharge may be applicable to the underlying loans of a Consolidation loan, the lender is required to suspend collection activity on the Consolidation loan consistent with the requirements for suspending collection activity on other loans.

If a loan is 270 or more days delinquent and the lender has not filed a claim on the loan, the lender or guarantor must identify the borrower's potential eligibility for loan discharge and send the borrower the loan discharge application and other applicable notifications as required for all closed school loan discharge applications. The lender must process an administrative forbearance on the loan. If the lender did not receive the discharge notification from the guarantor, the lender must notify the guarantor of each borrower it identifies as potentially eligible for loan discharge due to the student's school's closing. If the borrower does not return the loan discharge application for

the defaulted loan within 60 days, or the guarantor or the Department has not instructed the lender to file a closed school discharge claim, the lender must discontinue the administrative forbearance and file the default claim.

If the lender has filed a default claim with the guarantor and that claim has not yet been paid, the lender or guarantor must identify the borrower's potential eligibility for loan discharge and send the borrower the discharge application and applicable notifications as required for other, non-defaulted FFELP loans. If the guarantor returns the claim to the lender, the lender must process an administrative forbearance on the loan. In addition, if the lender did not receive the discharge notification from the guarantor, the lender must notify the guarantor of each defaulted, claim-filed borrower it identifies as potentially eligible for loan discharge due to the student's school's closing. The lender must send the notice to the guarantor on the same day the lender sends the loan discharge application materials to the borrower.

If the borrower returns a completed discharge application within 60 days and the guarantor returned the default claim to the lender, the lender must refile the claim as a closed school loan discharge claim within 60 days of the date on which it receives either the completed discharge application or notice from the guarantor to file a closed school loan discharge claim. If the borrower does not return the completed discharge application and the guarantor returned the claim to the lender, the lender must refile the default claim within 60 days of the end of the 60-day administrative forbearance period.

The lender must file or refile a default claim if the borrower fails to return the loan discharge application timely. Refile time frames are measured from the earlier of the day the lender receives notice from the guarantor to file the default claim or, if no response is received from the borrower, within 60 days of the end of the administrative forbearance period. The lender must refile the returned default claim:

- Within 30 days to ensure that the claim will be paid including all outstanding interest.
- On or after day 31, but no later than day 60, to ensure that the claim will be paid, but interest will be limited to 270 days.

If the guarantor did not return the claim, and the borrower returns a completed discharge application within 60 days, the lender must notify the guarantor and must forward all pertinent closed school documentation to the guarantor. If the guarantor did not return the claim to the lender and the

borrower fails to return the completed discharge application within 60 days, the lender must notify the guarantor that the closed school loan discharge is no longer pending.

*False certification loan discharge:* If a false certification loan discharge may be applicable to the underlying loans of a Consolidation loan, the lender is required to suspend collection activity on the Consolidation loan.

If the loan is 270 or more days delinquent, and the lender has not filed a claim on a loan, the lender or guarantor must identify the borrower's potential eligibility for loan discharge, process an administrative forbearance, and send the borrower the loan discharge application and other applicable notifications as required for all false certification loan discharge applications. If the lender did not receive the discharge notification from the guarantor, the lender must notify the guarantor of each borrower it identifies as potentially eligible for loan discharge due to the false certification of his or her loan.

If the loan discharge application is not returned within 60 days, or the guarantor or the Department has not instructed the lender to file a false certification loan discharge claim, the lender must discontinue the administrative forbearance and file the default claim.

If the lender has filed a default claim with the guarantor and that claim has not yet been paid, the lender or guarantor must identify the borrower's potential eligibility for loan discharge and send the loan discharge application and applicable notifications to the borrower as required for other, non-defaulted loans.

If the guarantor returns the claim, the lender must process an administrative forbearance. In addition, if the lender did not receive the discharge notification from the guarantor, the lender must notify the guarantor of each defaulted, claim-filed borrower it identifies as potentially eligible for loan discharge due to the false certification of his or her loan. The lender must send the notice to the guarantor on the same day the lender sends the loan discharge application materials to the borrower.

The lender must file or refile a default claim if the borrower fails to return the discharge application timely. Refile time frames are measured from the earlier of the date the lender receives notice from the guarantor to refile the default claim or the end of the 60-day administrative forbearance period. The lender must refile the default claim:

- Within 30 days to ensure that the claim will be paid including all outstanding interest.

- On or after day 31, but no later than day 60, to ensure that the claim will be paid, but interest will be limited to 270 days.

If the guarantor does not return the claim, and the borrower returns a completed discharge application within 60 days, the lender must notify the guarantor to reactivate the claim as a false certification loan discharge claim and must forward all pertinent false certification documentation to the guarantor. If guarantor does not return the claim and the borrower fails to return the completed discharge application within 60 days, the lender must notify the guarantor that the 60-day response time frame has expired and that the lender has not received the discharge application.

*Forbearance:* A lender must grant a mandatory administrative forbearance on a Federal Consolidation loan that paid in full one or more underlying PLUS loans in the event of the death of the student for whom the PLUS loan was made.

#### October 1, 2005

*Teacher loan forgiveness:* The Taxpayer-Teacher Protection Act of 2004 originally included a termination date for benefits for the increased teacher loan forgiveness amount of up to \$17,500 for teachers in certain specialties. The Higher Education Reconciliation Act of 2005 amended the Taxpayer-Teacher Protection Act of 2004 by removing the termination date, thus reinstating the previous increased teacher loan forgiveness amounts of up to \$17,500 for teachers in certain specialties and reinstating the additional eligibility criteria that were imposed by the previous legislation.

#### October 20, 2005

The Department announces in the *Federal Register* (Vol. 70, No. 202, issued October 20, 2005) that the [Higher Education Relief Opportunities for Students \(HEROES\) Act](#) waivers have been extended from September 30, 2005, to September 30, 2007. The Department originally issued these waivers on December 12, 2003, effective until September 30, 2005. See [section H.4](#) for detailed information about the areas of Title IV administration that these waivers affect.

#### October 27, 2005

*Delivering loan funds:* A school may deliver loan proceeds by issuing a stored-value card to the student if the school obtains authorization from the student or parent borrower, as applicable, and the following conditions are met:



- The value of the card must be convertible to cash and may not be limited to specific vendors.
- The student must not incur any fees for using the card to withdraw the disbursement over a reasonable period of time. It would be reasonable to allow automated teller machine (ATM) withdrawals to be free, or to provide several free withdrawals per month. It would also be reasonable to charge a fee for use of an ATM that is not affiliated with the issuing bank, as long as ATMs from the issuing bank are conveniently located for the student.
- The student must not be charged by either the school or the affiliated bank for the issuing of a stored-value card. The student may be charged for a replacement card.
- The bank must have an individual account for each student that is insured by the Federal Deposit Insurance Corporation (FDIC).
- The school must not make any claims against the funds on the card without the written permission of the student, except to correct an error in transferring the funds to the bank under existing banking rules.
- The account must not be marketed or portrayed as a credit card account, nor be structured to be converted into a credit card at any time after it is issued. The issuing bank may not link the stored-value card account to any other banking services it may offer, such as checking, savings, or credit card accounts.
- The school must inform the student of any terms and conditions associated with accepting and using the stored-value card.
- The school must ensure that its stored-value card process meets all regulatory time frames for delivery of loan proceeds or payment of Title IV credit balances.
- The student's access to the funds on the stored-value card must not be contingent upon the student's continued enrollment, academic status, or financial standing with the school.

A borrower is not required to sign the Master Promissory Note (MPN) prior to the end of the loan period or the date on which the student ceased to be enrolled at least half time (or lost eligibility for a reason other than a withdrawal) to

be eligible for a late delivery of Stafford or PLUS loan funds, as applicable. However, the borrower must sign the MPN before a lender may make a late disbursement.

*Return of Title IV funds:* A school may include Stafford or PLUS loan funds, as applicable, as aid that could have been disbursed in the return of Title IV funds calculation if the borrower signed the Master Promissory Note (MPN) prior to the date the school completes the calculation.

## 2006

### January 1, 2006

*Claim filing requirements:* A lender must include a copy of the applicable power of attorney (POA) document with the claim file it submits to the guarantor if the MPN was signed by a third party with POA for the borrower. If the lender is aware that the promissory notes of any of the underlying loans for a Consolidation loan are signed using a POA, and the lender is filing a closed school or false certification claim, the lender must include a copy of the applicable POA document in the claim file.

A lender must include separately on the Claim Form, the amount of unpaid origination fees and unpaid capitalized interest that is included in the total unpaid principal balance on the date that the claim is filed.

*Eligibility – borrower and student:* The unallocated amount of a Consolidation loan is no longer included in the NSLDS calculation for aggregate outstanding principal balances on the NSLDS. The FAA is no longer required to investigate whether an unallocated amount of a Consolidation loan might impact a student's eligibility for additional Stafford loans. However, if the FAA has conflicting information indicating that the unallocated amount would cause the student to exceed the Stafford aggregate loan limit, the FAA must resolve the conflict and must use the information derived from that resolution to determine the student's remaining Stafford loan eligibility.

*Social Security number documentation/reporting:* Income tax returns, and official military orders, documents, or papers are removed from the list of acceptable documents for making an SSN change. An unexpired U.S. military ID is added as an acceptable document for making an SSN change.

### February 8, 2006

President Bush signs into law the [Deficit Reduction Act of 2005 \(P. L. 109-171\)](#) on February 8, 2006. The portion of the act that amends the HEA is referred to as the Higher Education Reconciliation Act of 2005 (HERA).

*Disbursement rules:* The delayed delivery requirement and the single-term multiple disbursement requirement are waived for a school that has a cohort default rate of less than 10 percent for each of the three most recent fiscal years for which data are available.

*Special allowance:* A loan financed with proceeds of a tax-exempt obligation originally issued prior to October 1, 1993, reverts to the regular special allowance rates paid on other loans if certain actions occur after September 30, 2004. A loan made or purchased on or after February 8, 2006, or a loan that is not subject to the maximum/minimum provisions for special allowance payments as of February 8, 2006, is no longer subject to the maximum/minimum provisions for special allowance payments. However, certain holders of these loans are still subject to the maximum/minimum provisions for special allowance payments until December 31, 2010, if both of the following criteria apply:

- The holder was a unit of the state or local government, or a nonprofit private entity as of February 8, 2006, and remains such an entity during the quarter for which the special allowance is paid.
- The holder held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than \$100 million on loans for which the maximum/minimum special allowance payments were paid in the most recent quarterly payment prior to September 30, 2005.

#### April 1, 2006

*Eligibility – lender:* Criteria for a school to participate as a lender have changed. The school must meet eligibility criteria as of February 7, 2006, and make a FFELP loan(s) on or before April 1, 2006.

*Excess interest rebate:* For a loan first disbursed on or after April 1, 2006, the Department will collect excess interest for quarters in which the applicable interest rate on the loan exceeds the special allowance support level. The excess interest rate is the applicable interest rate on any FFELP loan first disbursed on or after April 1, 2006, minus the appropriate special allowance support level. The support level is defined as the average of the bond equivalent rates of quotes of the 3-month commercial paper rates in effect for each of the days in the quarter as reported by the Federal Reserve in Publication H-15 for the 3-month period plus one of the following:

- 2.34 % for a Stafford loan in repayment.

- 1.74% for a Stafford loan during the in-school, grace, or deferment period.
- 2.64% for a Consolidation or PLUS loan.

*Special allowance:* For special allowance payments made on or after April 1, 2006, a PLUS loan first disbursed on or after January 1, 2000, for any period prior to April 1, 2006, is eligible for special allowance only if the loan is accruing at the cap and the interest rate calculated prior to applying the cap exceeds the maximum interest rate for the loan.

#### June 15, 2006

President Bush signs into law the [Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Hurricane Recovery \(P. L. 109-234\)](#) on June 15, 2006. A portion of the act amends the HEA.

*Consolidation loans:* The single-holder rule is repealed. A borrower may request consolidation from any participating consolidation lender, regardless of whether the consolidating lender is a holder of any of the borrower's loans.

#### June 22, 2006

*Eligibility – borrower and student:* A school may rely on, in addition to paper documentation, information accessed directly from a loan holder's database, or a third-party's Web-based product that displays a loan holder's real-time data, as documentation that satisfactory repayment arrangements have been made on a defaulted loan; a loan is no longer in default; or eligibility problems created by excessive borrowing have been resolved.

#### July 1, 2006

*Audit:* A school lender must submit an annual compliance audit on its FFELP lending activities, regardless of the size of the school's loan portfolio or annual loan volume.

*Claim payment:* An ineligible borrower claim filed by the lender on a loan first disbursed on or after July 1, 2006, is eligible for payment of 100% of outstanding eligible principal and interest.

*Common forms:* The National Council of Higher Education Loan Programs (NCHELP) Program Operations Committee's Default Aversion and Claims Standardization (DACS) Workgroup revises the Common Claim Form and the chart of data elements has been updated to coordinate with those changes. A lender is now required to enter the total amount of payments made by or on behalf of a borrower after the date the borrower became unable to work

and earn money. Various fields that were required only if available are now required. Footnote 3, which states that the information is required only for loans first disbursed on or after September 1, 1998, is removed for the servicer's six-digit servicer ID assigned by the Department. Item descriptions are added or amended to clarify that a validity indicator field must be populated while the address or telephone number fields are required only if available or if the loan(s) were disbursed on or after September 1, 1998.

DACS also revises the common Default Aversion Assistance Request form and the chart of data elements has been updated to coordinate with those changes. The validity of the borrower's address and the validity of the address for each reference were only required if available. The cross-reference to footnote 3 for the servicer's six-digit servicer ID assigned by the Department which states that the information is only required for loans disbursed on or after September 1, 1998, is removed. Validity fields for addresses and phone numbers must now be completed and the endorser's or comaker's home telephone number must be completed only if it is available for all loans, regardless of the disbursement date.

*Consolidation loans:* A married couple is no longer permitted to consolidate their eligible loans jointly.

*Cost of attendance:* For a student enrolled in a program that requires professional licensure or certification, the school has the option of including the one-time cost of obtaining the first professional credential, as determined by the school. The license or certification must be required by a state or must be commonly accepted as required to practice or be employed in the profession. In addition, the cost must be incurred while the student is enrolled in school and must not include costs associated with preparing the student for a test required for licensure or certification unless the preparation is part of the eligible program.

The COA does not include the costs satisfied by state financial assistance if the state specifies that the funds must be used to pay a specific component of the student's COA, and the state funds were excluded from the student's estimated financial assistance.

*Deferment:* A new military deferment is created. This deferment is for a borrower's loan(s) that are first disbursed on or after July 1, 2001, and is applicable while a borrower is serving on active duty during a war or other military operation, or a national emergency, or while a borrower is performing qualifying National Guard duty during a war or other military operation, or a national emergency.

The military deferment is loan-specific. This deferment is available only for a borrower's Stafford and PLUS loans first disbursed on or after July 1, 2001, and Consolidation loans when all Title IV loans included in the Consolidation loan are loans that were first disbursed on or after July 1, 2001. The borrower must meet the qualifications after July 1, 2001.

The deferment is available only for periods during which a borrower is performing one of the following services:

- Serving on active duty during a war or other military operation, or a national emergency.
- Performing qualifying National Guard duty during a war or other military operation, or a national emergency.

The new regulations provide definitions specific to the context of the military deferment.

A borrower is not eligible for a refund of any loan payments made prior to the time the deferment is granted.

*Disability discharge (total and permanent):* A lender must review the records of a borrower who applies to the lender for total and permanent disability loan discharge for any new loans made to the borrower on or after the date the borrower became totally and permanently disabled. If the lender's records indicate (or the lender is otherwise aware) that a new loan was made during the 3-year conditional discharge period, the lender must deny the discharge and inform the borrower.

*Disbursements rules:* A lender that disburses loan proceeds through an escrow agent must make funds available to the escrow agent no earlier than 10 days prior to the date of the scheduled disbursement to the school or borrower and must require the escrow agent to disburse loan proceeds no later than 10 days after receiving the proceeds from the lender.

A lender, at the request of a student enrolled in a study-abroad program that is approved for credit by the home institution, must disburse loan funds directly to the student or pursuant to an authorized power of attorney, only after the lender or guarantor verifies the student's enrollment. The lender may make a loan disbursement directly to a student enrolled in a foreign school at the school's request after lender or guarantor verifies the student's enrollment. A student enrolled in a foreign school may not execute a power of attorney for the purpose of endorsing his or her FFELP loan disbursement.

Foreign schools are no longer automatically exempt from the delayed delivery and multiple disbursement requirements but may be exempted based on low cohort default rates. The delayed delivery requirement and the single-term multiple disbursement requirement are waived for schools that have a cohort default rate of less than 10 percent for each of the three most recent fiscal years for which data are available.

A guarantor must verify that a school is certified to participate in the Title IV programs prior to the lender's direct disbursement of loan funds to a student enrolled in a foreign school.

*Eligibility – borrower and student:* A student who is convicted of the possession or sale of an illegal drug is ineligible for Title IV funds only if the student was convicted of a state or federal offense that occurred while the student was enrolled in school and receiving Title IV aid.

A student or parent borrower who has been convicted of, or has pleaded guilty or *nolo contendere* to, a crime involving fraud in obtaining Title IV financial assistance is ineligible for additional Title IV funds until the student or parent borrower, as applicable, repays in full the funds that were obtained fraudulently. The student or parent borrower's eligibility under this provision is based on the borrower's certification provided in the Master Promissory Note (MPN). Regardless of any information the student or parent borrower may certify, if the school or lender is aware of information indicating that the student or parent obtained Title IV funds fraudulently, the discrepancy must be resolved before additional Title IV funds may be disbursed or delivered.

For purposes of Title IV aid, a student is considered independent if the student is currently serving on active duty in the U.S. Armed Forces or is a National Guard or Reserves enlistee and is called to active duty for purposes other than training. In this case, active duty does not include a call into active duty for state purposes.

*Eligibility – lender:* A school must have been eligible to be a school lender as of February 7, 2006, and must have made a loan(s) on or before April 1, 2006, to participate as a lender. The following rules apply to schools acting as lenders in the FFELP on or after July 1, 2006:

- The school must not be a home-study school.
- The school may make subsidized and unsubsidized Stafford loans only to its graduate and professional students.

- The school may not make PLUS loans or Consolidation loans.
- The school must offer an origination fee or interest rate, or both, that is less than the statutory maximums for that fee or rate.
- The school must use the proceeds from its interest benefits and special allowance payments from the Department and from interest payments from its borrowers, as well as the proceeds from the sale or other disposition of its loans, for need-based grant programs, except for reimbursement of reasonable, direct administrative expenses. The school must ensure that the proceeds from the FFELP loan portfolio are used to supplement the non-federal grant funding sources rather than substitute for funds from those other sources.
- The school must not have a cohort default rate that exceeds 10%.
- The school must award any contract for financing, servicing, or administration of its FFELP loans on a competitive basis.
- The school must submit to the Department an annual lender compliance audit for any year in which the school engages in activities as an eligible lender. This requirement applies regardless of the size of the school's loan portfolio or annual loan volume.

The requirement that the school separate its lending function from other school functions and that the school employ at least one person whose responsibilities are limited to the lending function is revised. The requirement is revised to require that the school employ one person whose responsibilities are limited to the administration of financial aid programs for students attending that school.

A school lender may make loans only to students enrolled at that school. The net proceeds that a school lender must use for need-based grants exclude the amount necessary for reimbursement of reasonable and direct administrative expenses, and that definition of administrative expenses does not include the costs associated with securing financing, offering a reduced origination fee, interest rate, or federal default fee to borrowers. The annual lender compliance audit of the school's FFELP portfolio is required for each fiscal year beginning on or after July 1, 2006, regardless of the size of the school's loan portfolio or annual loan volume.

*Estimated financial assistance:* Qualified education benefits, including qualified tuition programs (e.g., 529 prepaid tuition plans and savings plans), prepaid tuition plans offered by a state, and Coverdell education savings accounts are no longer included in a student's EFA.

*False certification loan discharge:* A new loan discharge for false certification—due to a crime of identity theft—is available for borrowers. Until the date that the Department's applicable discharge regulations are effective, a lender may provide administrative forbearance on a borrower's potentially eligible loan(s) if a borrower presents evidence, on or after July 1, 2006, that the lender believes to be reasonably persuasive, showing that the borrower's loan(s) may have been falsely certified due to a crime of identity theft.

*Federal default fee:* The HERA mandates a federal default fee and eliminates statutory provisions that authorize guarantors to charge a guarantee fee. If a lender deducted the federal default fee (or guarantee fee), and/or origination fee from the borrower's loan proceeds, the lender must reduce the fee(s) proportionate to the amount of returned loan funds that a lender receives from a school. A guarantor may not charge a federal default fee (formerly guarantee fee) to a borrower who refinances a fixed-rate PLUS or SLS loan to secure a variable interest rate, nor may the lender deduct the fee from the borrower's loan proceeds.

*Forbearance:* When a portion of a Consolidation loan may be eligible for unpaid refund loan discharge or teacher loan forgiveness a lender must suspend collection activity and grant an administrative forbearance on the entire Consolidation loan while awaiting documentation and during a guarantor's review of a portion of the loan's eligibility for unpaid refund loan discharge or teacher loan forgiveness.

A lender may provide administrative forbearance on a borrower's potentially eligible loan(s) if a borrower presents evidence, on or after July 1, 2006, that the lender believes to be reasonably persuasive, showing that the borrower's loan(s) may have been falsely certified due to a crime of identity theft.

In all cases when a forbearance agreement is required, a lender and the borrower may agree to the terms of forbearance verbally or in writing. A lender that grants a forbearance based on a verbal agreement with the borrower must record the forbearance terms in the borrower's file and send a notice to the borrower confirming the terms of the forbearance agreement.

*Interest rates:* A Stafford loan first disbursed on or after July 1, 2006, has a fixed interest rate of 6.8%. A PLUS loan first disbursed on or after July 1, 2006, has a fixed interest rate of 8.5%.

*Interest subsidy:* If a loan is disbursed through an escrow agent, the lender may bill for interest subsidy no earlier than three days before the date of the first disbursement of the loan. For these purposes disbursement means disbursement to the school or direct disbursement to the borrower.

*Late disbursement/post-withdrawal disbursement:* Prior to delivering a post-withdrawal disbursement of loan funds to the borrower, the school must explain that the borrower is obligated to repay any loan funds that the school delivers and confirm that the borrower still requires the loan funds. The school is also required to document the student's file regarding the result of the contact and the final determination concerning the post-withdrawal disbursement.

*Loan amount:* For an undergraduate program of study measured in clock hours, the minimum academic year requirement is reduced from 30 instructional weeks to 26 instructional weeks.

A school may use direct assessment instead of credit hours or clock hours as a measure of student learning. The assessment must be consistent with the school's or program's accreditation. The Department must determine whether such a program is an eligible program for Title IV purposes.

The definition of "eligible programs" is expanded as it relates to the use of telecommunications in programs of study. Courses offered by telecommunications are no longer considered to be correspondence courses, and students enrolled in telecommunications courses are no longer considered to be correspondence students. As a result, an otherwise eligible school that offers over 50 percent of its courses by telecommunications, or has 50 percent or more of its regular students enrolled in telecommunications courses, is now eligible to participate in the Title IV programs. A student enrolled in a short-term certificate program of less than one year offered by telecommunications is now eligible for Title IV program assistance. A program of study offered at a foreign school that includes a telecommunications course is ineligible for Title IV program assistance. Telecommunications technologies may be used in the foreign school classroom to supplement and support instruction offered as part of an otherwise eligible program. The 50-percent limitations continue to apply to correspondence courses and the students enrolled in those courses.



*Loan types:* PLUS loans are now available to an eligible graduate or professional student enrolled in an eligible graduate or professional program at a participating school. A school that participates in the Federal PLUS Loan Program and offers both undergraduate and graduate or professional programs must offer PLUS loans both to parents who wish to borrow on behalf of their dependent undergraduate students and to the school's graduate and professional students. The school is not permitted to exclude either category of borrower from participation in the Federal PLUS Loan Program.

Before applying for a PLUS loan, the graduate or professional student is required to complete a Free Application for Federal Student Aid (FAFSA) and the school is required to determine the student's maximum eligibility for subsidized and unsubsidized Stafford loan funds. However, the student may decline the Stafford loan funds and the school may not require the student to accept Stafford loan funds as a condition of applying for a Grad PLUS loan.

The PLUS MPN may be used by a graduate or professional student borrower to obtain one or more Grad PLUS loans. A school may certify a Grad PLUS loan for a graduate or professional student only if the student meets the eligibility criteria for both a student and a Grad PLUS loan borrower.

A school determines a graduate or professional student borrower's maximum eligibility for a Grad PLUS loan by subtracting from the cost of attendance (COA) the estimated financial assistance (EFA) that the student is expected to receive for the loan period.

*Origination fee:* The maximum origination fee that may be charged to a Stafford loan borrower is reduced, and will be eventually eliminated. Beginning July 1, 2006, for a Stafford loan first disbursed on or after July 1, 2006, the maximum origination fee that a lender may charge is 2%.

*Rehabilitation of defaulted loans:* A borrower is eligible to rehabilitate a defaulted loan after making nine full monthly payments that are received by the guarantor or its contracted vendor within 20 days of the due date during a period of 10 consecutive months. Guarantors have the option of considering borrowers to have met the new rehabilitation standard if at least one of the borrower's payments under the rehabilitation agreement is made on or after July 1, 2006.

*Repayment start:* A Stafford loan borrower is no longer allowed to waive all or a portion of his or her grace period in order to enter repayment early.

*Return of Title IV funds:* If there are unearned grant funds that must be repaid as a result of the return of Title IV funds calculation, the student is not required to return a grant overpayment for which the original balance was \$50 or less, on a program-by-program basis. Furthermore, a student who owes a grant overpayment for which the original balance was \$50 or less as a result of a return of Title IV funds calculation remains eligible to receive Title IV program assistance. The Academic Competitiveness Grant, SMART Grant, and Grad PLUS programs are now included in the order in which unearned funds must be returned to Title IV programs.

The number of days that a school has to return Title IV funds for which it is responsible increases from 30 days to 45 days after the date it determines the student has withdrawn.

The funds excluded from the return of Title IV funds calculation have been revised to exclude the following:

- Leveraging Educational Assistance Partnership (LEAP).
- Special Leveraging Educational Assistance Partnership (SLEAP).
- Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP).
- Student Support Services (SSS).

The method for computing the percentage of the payment period or period of enrollment completed for a student who withdraws from a clock-hour program has been simplified. This calculation is based on the hours the student was scheduled to complete as of the withdrawal date.

*Status changes and reporting:* A lender must retain a copy of the document substantiating the date of birth, or first name change or correction. Acceptable source documents for reporting or correcting those changes are as follows:

Acceptable Source Documents for Reporting the Correction of a Date of Birth

- Birth certificate
- Current driver's license (if it contains a birth date)
- State ID (if it contains a birth date)
- Passport
- Unexpired U.S. military ID

### Acceptable Source Documents for Reporting a First Name Change

- Court order
- Marriage certificate
- U.S. Certificate of Naturalization (Form N-550 or – 570)

### Acceptable Source Documents for Reporting the Correction of a First Name

- Social Security card
- Current driver's license
- Birth certificate
- State ID
- U.S. Certificate of Naturalization (Form N-550 or N-570)
- Court order
- Marriage certificate
- W-2 Form
- Passport
- Unexpired U.S. military ID
- U.S. military discharge papers (Form DD214)
- U.S. Certificate of Citizenship (Form N-560 or N-561)
- Alien Registration Card (Form I-551 or I-151)

*Teacher loan forgiveness:* A teacher who is employed in a nonprofit private school and who is exempt from state certification requirements may have such employment qualify for loan forgiveness if the teacher can demonstrate rigorous subject knowledge and skills by taking competency tests in the applicable grade levels and subject areas. The competency tests must be recognized by five or more states for the purpose of fulfilling the highly qualified teacher requirements, and the score achieved by a teacher on each test must equal or exceed the average passing score of those five states. If a nonprofit private school teacher is subject to state certification, the teacher is not required to further demonstrate the knowledge and skills noted in this paragraph or to take additional competency tests.

### August 9, 2006

The Department publishes interim final rules to amend the Federal Student Aid program regulations to implement the changes to the HEA resulting from [P. L. 109-234](#), [P. L. 109-171](#), [P. L. 107-139](#), [P. L. 109-67](#), and [P. L. 109-66](#) in the *Federal Register* dated August 9, 2006.

### September 8, 2006

*Disbursement rules:* Required verification for a study-abroad or foreign school student must be completed either by telephone or email before each disbursement. The lender or guarantor must confirm that a new student has been admitted and that a continuing student is still enrolled. The applicable party must document these confirmations.

The lender must notify the home institution upon disbursing loan funds directly to a study-abroad student. When the school receives the notification, the school must notify the lender if the student is no longer eligible for the disbursement.

A PLUS loan for a student enrolled in a foreign school may be disbursed by EFT or master check to an account maintained by the school, or by an individual check made copayable to the borrower and the school, and mailed directly to the school.

*Estimated financial assistance:* The list of aid types that must be included in the estimated financial assistance (EFA) is amended by adding types of veterans' educational benefits, non-need-based fellowships and assistantships, insurance programs for the student's education, and ACG and SMART Grants. Non-need-based employment earnings and aid that is included in the calculation of the student's expected family contribution (EFC) are excluded from the EFA, and that portion of non-federal non-need-based loans used to replace the EFC are excluded from the EFA.

*False certification loan discharge:* An individual may qualify for false certification loan discharge that results from a crime of identity theft if the individual does all of the following:

- Certifies that he or she did not sign the promissory note, or that any other means of identification used to obtain the loan were used without the authorization of the individual.
- Certifies that he or she did not knowingly receive or benefit from the proceeds of the loan that had been made without the individual's authorization.
- Provides to the lender a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft.

If the judicial determination of the crime does not expressly state that a FFELP loan(s) was obtained as a result of the crime, the individual must provide all of the following:

- Five different samples of his or her signature, two of which must be no more than one year before or one year after the date of the contested signature, or other means of identification of the individual, as applicable, corresponding to the means of identification used falsely to obtain the loan.

- A statement of facts that demonstrates that eligibility for the student loan in question was falsely certified.

Identity theft is considered the unauthorized use of the identifying information of another individual that is punishable under [18 U.S.C. 1028](#), [1029](#), or [1030](#), or substantially comparable state or local statute. Identifying information includes, but is not limited to:

- Name, SSN, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, and employer or taxpayer identification number.
- Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation.
- Unique electronic identification number, address, or routing code.
- Telecommunication of identifying information or access device [as defined in [18 U.S.C. 1029\(e\)](#)].

If a loan was made as a result of the crime of identity theft that was committed by an employee or agent of the lender, or if at the time the loan was made, an employee or agent of the lender knew of the identity theft of the individual named as the borrower or endorser on the loan, the Department does not pay reinsurance, and does not reimburse the holder, for any amount disbursed on the loan. Also, the holder must refund to the Department any amounts received as interest benefits and special allowance payments with respect to the loan and cease future billings.

*Loan amount:* An academic year for a program of study is no longer defined as beginning on the first day of classes or ending on the last day of classes or examinations. For the purposes of an academic year, a week of instructional time is any consecutive 7-day period in which the school provides at least one day of regularly scheduled classes or examination, or, after the last scheduled day of classes for a term of payment period, at least one day of study for final examinations. Instructional time does not include periods of orientation, counseling, vacation, or homework.

A school that provides a program of study offered in whole or in part through telecommunications must be evaluated by an accrediting agency recognized by the Department as having the evaluation of distance education programs within its scope of recognition. Beginning July 1, 2006, the Department provides an 18-month waiver of the distance education evaluation requirement to certain distance education programs that were offered as of July 1, 2006, but

for which the Department did not recognize the accrediting agency as having the evaluation of distance education programs within its scope of recognition.

Telecommunications technologies may be used in the foreign school classroom to supplement and support instruction offered as part of an otherwise eligible program, as long as the student and instructor are physically present in the classroom.

*Notification – student and borrower:* In order to credit a post-withdrawal disbursement of loan funds to outstanding school charges or to deliver a credit balance of funds directly to the student, or borrower in the case of a parent PLUS loan, the school must provide a written notice to the borrower within 30 days of determining that the student has withdrawn. In this notice, the school must request confirmation of the borrower's consent for the credit of a post-withdrawal disbursement of loan funds to the student's account, or for the direct delivery of loan funds to the student or parent, in the case of a parent PLUS loan. The school must explain that a borrower who does not confirm that a post-withdrawal disbursement of loan funds may be credited to outstanding school charges may not receive the direct delivery of any of those loan funds unless the school concurs. The school must explain that the student, or parent in the case of a parent PLUS loan, may accept or decline some or all of the funds. The school also must explain the obligation of the borrower to repay any loan funds he or she chooses to have delivered.

The notice must inform the loan recipient of the deadline to respond and that the school will not deliver the funds if the school does not receive a timely response to the notice, unless the school opts to deliver a post-withdrawal disbursement based on a late response. The deadline may be set by school policy, but may not be less than 14 days after the date the school sent the notification. The deadline must be the same for funds to be applied to outstanding school charges and for funds to be directly delivered to the borrower.

If the school receives no response to the post-withdrawal disbursement notice, the school may not deliver any of those funds. If the school receives a timely response to the post-withdrawal disbursement notice, the school must deliver the funds in the manner specified by the student, or parent in the case of a parent PLUS loan. If the school receives a late response to the notice, the school may deliver the disbursement, provided that the school delivers all of the funds accepted, or the school may decline to deliver any funds. A post-withdrawal disbursement may not be delivered later than 120 days after the date of the school's determination that the student withdrew, unless an exception is granted by the Department. If the school

decides not to deliver a post-withdrawal disbursement due to the untimely response of the borrower, the school must provide written notification to the borrower of the denial of the post-withdrawal disbursement.

The school must document in the student's file the result of any notification made of the student's right to cancel or accept all or a portion of the funds, and the final determination made concerning the post-withdrawal disbursement.

*Rehabilitation of defaulted loans:* A borrower may not include in a rehabilitation agreement a loan on which a judgment has been obtained or a loan on which the borrower has been convicted of, or has pled *nolo contendere* or guilty to, a crime involving fraud in obtaining Title IV funds.

*Teacher loan forgiveness:* An elementary or secondary school operated by the Bureau of Indian Affairs (BIA) or operated on an Indian reservation by an Indian tribal group under contract with the BIA is also considered a qualifying school for the purposes of this program. Lenders may implement this provision on or after July 3, 2006.

#### September 30, 2006

President Bush signs into law the [Third Higher Education Extension Act \(THEEA\) of 2006 \(P. L. 109-292\)](#) on [September 30, 2006](#). The THEEA extends the HEA through June 30, 2007. Unlike previous extensions, THEEA contains provisions that amend the HEA.

*Eligibility – lender:* An eligible lender may not enter into a new relationship to make or hold a FFELP loan as a trustee for a school or for an organization affiliated with a school. If an Eligible Lender Trustee (ELT) relationship was established prior to September 30, 2006, it may continue, and be renewed, as long as the relationship remains in effect after September 30, 2006, and the ELT held at least one loan on behalf of the school as of that date.

#### November 1, 2006

The Department publishes final rules that amend the Federal Student Aid program regulations to implement [P. L. 109-171](#), [P. L. 108-409](#), [P. L. 107-139](#), [P. L. 109-66](#), [P. L. 109-67](#), and [P. L. 109-234](#) in the *Federal Register* dated [November 1, 2006](#).

#### December 1, 2006

*Consolidation loans:* A Federal or a Direct Consolidation loan borrower loses eligibility for a subsequent Consolidation loan unless he or she has eligible loans made before or after the date the Consolidation loan was made. A pre-existing Consolidation loan qualifies as an eligible loan made before or after the consolidation loan. This provision may have been implemented earlier by the guarantor.

A borrower may not consolidate a loan(s) for which he or she is wholly or partially ineligible due solely to the borrower's error but may consolidate any eligible loan(s) that he or she may have. A lender may implement this provision no earlier than July 1, 2000.

A borrower may consolidate a single Consolidation loan into a Direct Consolidation loan if the single Consolidation loan is held by the guarantor as a result of a bankruptcy claim and the borrower is seeking an income-contingent repayment schedule.

*Disbursement rules:* For a loan disbursed directly to a student enrolled in a study-abroad program or at a foreign school, the lender or guarantor may verify the student's enrollment via telephone, e-mail, or facsimile and must confirm that the student is enrolled at least half time. For a student enrolled in a study-abroad program, the enrollment verification must be provided by the home institution. For a student enrolled at a foreign school, the enrollment verification must be provided by an official authorized by the foreign school to act on the school's behalf in administering the FFELP. A lender may make a direct disbursement to a student attending a foreign school only upon the request of the authorized official.

*Loan certification:* If a school participates in both the FFELP and the Direct Loan Program, the school must determine the student's maximum Stafford loan eligibility under the program in which the school is participating for Stafford loan purposes.

#### December 28, 2006

The Department publishes interim final rules to implement changes to the HEA resulting from the enactment of [P. L. 109-292](#) in the *Federal Register* dated [December 28, 2006](#).

## H.2

### History of Excess Interest Rebates and Variable Interest Rate Conversions

In 1986, Congress authorized a new [interest](#) rate for Stafford loan [borrowers](#), creating a loan that accrues interest at a maximum of 8% for the [in-school](#) and [grace periods](#), and for the first 48 months of repayment. On the first day of the 49th month of repayment, the loan converts to a maximum interest rate of 10% and continues the 10% accrual until the loan is paid in full.

Congress anticipated that there would be periods over the long life of the Stafford loans where the 10% rate might exceed substantially the market interest rates. With a goal of protecting student borrowers from paying excessively high interest rates, Congress created a process that would require [lenders](#) to “rebate” to the borrower any “excess” interest earnings on the loan after 48 months of repayment, if that interest exceeds the [T-bill](#) rate plus 3.25%.

Following is a brief chronology of [excess interest rebates](#) (also called windfall profit rebates) and the process of [variable interest rate conversion](#) into which it evolved.

#### 1986

October 17, 1986

The [Higher Education Amendments of 1986](#) create the 8%/10% interest rate for loans and a requirement to refund interest to the borrower if the [applicable interest rate](#) on such loans exceeds the T-bill rate plus 3.25%.

Rebates are:

- Applicable only when the interest rate on the loan is 10%. Rebates are to be calculated and applied even if the lender is accruing interest at an actual interest rate of less than 10%.
- Paid only to the borrower even if the [Department](#) paid interest subsidy for the borrower during the period.
- Based on the quarter-ending [principal balance](#) of the loan.
- Applied to the loan only at year-end if the loan has a principal balance outstanding at year-end.
- Not applicable to loans on which the borrower is more than 30 days delinquent on December 31 of the year for which they are calculated.

#### 1988

July 1, 1988

“New borrowers” receiving their first Stafford loans for periods of enrollment beginning on or after July 1, 1988, sign [promissory notes](#) for the 8%/10% rate and are subject to that rate for all subsequent Stafford loans received.

#### 1992

July 23, 1992

The [Higher Education Amendments of 1992](#) expanded rebate provisions, applying rebates to all Stafford loans first disbursed at “fixed” rates on or after July 23, 1992.

Rebates are now:

- Applicable to all Stafford loans first disbursed on or after July 23, 1992, at fixed interest rates of 7%, 8%, 9%, and to the first loan made at 8%/10% to a [new borrower](#) on or after July 23, 1992. Rebates are now applicable based on the loan’s maximum interest rate, even if the lender was accruing interest at a lesser rate.
- Made to the Department if subsidized interest is paid on loans made under the new provisions during a period in which rebates are due.
- Calculated quarterly and applied annually, based on the loan’s balance on December 31.
- Applicable when the T-bill rate plus 3.1% is less than the applicable interest rate.

#### 1993

December 20, 1993

The [Technical Amendments of 1993](#) provided for the conversion of loans subject to excess interest rebates to a [variable interest rate](#).

The new legislation requires that:

- Loans previously subject to rebate provisions be converted to an annual variable interest rate.
- Variable-rate loans may be capped at the applicable interest rate for the loan.



- Loans be converted to the annual variable interest rate no later than January 1, 1995.
- Rebates processed for periods before the conversion to variable rate be processed based on the quarterly average [principal balance](#) of the loan.
- [Lenders](#) that have not yet provided rebates retroactively convert loans subject to rebate provisions to a [variable interest rate](#) rather than calculate and apply rebates.
- If the loan is more than 30 days delinquent as of December 31, the rebate on the loan, if applicable, is to be made to the [Department](#).
- After January 1, 1995, for loans accruing at 8%/10% that are eligible for conversion to a variable interest rate conversion only when the loan reaches the 10% accrual, the lender must convert the loan to a variable interest rate on the first day of the 49th month of repayment. For loans subject to rebates and interest-rate conversion only at 10%, the variable rate is calculated based on the T-bill rate plus 3.25%.
- Variable interest rates change annually and are effective from July 1 of each year to the following June 30.
- For fixed-rate loans that have already been converted to a variable rate, borrowers must have been notified that the interest rate on the loan changed to a variable rate. The notice was to have been provided no less than 30 days before the rate change occurred. The borrower could not refuse the interest rate conversion.

### Processing Options

Based on the preceding legislative provisions, lenders had three options for providing an [interest](#) break to their Stafford loan [borrowers](#):

1. Lenders may process rebates through year-end December 1992 or 1993 then calculate the variable rate conversion and apply it by January 1995.
  2. Lenders may retroactively reprocess the loans as variable interest rates without rebates by using the 91-day [T-bill](#) rate for the retroactive adjustments and applying the “excess interest” calculated as a credit. The conversion must be completed by January 1995.
  3. Lenders that have processed rebates may reverse those rebates and retroactively convert the loans to the variable rates.
- For loans subject to variable rates only when the [applicable interest rate](#) changes to 10%, the lender must provide notice to the borrower no less than 30 days before the date on which the loan will convert to the variable interest rate.
  - Adjustments from the rebate or variable interest rate conversion that result in a refund of subsidized interest to the Department must be included in the ED Form 799 no later than the reports filed for December 31, 1994, and March 31, 1995, respectively.
  - Loans on which a [claim](#) has been filed with the [guarantor](#) for claim payment need not be converted to variable interest rates.

### Notes and Cautions

Several provisions are applicable to the rebate/[variable interest rate conversion](#) process:

- A lender that has already applied rebates for year-end 1992 need not provide rebates to the Department if the borrower’s loan was more than 30 days delinquent on December 31, 1992. However, even if the lender had calculated and provided rebates for year-end 1993, if the borrower’s loan was more than 30 days delinquent on December 31, 1993, the lender must provide rebates to the Department on those loans for which the rebate was not made to the borrower.
- Lenders are not permitted to adjust [special allowance](#) billings for loans for which the applicable interest rate is retroactively revised.
- Lenders for which an accurate historical [record](#) of the loan’s balances is not available may calculate and provide rebates and conversion information based on the best data available.
- For loans that have been sold or bought during the period for which rebates and/or interest rate conversions are applicable, each [holder](#) of the loan is responsible for making the adjustments for periods during which they held the loan.

- When completing a Consolidation loan [verification](#) certificate for a loan to which the [interest](#) rate conversion is applicable, the variable rate should be specified.
- If a loan was filed as a [claim](#) with the [guarantor](#), and is subsequently [recalled](#) or [repurchased](#), the [lender](#) must convert the loan to the variable rate. If the lender is repurchasing the loan because the loan should not have been filed as a claim or because the loan is a nondischargeable [bankruptcy](#), the interest rate must be adjusted retroactively to the point at which the loan first became eligible for the rebate or interest rate conversion.
- If the loan is being recalled or repurchased voluntarily by the lender, the lender need only apply adjustments from the day on which the loan is repurchased.
- Loans that are rehabilitated must have the interest rate reset as of the date the rehabilitated loan is purchased by the lender.
- Loans on which the [guarantee](#) is lost but that are subsequently cured must have the interest rate reset as of the date of the [cure](#). Lenders have the option of retroactively making adjustments for periods before the cure.

## Summary of Variable-Rate Conversion Provisions

Figure H-1

Loans Subject to Conversion	Annual Variable Interest Rates		Quarterly Variable Interest Rates	
<i>Higher Education Amendments of 1986:</i>	7/1/93 through 6/30/94:	6.37%	Quarter ending 9/30/92:	7.03%
	7/1/94 through 6/30/95:	7.58%	Quarter ending 12/31/92:	6.39%
8%/10% Stafford loans first disbursed before July 23, 1992, when such loans are accruing at the 10% interest rate.	7/1/95 through 6/30/96:	9.07%	Quarter ending 3/31/93:	6.42%
	7/1/96 through 6/30/97:	8.41%	Quarter ending 6/30/93:	6.30%
	7/1/97 through 6/30/98:	8.41%	Quarter ending 9/30/93:	6.30%
	7/1/98 through 6/30/99:	8.41%	Quarter ending 12/31/93:	6.33%
8%/10% Stafford loans first disbursed on or after July 23, 1992, but before October 1, 1992, when such loans are accruing at the 10% interest rate, to borrowers who had no outstanding FFELP loans on the date the promissory note was signed.	7/1/99 through 6/30/00:	7.87%	Quarter ending 3/31/94:	6.39%
	7/1/00 through 6/30/01:	9.14%	Quarter ending 6/30/94:	6.59%
	7/1/01 through 6/30/02:	6.94%	Quarter ending 9/30/94:	7.40%
	7/1/02 through 6/30/03:	5.01%	Quarter ending 12/30/94:	7.88%
	7/1/03 through 6/30/04:	4.37%	Quarter ending 3/31/95:	8.71%
	7/1/04 through 6/30/05:	4.32%		
	7/1/05 through 6/30/06:	6.25%		
	7/1/06 through 6/30/07:	8.09%		
<i>Higher Education Amendments of 1992:</i>	7/1/93 through 6/30/94:	6.22%	Quarter ending 9/30/92:	6.88%
	7/1/94 through 6/30/95:	7.43% <sup>1</sup>	Quarter ending 12/31/92:	6.24%
Stafford loans first disbursed at a fixed rate (7%, 8%, 9%, and 8%/10% loans when accruing at 8% and 10%) on or after July 23, 1992, to borrowers who had outstanding FFELP loans on the date the promissory note was signed.	7/1/95 through 6/30/96:	8.92% <sup>2</sup>	Quarter ending 3/31/93:	6.27%
	7/1/96 through 6/30/97:	8.26% <sup>2</sup>	Quarter ending 6/30/93:	6.15%
	7/1/97 through 6/30/98:	8.26% <sup>2</sup>	Quarter ending 9/30/93:	6.15%
	7/1/98 through 6/30/99:	8.26% <sup>2</sup>	Quarter ending 12/31/93:	6.18%
	7/1/99 through 6/30/00:	7.72% <sup>1</sup>	Quarter ending 3/31/94:	6.24%
	7/1/00 through 6/30/01:	8.99% <sup>2</sup>	Quarter ending 6/30/94:	6.44%
	7/1/01 through 6/30/02:	6.79%	Quarter ending 9/30/94:	7.25% <sup>1</sup>
	7/1/02 through 6/30/03:	4.86%	Quarter ending 12/30/94:	7.73% <sup>1</sup>
	7/1/03 through 6/30/04:	4.22%	Quarter ending 3/31/95:	8.56% <sup>2</sup>
	7/1/04 through 6/30/05:	4.17%		
	7/1/05 through 6/30/06:	6.10%		
	7/1/06 through 6/30/07:	7.949%		

<sup>1</sup> Because the variable rate for Stafford loans in this category may not exceed the original interest rate, this variable interest rate does not apply to Stafford loans first disbursed at a fixed 7% interest rate, which are capped at 7%.

<sup>2</sup> Because the variable rate for Stafford loans in this category may not exceed the original interest rate, this variable interest rate does not apply to Stafford loans first disbursed at a fixed 7% or 8% interest rate, which are capped at 7% and 8%, respectively.

## H.3 History of Ability-to-Benefit Provisions

There have been numerous publications regarding [ability-to-benefit \(ATB\)](#) provisions over the past years: some providing clarification or definition, some revising previous guidance. Following is a compilation of ATB guidance to provide a historical reference regarding this evolving process.

### H.3.A Ability-to-Benefit Requirements

ATB requirements vary in federal law and regulation based on the [period of enrollment](#) for which the loan was issued.

#### Periods of Enrollment Beginning January 1, 1986, to June 30, 1987

The [school](#) was required to develop and enforce consistent criteria to determine if regular students who did not have high school diplomas or GEDs and who were beyond the age of compulsory attendance had the ability to benefit from the school's training.

#### Periods of Enrollment Beginning July 1, 1987, to June 30, 1991

The school was required to use one of the following criteria for determining the student's ability to benefit:

- The student received a GED prior to his or her completion of the program of study, or by the end of the first year of the program, whichever was earlier.
- The student was counseled before admission to the program and successfully completed the school's remedial program or developmental education program that did not exceed one [academic year](#) or the equivalent of one academic year.
- The student passed a nationally recognized, standardized, or industry-developed ATB test, subject to criteria developed by the school's [accrediting agency](#).
- If the student failed the ATB test, he or she successfully completed the school's program of remedial or developmental education that did not exceed one year or the equivalent of one academic year.

The school could use more than one method as described above to determine a student's ability to benefit. However, if the school's accrediting agency provided no criteria for

the ATB tests, or if the school was not affiliated with an accrediting association, the school could not administer, or have administered, a test as described under the third option noted above.

#### *GED-Specific Guidance*

In cases where the student was to receive his or her GED prior to completing the program of study or first year of that program, whichever was earlier, the school must have documented the student's completion of the GED and that no [Title IV funds](#) were used for studies toward the GED. In cases where the student did not complete the GED as required, the student lost his or her eligibility for Title IV aid. The school was not liable for the release of Title IV funds to the [borrower](#), but the borrower remained responsible for the repayment of any loan funds received prior to his or her loss of eligibility. The school could not release Title IV funds to any student who completed the initial program of study or first year of a program for which it could not document the receipt of his or her GED.

#### *Remedial Work*

Students could be [enrolled](#) for remedial work, and courses for that remediation could be covered by Title IV funds, provided the remedial courses complied with the requirements of [34 CFR 668.20](#), including:

- The student must have been enrolled in an eligible program of study at an eligible [institution](#).
- The course or courses must have been necessary for the student to complete a program of study leading to a degree or certificate.
- The courses must not have been a part of a program of instruction leading to a high school diploma or GED.
- The course work did exceed one academic year.
- The course work was not at such a low level of academic achievement that, at the end of the coursework, the student would remain at a level that was below the level needed to pursue successfully a degree or certificate program.

The school must have documented its decision to require the student to enroll in remedial work, prescribed a program of work to meet the student's need that did not exceed one academic year in length, and documented its determination that the student did successfully complete the program. If the student failed to complete the course of study, or was not successful in that course of study, the school could not deliver additional Title IV funds to that student.

### Periods of Enrollment Beginning before July 1, 1991

The [school](#) is considered to have violated [ATB](#) provisions in either of the following cases:

- The school substantially failed to comply with its [accrediting agency's](#) standards for ATB testing.
- If no accrediting agency standards existed, the school substantially failed to comply with the test publisher's requirements for the use of the test.

### Periods of Enrollment Beginning July 1, 1991, to July 22, 1992

A student who was not a high school graduate or did not have a GED at the time of his or her enrollment must have passed an independently administered ATB test approved by the [Department](#) before the student's receipt of [Title IV](#) aid.

Students were not eligible for SLS loans if they had not received high school diplomas or GEDs. Schools were prohibited from certifying loan [applications](#) for SLS loans until students had obtained high school diplomas or GEDs.

ATB testing must have been completed before the student received any Title IV funds.

The Department issued lists of tests approved for ATB purposes in a series of publications, including the December 19, 1990, *Federal Register* and [DCLs GEN-91-1](#), [GEN-91-8](#), and [GEN-91-20](#).

### Periods of Enrollment Beginning on or after July 23, 1992

A student who was not a high school graduate or did not have a GED at the time of enrollment must have met one of the following standards before receiving any Title IV aid:

- The student must have achieved a score specified by the Department on an independently administered ATB test that was approved by the Department.
- The student must have been considered to have had the ability to benefit from the school's training in accordance with a process prescribed by the [state](#) in which the school is located.

A student who was admitted initially under ATB provisions and who dropped out or withdrew from classes must have been reevaluated under the provisions in effect at the time of his or her reenrollment before the student may have been readmitted.

### Effective for Periods of Enrollment Beginning on or after July 1, 1996

*Final regulations for these provisions were published in December 1995, and were effective July 1, 1996.*

Schools may use tests and test scores approved before July 1, 1996, for a period of up to 60 days after the first approved test and test score is published in the *Federal Register*. Also, a student whose eligibility was determined under the old ATB rules need not be retested under the new provisions unless the student withdraws from the school and later reenrolls, in which case the student must meet the ATB rules in effect at the time of his or her reenrollment.

A student without a high school diploma, or one who did not have a GED at the time of enrollment, must have met one of the following standards before receiving any Title IV aid:

- Achieved a passing score on an independently administered test that has been approved by the Department. Note that the "passing score" will also be defined by the Department. If the student is required to pass an independently administered test, the student must have obtained a passing score not more than 12 months before the receipt of Title IV funds.
- Obtained a passing score on a Department-approved state test or assessment.
- [Enrolled](#) in an eligible [institution](#) (located in a State) that has been approved by the Department.

A school may be liable for Title IV funds delivered to a student admitted under ATB provisions if the school uses a test administrator who is not independent of the school at the time the test is administered, if the school interfered with the testing process in such a way as to compromise the test's integrity, or if the school cannot document that the student received a passing score.

## H.3.B Ability-to-Benefit Provisions

### Testing

Each student being admitted under ATB testing provisions must have been administered a test in compliance with the school's nationally recognized accrediting agency's criteria. For students admitted for periods of enrollment prior to July 1, 1991, the test could be administered by the school or any independent administrator. The school was required to maintain a [record](#) of that test and the student's

score on the test. If the [school](#) administered the test itself, it was required to maintain a copy of the actual test as part of its recordkeeping requirements. If the school did not administer the test, a record of the results of that test satisfies the recordkeeping requirements

### Testing Violations

The following violations of testing rules are deemed sufficient to invalidate the [ATB](#) test results:

- A test that was required to be administered by an independent test administrator was not administered by an independent administrator.
- A school permitted a student who failed an ATB test to retake the test earlier than the minimum time frames for that test, or more frequently than permitted for that test.
- A school allowed more time for a student to complete the ATB test than was permitted.
- A school considered a student to have passed an ATB test even though the student did not achieve the minimum passing score permitted under statute, regulation, and the [Department](#) guidance in effect at that time.
- The school administered only a part of a multipart test, unless that was permissible under rules for that test.
- For ATB tests given for periods of enrollment beginning on or after July 1, 1991, the version of the test that was used by the school was not approved by the Department and was not administered in a manner such that it complied substantially with the test publisher's rules for its use.
- The school supplied answers to the test or permitted the students taking the test to discuss the answers among themselves, in violation of the test rules.

### Immaterial Violations

The Department of Education identified three violations of an [accrediting agency's](#) or test publisher's requirements that do not have a material effect on the student's test scores and that do not justify a loan [discharge](#):

- Use of a photocopied ATB test.
- Use of an ATB test version that was obsolete by less than one year.

- Use of an ATB test that was approved by the Department but not approved by the school's accrediting agency.

### Foreign Language ATB Testing

If the ATB test was administered in a foreign language and subsequent courses were conducted in English, the student may qualify for an ATB discharge if the proper test was not administered. There are multiple tests available for non-English speaking students: tests for students [enrolled](#) in an English as a Second Language (ESL) course, tests where ESL courses are a component of the overall course of study, and tests for non-English speaking students who will enroll in regular academic or vocational courses. If the appropriate test was not administered to match with the student's intended course of study, the student may qualify for ATB discharge.

### Remedial Work

For a student enrolled in a course of study with a [period of enrollment](#) beginning in the period July 1, 1987, to July 1, 1991, the school is considered to have complied with the ATB provisions if the school ensured that the student enrolled in and successfully completed the school's program of remedial or developmental education within one [academic year](#). A student also must have been counseled prior to admission and have failed an ATB test administered by the school.

### Documentation that the Student Was Unable to Get a Job

A key component of demonstrating ability to benefit is whether the student subsequently was unable to obtain a job in the field for which the course of study at the school provided training. To document this inability to obtain a job:

- If the student did *not* complete the program of study, the student must certify that he or she did not find employment in that occupation.
- If the student completed the program of study and claims that he or she was unable to find employment in that occupation, then the student must provide evidence that he or she made a reasonable attempt to obtain that employment. A reasonable attempt could be considered three separate attempts to obtain employment, documented by a list of the companies at which the student applied, the address of each potential employer, the date that the potential employer was contacted, the position for which the student applied, and the reason given by the potential employer for not hiring the student.



### Applicability of Provisions Regarding Student's Age, Criminal Record, etc.

The regulatory provisions regarding the student's eligibility for loan [discharge](#) due to his or her inability to obtain employment in an occupation due to his or her age, physical or mental condition, or criminal record are applicable to all students—regardless of the [loan period](#) start date or any requirement imposed on the [school](#) to determine the student's ability to benefit.

### Documentation of a Condition that Prohibited Employment

If the student claims that he or she was subject to a condition that prohibited employment in the position for which he or she trained, that condition and the [state's](#) prohibition regarding employment must be documented. A loan is not eligible for discharge if it can be proven that the student was asked if such a condition existed and the student did not disclose that condition.

### Group Discharges

In some cases discharge may be authorized for a group of [borrowers](#) who demonstrate that they belong to a particular cohort of students defined by the [Department](#). All borrowers must request discharge and sign a sworn statement as prescribed in regulation. The Department will advise [guarantors](#) when a situation exists where it appears that an entire group of borrowers may be eligible for false certification discharge.

The Department requests that interested parties notify it of special situations where such an approach might be appropriate. Such a situation would be one in which a school appears to have committed "serious and pervasive violations" of regulations.

### Borrower Fraud

If a guarantor suspects, but cannot prove, that a borrower has made false statements on a discharge request, the incident should be reported to the Department of Education's Inspector General.

### Notification to the Department of Education

When a guarantor becomes aware that a school may have falsely certified a student's eligibility, that guarantor is required to notify the Department's Guarantor and Lender Review Branch in the regional office responsible for the state in which the school is located.

### Rules for Discharge

In order to have a loan discharged based on improper determination of the student's ability to benefit, the following criteria must be met:

- The loan must have been disbursed in whole or in part on or after January 1, 1986.
- The student must certify under penalty of perjury that the school failed to determine or improperly determined his or her ability to benefit from the school's training; and
- If the student withdrew from the school, the student must certify that he or she did not obtain employment in the field for which the school's course of study was intended; or,
- If the student completed the course of study, the student must certify that he or she made a reasonable attempt and was unable to obtain employment in the field for which the course of study was designed, or obtained employment in that field only after receiving additional training from another school; or
- The student must certify that he or she did not, at the time of enrollment, meet the legal requirements for employment in the student's state of residence in the field for which the course of study was preparatory because of a mental or physical condition, age, or criminal record, or other reason accepted by the Secretary.

### Absence of Documentation/Evidence

A borrower's statement that he or she (or, in the case of a PLUS loan, the student) was "falsely certified" or "improperly tested" would not be considered sufficient evidence of the borrower's entitlement to discharge if it is not supported by some evidence that the student was admitted to a course of study to which he or she should not have been admitted as a result of improper administration of [ATB](#) provisions.

The guarantor is expected to obtain [documentation](#) and [records](#) from any available public or private agency which reviewed or had oversight responsibilities for the school. If the guarantor determines that evidence or documentation does not exist, it is the borrower's responsibility to substantiate the claim with substantive persuasive evidence.

## H.4 History of Statutory and Regulatory Waivers

### H.4.A HEROES Act Waivers

#### HEROES Act Waivers<sup>1</sup>

The [Higher Education Relief Opportunities for Students \(HEROES\) Act of 2003 \(P.L. 108-76\)](#) requires the Department to publish waivers or modifications to statutory or regulatory provisions applicable to the Title IV federal student aid programs. The HEROES Act directs the Department to publish waivers and modifications that are appropriate to assist “affected individuals” who are also federal student aid applicants and recipients. The Department originally announced the HEROES Act waivers in a [Federal Register notice dated December 12, 2003](#), effective until September 30, 2005. In a [Federal Register notice dated October 20, 2005](#), the Department extended the waivers to September 30, 2007.

Not all waivers and modifications apply to all affected individuals. The Department designated four categories of waiver recipients, and identified specific waivers and modifications that apply to each category. In addition to granting waivers to affected individuals, the Department also granted waivers to the *dependents and spouses* of two categories of affected individuals (see [Figure H-2](#) under “HEROES Act Waivers and Modifications”).

#### Affected Individuals under the HEROES Act

The HEROES Act defines an “affected individual” as any one of the following:

- A member of a U.S. Armed Force serving on active duty in connection with a war or other military operation, a national emergency, or subsequent actions or conditions, who is assigned to a duty station at a location other than the location at which the individual is normally assigned.
- Active duty service includes a Reserve, or a retired member of a U.S. Armed Force ordered to active duty in connection with a war or other military operation, or a national emergency, regardless of the location at which that active duty service was performed.

- A member of the National Guard on full-time National Guard duty under a call to active service authorized by the president or the secretary of defense for a period of more than 30 consecutive days in connection with a war or other military operation, or a national emergency.
- An individual who resides or is employed in an area that was declared a disaster area by any federal, state, or local official in connection with a national emergency.
- An individual who suffers direct economic hardship as a direct result of a war or other military operation, or a national emergency, as determined by the Department.

For the purpose of determining who is an “affected individual,” additional conditions apply, as follows:

- “Active duty” *excludes* active duty for training or attendance at a service school (e.g., the U.S. Military Academy or the U.S. Naval Academy).
- “Military operation” means a contingency operation, as defined in 10 U.S.C. section 101(a)(13).
- “National emergency” means a national emergency declared by the president of the United States.

#### HEROES Act Waivers and Modifications

Figure H-2 lists, by topic, each of the statutory and regulatory waivers or modifications the Department authorizes and identifies the individuals to which that waiver or modification applies. Statutory and regulatory waiver and modification topics listed in Figure H-2 and in the more detailed waiver or modification description that follows are presented in life-of-a-loan order, corresponding to the progression of policies within the *Common Manual* to the extent possible.

<sup>1</sup> Policy 947 (Batch 140), approved April 19, 2007

## HEROES Act Waivers and Modifications

Figure H-2

WAIVER TOPIC	Current Requirement Reference	WAIVER RECIPIENT*					
		U.S. Armed Forces Member	Dependent or Spouse of U.S. Armed Forces Member	National Guard Member	Dependent or Spouse of National Guard Member	Individual Lived or Worked in Declared Disaster Area	Individual Suffered Direct Economic Hardship
1. Signatures required for the FAFSA, SAR, and ISIR	2006-2007 <i>Federal Student Aid Handbook</i> , Application and Verification Guide, Chapter 2, p. AVG-32		X		X		
2. Reinstatement of Title IV Eligibility	5.2.E; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 1, Chapter 3, p. 1-48	X		X		X	
3. Professional Judgment	6.5.D, 6.6.B; 2006-2007 <i>Federal Student Aid Handbook</i> , Application and Verification Guide, Chapter 5, p. AVG-99	X		X		X	X
4. Need Analysis	6.6; 2006-2007 <i>Federal Student Aid Handbook</i> , Application and Verification Guide, Chapter 2, p. AVG-12 and Chapter 3	X	X	X	X	X	X
5. Verification of AGI and Income Tax Paid	8.5; 2006-2007 <i>Federal Student Aid Handbook</i> , Application and Verification Guide, Chapter 4, pp. AVG-82 and AVG-83	X		X			
6. Verification Signature Requirements	8.5; 2006-2007 <i>Federal Student Aid Handbook</i> , Application and Verification Guide, Chapter 4, pp. AVG-79 to AVG-80		X		X		
7. Cash Management – Borrower Notice to Cancel Loan	8.2.C; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 4, Chapter 2, p. 4-15	X		X		X	
8. Cash Management – Required Authorizations	8.3; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 4, Chapter 2, pp. 4-16 to 4-17	X		X		X	
9. Satisfactory Academic Progress	8.4; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 2, Chapter 10, p. 2-180	X		X		X	
10. Delivering Credit Balances for a Withdrawn Student	8.8.C; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 5, Chapter 2, p. 5-28	X		X		X	
11. Approved Leave of Absence	9.3; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 5, Chapter 2, p. 5-18	X		X		X	
12. Refund of Institutional Charges	9.5.A; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 5, Chapter 2, p. 5-24	X		X			

\* See the subheading “Affected Individuals,” above, for detailed information about criteria that HEROES Act waivers and modification recipients must meet.

WAIVER TOPIC	Current Requirement Reference	WAIVER RECIPIENT*					
		U.S. Armed Forces Member	Dependent or Spouse of U.S. Armed Forces Member	National Guard Member	Dependent or Spouse of National Guard Member	Individual Lived or Worked in Declared Disaster Area	Individual Suffered Direct Economic Hardship
13. Return of Title IV Funds – Post-withdrawal Disbursements	9.5.A; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 5, Chapter 2, p. 5-73	X		X		X	
14. Return of Title IV Funds – Grant Overpayments Owed by the Student	9.5.A; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 5, Chapter 2, p. 5-83	X		X		X	X
15. Return of Title IV Funds – Unearned Funds Owed by the School	9.5.A, 9.5.B; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 5, Chapter 2, p. 5-80	X		X		X	X
16. In-School and Grace Period	10.2, 10.3.C	X		X		X	
17. Deferment – In-School and Graduate Fellowship	11.5, 11.6; Figure 11-1	X		X		X	
18. Deferment – Armed Forces	11.3; Figure 11-1	X		X			
19. Forbearance	11.22.B	X		X		X	
20. Rehabilitation of Defaulted Loans	13.7	X		X		X	
21. Loan Forgiveness	13.9.B	X		X		X	
22. Consolidating Defaulted Title IV Loans	15.2	X		X		X	
23. Collection Activities on Defaulted Title IV Loans	34 CFR 682.410; 2006-2007 <i>Federal Student Aid Handbook</i> , Volume 6	X		X		X	

\* See the subheading “Affected Individuals,” above, for detailed information about criteria that HEROES Act waivers and modification recipients must meet.

For each topic discussed below, any applicable statutory or regulatory requirement is summarized and followed by a description of the waiver or modification that pertains to that requirement.

1. *Signatures Required on the Free Application for Federal Student Aid (FAFSA), Student Aid Report (SAR), and Institutional Student Information Record (ISIR)* (see the 2006-2007 *Federal Student Aid Handbook*, Application and Verification Guide, Chapter 2, p. AVG-32)

Generally, when a **dependent student** applies for Title IV aid and submits a **FAFSA** or submits corrections to a previously submitted FAFSA, at least one parental signature is required.

This requirement is waived, so that an applicant need not provide a parent's signature when there is no responsible parent who can provide the required signature because of the parent's status as an affected

individual. In these situations, a student's high school counselor or the financial aid administrator (FAA) may sign on behalf of the parent as long as the applicant provides adequate documentation concerning the parent's inability to provide a signature due to the parent's status as an affected individual.

2. *Reinstatement of Title IV Eligibility* (see [subsection 5.2.E](#) and the 2006-2007 *Federal Student Aid Handbook*, Volume 1, Chapter 3, p. 1-48)

To have eligibility for Title IV aid reinstated, a defaulted borrower must make **satisfactory repayment arrangements**, i.e., six consecutive, full, monthly payments to the appropriate holder of each defaulted loan. These payments must be made on time (within 15 days of the payment due date), voluntarily (directly by the borrower, regardless of whether there is a judgment against the borrower), and must be reasonable and affordable.

The requirement for the borrower to make consecutive payments in order to reestablish eligibility for Title IV aid is waived. Guarantors should not treat any payment missed during the time that a borrower is an affected individual as an interruption in the requisite six consecutive, monthly, on-time payments. When the borrower is no longer considered to be an affected individual, or in a 3-month transition period that immediately follows, the required sequence of qualifying payments may resume at the point at which they were discontinued as a result of the borrower's status.

3. *Professional Judgment* (see [subsections 6.5.D and 6.6.B](#), and the [2006-2007 Federal Student Aid Handbook, Application and Verification Guide, Chapter 5, p. AVG-99](#))

An FAA may use [professional judgment](#) to increase or decrease a student's [cost of attendance \(COA\)](#), or to increase or decrease a specific data element within the calculation of the [expected family contribution \(EFC\)](#), based on extenuating circumstances and on a case-by-case basis.

This provision is modified by removing the requirement that adjustments be made on a case-by-case basis for affected individuals. FAAs are encouraged to use professional judgment to more accurately reflect the financial need of affected individuals.

In addition, FAAs are encouraged to use the most beneficial of any one of the following methods to determine need for any affected individual:

- The individual's need using the adjusted gross income plus untaxed income and benefits received in the first calendar year of the award year.
- The individual's need as determined using professional judgment.
- The individual's unmodified need. (For example, in some cases, an individual's income will increase as a result of serving on active duty or performing qualifying National Guard duty.)

An FAA must clearly document the reasons for any adjustment to the COA or the data elements within the EFC calculation, and report any professional judgment decisions that affected a student's eligibility for a Federal Pell Grant to the Central Processing System (CPS).

4. *Need Analysis* (see [section 6.6](#) and the [2006-2007 Federal Student Aid Handbook, Application and Verification Guide, Chapter 2, p. AVG-12 and Chapter 3](#))

In the calculation of an applicant's EFC, the term "total income," which is used in the determination of "annual adjusted family income" and "available income," is equal to the adjusted gross income (AGI), plus untaxed income and benefits for the preceding tax year, minus excludable income.

This provision is modified to allow a school to substitute AGI plus untaxed income and benefits received in the first calendar year of the award year for which a need determination is made for any affected individual, and, if applicable, for the applicant's spouse and dependents, in order to more accurately reflect the financial condition of the affected individual and his or her family. A school has the option of using the applicant's original EFC, or the EFC based on the data from the first calendar year of the award year. If a school chooses to use an alternate EFC, it should use the alternative administrative professional judgment procedures described above under the subheading entitled "Professional Judgment."

5. *Verification of AGI and U.S. Income Tax Paid* (see [section 8.5](#) and the [2006-2007 Federal Student Aid Handbook, Application and Verification Guide, Chapter 4, pp. AVG-82 to AVG-83](#))

When an individual whose income was used in the calculation of the EFC has not filed an income tax return because he or she has been granted a filing extension by the Internal Revenue Service (IRS), a school must obtain, in lieu of an income tax return for verification of AGI or income tax paid, both of the following:

- A copy of IRS form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," that the individual filed with the IRS for the base year. If the individual requested an additional extension of the filing time frame, the school must obtain a copy of the IRS's approval of an extension beyond the automatic extension period, instead of a copy of the IRS form 4868.
- A copy of each W-2 received for the base year. For a self-employed individual, a school must obtain a statement signed by the individual certifying the amount of AGI for the base year, instead of a W-2.



This requirement is modified so that the submission of a copy of IRS form 4868 or a copy of the IRS extension approval is not required if an individual whose income was used in the calculation of the EFC met both of the following criteria:

- The individual has not filed and was not required to file an income tax return by the filing deadline because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation, or national emergency.
- The individual was not required to file an extension.

For such an individual, a school must obtain, in lieu of an income tax return for verification of AGI or income tax paid, both of the following:

- A statement from the individual certifying that he or she has not filed and was not required to file an income tax return or a request for filing extension because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation, or national emergency.
- A copy of each W-2 received for the base year. For a self-employed individual, a school must obtain a statement signed by the individual certifying the amount of AGI for the base year, instead of a W-2.

The school must obtain the tax return from the student once it is filed with the IRS in order for the school to confirm the AGI and taxes paid.

6. *Verification Signature Requirements* (see [section 8.5](#) and the *2006-2007 Federal Student Aid Handbook, Application and Verification Guide, Chapter 4, pp. AVG-79 to AVG-80*)

To verify the number of family members in a [dependent student's](#) household and the number of the dependent student's family members who are enrolled in a postsecondary institution, a school must collect from the student a statement signed by one of the student's parents.

The requirement for a school to collect a [verification](#) statement signed by one of a dependent student's parents is waived when no responsible parent can provide the required signature because of the parent's status as an affected individual.

7. *Cash Management - Borrower Notice to Cancel Loan* (see [subsection 8.2.C](#) and the *2006-2007 Federal Student Aid Handbook, Volume 4, Chapter 2, p. 4-15*)

A student or parent borrower must inform the school if he or she wishes to cancel all or a portion of a loan or loan disbursement. The school must return the loan proceeds; cancel all or a portion of the loan or loan disbursement, as applicable; or do both if the school receives a cancellation request in either of the following time frames:

- Within 14 days after the date the school sends the notification advising the student or parent borrower that the school has credited the student's account at the school.
- By the first day of the [payment period](#), if the school sends the notification more than 14 days prior to the first day of the payment period.

If a student or parent borrower requests cancellation of the loan after the 14-day period or the first day of the payment period, as applicable, the school may, but is not required to, return the loan proceeds, cancel all or a portion of the loan or loan disbursement, or do both.

For a borrower who is an affected individual, these provisions are modified to require a school to allow at least 60 days, rather than at least 14 days, for the borrower to request cancellation of all or a portion of the loan or loan disbursement. If a school receives a request from a borrower after the 60-day period, the school may, but is not required to, comply with the borrower's request.

8. *Cash Management - Required Authorizations* (see [section 8.3](#) and the *2006-2007 Federal Student Aid Handbook, Volume 4, Chapter 2, pp. 4-16 to 4-17*)

A school must obtain written authorization from a student or parent borrower, as applicable, to perform the following activities:

- Deliver Stafford or PLUS loan proceeds to the borrower's personal bank account.
- Use the Stafford or PLUS loan proceeds to pay for current-year charges other than tuition, fees, and contracted room and/or board.
- Hold a credit balance on behalf of the student or parent borrower.

These provisions are modified to permit a school to accept an authorization provided by the student or parent borrower orally, rather than in writing, if the student or parent is prevented from providing a written authorization because of his or her status as an affected individual.

9. *Satisfactory Academic Progress* (see [section 8.4](#) and the *2006-2007 Federal Student Aid Handbook, Volume 2, Chapter 10, p. 2-180*)

A school may determine that a student is making satisfactory progress even though the student does not satisfy the school's [satisfactory academic progress](#) requirements, if the school determines that the student's failure to meet those requirements is based on mitigating or special circumstances.

In cases when a student failed to meet satisfactory academic progress standards as a direct result of being an affected individual, schools are permitted to apply the mitigating or special circumstances exception noted above.

10. *Delivering Credit Balances for a Withdrawn Student* (see [subsection 8.8.C](#) and the *2006-2007 Federal Student Aid Handbook, Volume 5, Chapter 2, p. 5-28*)

If a student withdraws and has a Title IV credit balance on his or her account, the school must complete a [return of Title IV funds](#) calculation before delivering any portion of the credit balance to the student or returning any portion of the credit balance to the Title IV programs. Within 14 days of the date that the school performs the return of Title IV funds calculation, the school must pay any remaining Title IV credit balance. The school must first allocate the Title IV credit balance to repay any grant overpayment owed by the student as a result of the current withdrawal. If there is no grant overpayment owed, or if an additional credit balance exists on the account after a grant overpayment is repaid, the school must use the credit balance to pay outstanding, authorized charges at the school, reduce the student's loan debt (with the student's authorization), or deliver the credit balance to the student or parent borrower.

For a student who withdraws because he or she is an affected individual, a school is considered to have met the 14-day deadline for paying a credit balance if, within that 14-day period, the school attempts to contact the student or parent borrower, as applicable, to suggest that the student or parent borrower give permission for the school to return the credit balance to the loan program(s). The school must allow the student

or parent borrower 45 days to respond. Within that 45-day period, based on the instructions of the student or parent borrower, the school must promptly return the loan funds or pay the credit balance to the student or parent borrower. If there is no response within 45 days, the school must promptly return the funds to the appropriate Title IV program. Instead of first requesting permission to return funds to a loan program in order to reduce the borrower's loan debt, the school may pay authorized charges at the school or directly pay the credit balance to the student or parent borrower. (See *14. Return of Title IV Funds – Grant Overpayments Owed by the Student* for additional information about a waiver that exempts certain affected individuals from owing a grant overpayment.)

11. *Approved Leave of Absence* (see [section 9.3](#) and the *2006-2007 Federal Student Aid Handbook, Volume 5, Chapter 2, p. 5-18*)

Before granting an approved [leave of absence](#) to a student, a school must collect from the student a written, signed, and dated request that includes the reason for the leave. Unforeseen circumstances may prevent a student from providing a written request prior to the leave of absence. In such cases, the school may grant the student's request for a leave of absence if it documents its decision and collects the student's written request at a later date.

In certain limited cases, it may be appropriate for a school to provide an approved leave of absence to a student whose enrollment is interrupted because he or she is an affected individual. The requirement for a school to collect a student's written request for an approved leave of absence is waived when the student would have difficulty providing a written request as a result of being an affected individual.

12. *Refund of Institutional Charges* (see [subsection 9.5.A](#) and the *2006-2007 Federal Student Aid Handbook, Volume 5, Chapter 2, p. 5-24*)

The institutional charges used in the [return of Title IV funds](#) calculation for a withdrawn student are always the institutional charges that were initially assessed the student for the [payment period](#) or [period of enrollment](#), unless the school adjusted the student's institutional charges before the student withdrew.

For an affected individual, schools are encouraged to provide a full refund of tuition, fees, and other institutional charges for the portion of a period of instruction that the student was either unable to complete, or for which the student did not receive

academic credit. As an option, a school may choose to provide an affected individual with a credit in a comparable amount against future charges.

However, before a school makes a refund of institutional charges, it must perform the required [return of Title IV funds](#) calculation based on the originally assessed institutional charges (see “15. *Return of Title IV Funds – Unearned Funds Owed by the School*” for an additional waiver relating to institutional charge amounts used in the return of Title IV funds calculation). After determining the amount that the school must return to the Title IV programs, any reduction of institutional charges may take into account the funds that the school is required to return. In other words, schools are not expected to both return funds to the Title IV programs and also provide a refund of those same funds to the student.

Schools should consider providing easy and flexible reenrollment options to affected individuals, minimizing deferral of enrollment or reapplication requirements, and providing the greatest flexibility possible with administrative deadlines related to those applications.

13. *Return of Title IV Funds – Post-withdrawal Disbursements* (see [subsection 9.5.A](#) and the [2006-2007 Federal Student Aid Handbook, Volume 5, Chapter 2, p. 5-73](#))

If a student (or parent) responds to a school’s [post-withdrawal disbursement](#) notice within 14 days of the date the school sends the notice and instructs the school to make all or a portion of the post-withdrawal disbursement, the school must make the post-withdrawal disbursement of the credit balance (any amount that remains after the student’s institutional charges are paid) within 120 days of determining that the student withdrew and in the manner specified by the student (or parent). If the student (or parent) responds to the school’s notice after 14 days have expired, the school may, but is not required to, make the post-withdrawal disbursement of the credit balance to the student (or parent).

This requirement is modified for a student who is an affected individual and eligible for a post-withdrawal disbursement so that the 14-day time period in which the student (or parent) must normally respond to the offer of the post-withdrawal disbursement is extended to 45 days. If the student (or parent) submits a response after the 45-day time period, the school may, but is not required to, make the post-withdrawal disbursement of the credit balance.

If the student (or parent) submits a timely response instructing the school to make all or a portion of the post-withdrawal disbursement, or if the school chooses to make a post-withdrawal disbursement based on receipt of a late response, the school must deliver the funds within 120 days of determining that the student withdrew.

14. *Return of Title IV Funds – Grant Overpayments Owed by the Student* (see [subsection 9.5.A](#) and the [2006-2007 Federal Student Aid Handbook, Volume 5, Chapter 2, p. 5-83](#))

If a student withdraws and the return of Title IV funds calculation shows that the student must repay funds to a Title IV grant program, the student is obligated to return only one half of the unearned grant amount.

For a student who withdraws from a school because of his or her status as an affected individual, the student is not required to return or repay a grant overpayment based on the return of Title IV funds provisions. For these students, the following federal requirements are also waived:

- The school’s obligation to notify the student of a grant overpayment.
- The actions a student must take to resolve the overpayment.
- Denial of Title IV eligibility for a student who owes an overpayment and does not take any action to resolve the overpayment.
- The school’s obligation to refer an overpayment to the Department under certain conditions.

A school is not required to contact the student, notify the [National Student Loan Data System](#), or refer the overpayment to the Department. A school must document in the student’s file the amount of any overpayment as part of the documentation of this waiver’s application. A school must not apply a Title IV credit balance to the grant overpayment before paying any amount of the Title IV credit balance to the student or parent borrower. (See *Delivering Credit Balances for a Withdrawn Student*, above, for more information about the waiver that applies to delivering credit balances for affected individuals.)

15. *Return of Title IV Funds – Unearned Funds Owed by the School* (see [subsections 9.5.A and 9.5.B](#), and the *2006-2007 Federal Student Aid Handbook, Volume 5, Chapter 2*, p. 5-80)

A school must return to the appropriate Title IV program its share of unearned funds for a withdrawn student. The amount that must be returned is the lesser of the amount of Title IV funds that the student did not earn, or the amount of institutional charges incurred by the student for the [payment period](#) or [period of enrollment](#), multiplied by the percentage of funds not earned.

A school must return unearned funds for an affected individual as it must for any student who withdraws. However, for a student who withdraws because of his or her status as an affected individual, the amount of any charges that the school is required to cover, and has covered, with non-Title IV sources of aid is excluded from the student's total institutional charges.

**Example:** A student receives a state grant of \$800 that must be used only for tuition charges. The school applies the state grant toward the total institutional charges of \$1,000. The student withdraws. The school uses \$200, the difference between the full institutional charges and the amount of the state grant the school was required to apply to institutional charges, as the student's total institutional charges for the payment period or period of enrollment when determining the amount of unearned Title IV funds that the school must return.

16. *In-School and Grace Period* (see [section 10.2](#) and [subsection 10.3.C](#))

The [in-school period](#) on a loan begins on the date the student begins at least half-time enrollment and ends when the student ceases to be continuously enrolled at least half time. A Stafford loan borrower who has a loan in an in-school status that would subsequently enter a [grace period](#), or has a loan in a grace period, and who is serving on active duty, performing qualifying National Guard duty, or residing or employed in a disaster area, is entitled to one or more extensions of the in-school or grace period. (For more information about the groups of affected individuals who are eligible for this waiver, see the subheading "Affected Individuals.") Any single extended period may not exceed 3 years. The maximum 3-year extension for any single extended period includes the time necessary for a borrower to resume enrollment at the next available and regularly scheduled period of enrollment, if the borrower plans to return to school. The Department

pays the interest that accrues on subsidized Stafford loans during any extended period. Affected individuals are entitled to a full six-month or nine-month grace period, as applicable, upon completion of the excluded period.

17. *Deferment – In School and Graduate Fellowship* (see [sections 11.5 and 11.6](#), and [Figure 11-1](#))

Once the [repayment period](#) has begun, a qualified borrower is entitled to defer principal payments on a FFELP loan while enrolled at an eligible school or in an eligible graduate fellowship program. Generally speaking, a borrower's deferment period ends when the condition establishing the borrower's eligibility for the deferment ends. (See [sections 11.5 and 11.6](#), and [Figure 11-1](#) for detailed information about in-school and graduate fellowship deferment eligibility criteria.)

The Department waives the statutory and regulatory eligibility requirements for in-school and graduate fellowship deferments for borrowers who are required to interrupt a graduate fellowship or who are in an in-school deferment but must leave school because of their status as an affected individual. The loan holder is required to maintain the loan in a graduate fellowship or in-school deferment status for a period not to exceed 3 years during which the borrower was an affected individual. This period includes the time necessary for the borrower to resume his graduate fellowship program or resume enrollment in the next regular enrollment period if the borrower returns to school. The Department pays interest that accrues on a subsidized Stafford loan as a result of extending a borrower's eligibility for either type of deferment under this waiver.

18. *Deferment – Armed Forces* (see [section 11.3](#) and [Figure 11-1](#)): Certain borrowers are entitled to defer principal payments on a FFELP loan for periods not to exceed 3 years when the borrower is on active duty status in the U.S. Armed Forces, or a member of the National Guard or Reserves serving a period of full-time active duty in the Armed Forces. To qualify for deferment, the borrower must provide the loan holder with documentation establishing his or her eligibility for the deferment. (See [section 11.3](#) for detailed information about military deferment criteria.)

The Department modifies the 3-year cumulative limit on armed forces deferment so that the time during which affected individuals are serving on active duty is excluded from the time limit. The Department pays interest that accrues on subsidized Stafford loans during an extended deferment period under this



modification. In addition, the Department waives the requirement that a borrower request the deferment. A loan holder may grant deferment to an affected individual based on a request from a family member or other reliable source. Further, the Department waives documentation requirements to allow a loan holder to grant an affected individual an armed forces deferment for a 1-year period without documentation. In order to grant a military deferment beyond the initial 1-year period, the loan holder must obtain supporting documentation from the borrower, a member of the borrower's family, or another reliable source.

19. *Forbearance* (see [subsection 11.22.B](#)): A loan holder must require a borrower who requests [mandatory administrative forbearance](#) because of military mobilization to provide documentation showing that the borrower is subject to a military mobilization.

The Department waives this requirement to allow a borrower to receive forbearance at the request of the borrower, a member of the borrower's family, or another reliable source, for a one-year period, including a 3-month transition period that immediately follows, without providing the loan holder with documentation. In order to grant the borrower forbearance beyond this initial, fifteen-month period, the loan holder must obtain documentation supporting the borrower's military mobilization.

20. *Rehabilitation of Defaulted Loans* (see [section 13.7](#))

To be eligible for [rehabilitation](#), a defaulted borrower must make ~~satisfactory repayment arrangements, i.e., twelve consecutive on-time (received within 20 days of the due date), full, monthly payments to the appropriate holder of each defaulted loan during a period of 10 consecutive months.~~ These payments must be made ~~on time (within 15 days of the payment due date),~~ voluntarily (directly by the borrower, regardless of whether there is a judgment against the borrower), and must be reasonable and affordable.

The requirement that the borrower make ~~consecutive~~ payments ~~as described in the preceding paragraph~~ in order to rehabilitate a defaulted loan is waived. Guarantors should not treat any payment missed during the time that a borrower is an affected individual as an interruption in the requisite ~~twelve consecutive, nine on-time, monthly, on-time payments during a period of 10 consecutive months.~~ When the borrower is no longer considered to be an affected individual, or in a 3-month transition period that immediately follows,

the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status.<sup>2</sup>

21. *Loan Forgiveness* (see [subsection 13.9.B](#))

Borrowers may qualify for loan forgiveness if they are employed full-time in specified occupations (e.g., as per the Teacher Loan Forgiveness Program). Generally, to qualify for loan forgiveness, borrowers must perform uninterrupted, otherwise qualifying service for a specified length of time or for consecutive periods of time.

The requirement that periods of service be uninterrupted and/or consecutive is waived, if the reason for the interruption is related to the borrower's status as an affected individual. The period during which the borrower is an affected individual, including a 3-month transition period that immediately follows, will not be considered an interruption in the required service for the borrower to receive loan forgiveness.

22. *Consolidating Defaulted Loans* (see [section 15.2](#))

A defaulted Title IV loan is eligible for consolidation if, at the time of application for the Consolidation loan, the borrower has agreed to repay the Consolidation loan under an income-sensitive repayment schedule, or the borrower has made satisfactory repayment arrangements. Satisfactory repayment arrangements for Consolidation loan eligibility purposes are defined as three, consecutive, on-time (received within 15 days of the due date), voluntary, full monthly payments. These payments must be reasonable and affordable with respect to the borrower's financial situation and must be received by the holder of the defaulted loan during the 3 months immediately preceding the receipt of a consolidating lender's verification certificate.

For an affected individual who establishes eligibility to consolidate a defaulted loan by making satisfactory repayment arrangements, the requirement for consecutive monthly payments is waived. Guarantors should not treat any payment missed during the time that a borrower is an affected individual as an interruption in the requisite three consecutive, monthly, on-time payments. When the borrower is no longer considered to be an affected individual, or in a 3-month transition period that immediately follows, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status.

<sup>1</sup>. Policy 926 (Batch 138), approved February 15, 2007

<sup>2</sup>. Policy 922 (Batch 137), approved January 18, 2007



23. *Collection Activities on Defaulted Loans* (see [34 CFR 682.410](#) and the [2006-2007 Federal Student Aid Handbook, Volume 6](#))

Title IV loan holders must attempt to recover amounts owed from defaulted loan borrowers.

The provisions that require collection activities on defaulted Title IV loans are waived for the time period during which the borrower is an affected individual. Collection activities may cease upon notification by the borrower, a member of the borrower's family, or another reliable source that the borrower is an affected individual. The loan holder is not required to obtain evidence of the borrower's status as an affected individual. Collection activities must resume after the borrower has notified the loan's holder that he or she is no longer an affected individual, and must include the 3-month transition period that immediately follows. The loan holder must document in the loan file the reason that it suspended collection activities.

#### Documentation Requirements

A school, lender, or guaranty agency must document the application of a waiver or modification in such a way that it can report to the Department, upon request, the effect of the waivers and modifications.

## H.4.B Higher Education Hurricane Relief Act Waivers

The [Higher Education Hurricane Relief Act of 2005 \(P.L. 109-148\)](#) authorized the Department to waive or modify any statutory or regulatory provision applicable to the Title IV programs, or any student or institutional eligibility provision in the HEA, as the Department deems necessary in connection with a Gulf hurricane disaster.

Based on this authority, on February 23, 2006, the Department published [Electronic Announcement #9](#) and [Electronic Announcement #12](#), stating that hurricane-impacted schools that were in possession of Title IV funds that were awarded to students enrolled for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita will, generally, not be required to return those funds for students who withdrew or who never began attendance. For the purposes of this relief, a hurricane-impacted school is a school with a main campus that ceased on-campus operations for more than thirty days as a result of Hurricane Katrina or Hurricane Rita, as determined by the Department.<sup>1</sup>

<sup>1</sup>. Policy 947 (Batch 140), approved April 19, 2007