

# COMMON MANUAL - GUARANTOR POLICY PROPOSAL

Date: November 29, 2006

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
		MOVED TO CONSIDERED	

**SUBJECT:** Claim File Documentation Requirements

**AFFECTED SECTIONS:** 13.1.D Claim File Documentation

**POLICY INFORMATION:** 911/Batch 136

**EFFECTIVE DATE/TRIGGER EVENT:** Claims filed by the lender on or after the guarantor's implementation of the provisions of the Common Claim Initiative.

**BASIS:**  
None.

## CURRENT POLICY:

Current policy states that the guarantor may require lenders to provide additional documentation or information for a loan on which a claim is filed. Current policy does not stipulate that the Claim form or electronic equivalent format must be complete and legible.

## REVISED POLICY:

Revised policy moves the statement that the guarantor may require additional documentation or information for a claim to a more prominent location in text. The text is also revised to emphasize that the documentation or information may be required, on a case-by-case basis subsequent to an initial claim filing but before completing processing of a claim or after claim payment in order to resolve a borrower dispute or assist in the school's review of its cohort default rate. Revised policy also states that the Claim form or its electronic equivalent format must be complete and legible.

## REASON FOR CHANGE:

Guarantors expressed concerns that lenders may not comply with requests for additional claim-file documentation if they remove their appendix C entries and believe that the current requirement to provide additional information is not sufficiently prominent. These changes are intended to alleviate those guarantor concerns.

## PROPOSED LANGUAGE - COMMON MANUAL:

Revise subsection 13.1.D of the October 2006 *Common Manual*, page 3, column 1, paragraph 4, as follows:

### 13.1.D Claim File Documentation

A lender must include the documentation listed in this subsection with each claim file it submits to a guarantor. The lender also must promptly provide any additional information or documentation that the guarantor requests to assist in the review of the claim prior to claim payment, or after a claim is paid, in the resolution of a borrower dispute or to assist in the school's review of its cohort default rate. If the borrower's file contains more than one of any document, all of the originals—or copies, if the originals are not available—should be included and grouped together. The lender also should group all claim files together by claim type (default, bankruptcy, etc.).

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Revise subsection 13.1.D, page 3, column 2, paragraph 1, as follows:

## General Documentation Requirements

### *Bankruptcy, Death, Default, and Total and Permanent Disability Claims*

Each claim file must contain the following documentation, as applicable. The documents should be arranged in the following order and according to the specified guidelines:

1. *Claim Form* Lenders must use the Claim Form (see subsection 13.1.A) or an equivalent electronic format when filing a claim, and must ensure that the form or its equivalent are complete and legible. All data noted in the instructions accompanying the Claim Form must be provided. This data includes an accurate and legible record of the collection history.

Revise subsection 13.1.D, page 4, column 1, paragraph 5, as follows:

~~Guarantors may require lenders to provide additional information or documentation, for example if the borrower disputes the loan amount or a school disputes its cohort default rate.~~

#### **PROPOSED LANGUAGE - COMMON BULLETIN:**

##### **Requesting Additional Claim-File Information**

Long-standing common policy has permitted guarantors to request additional information or documentation for a claim that the lender submits. The *Common Manual* has been revised to relocate the common policy statement and to place additional emphasis on the policy, ensuring that lenders are aware that guarantors may request and lenders must promptly provide any additional information or documentation that the guarantor requests on a case-by-case basis subsequent to an initial claim filing. Such information or documentation may be required in unusual circumstances, for example, to assist in the resolution of issues related to a borrower dispute or to assist in the school's review of its cohort default rate.

Common policy also has been amended to state that the Claim Form or its equivalent electronic format must be complete and legible.

#### **GUARANTOR COMMENTS:**

None.

#### **IMPLICATIONS:**

##### ***Borrower:***

None.

##### ***School:***

None.

##### ***Lender/Servicer:***

With the clarifying text that additional documentation or information is required only on a case-by-case basis, in claim processing subsequent to an initial claim filing, lenders and loan servicers may be required to revise claim filing procedures for some guarantors such that the claim filing documentation more closely mirrors both word and intent of the CCI.

##### ***Guarantor:***

Guarantors with appendix C entries specifying that the guarantor may require that the lender submit additional information or claim file documentation may remove those entries since common policy now places additional emphasis on this policy provision. With the additional clarifying text, guarantors who require initial claim files to include documentation that exceeds CCI standards may find it necessary to publish appendix C entries that specify the documentation requirements.

##### ***U.S. Department of Education:***

None.

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**To be completed by the Policy Committee**

#### **POLICY CHANGE PROPOSED BY:**

CM Policy Committee

**DATE SUBMITTED TO CM POLICY COMMITTEE:**

September 22, 2006

**DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:**

**PROPOSAL DISTRIBUTED TO:**

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

**Comments Received From:**

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, KHEAA, NCHELP, NSLP, NYHESC, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, UHEAA, USA Funds, VSAC

**Responses to Comments**

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Several commenters supported this proposal as written. Other commenters recommended wordsmithing changes that made no substantive changes to the policy but added clarity to the proposed language. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

**COMMENT:**

Three commenters suggested that the policy be tabled or amended radically, suggesting that, as written, the policy violates the premise on which the Common Claim Initiative (CCI) is structured. The commenters are concerned that the statement provides guarantors with the option to request claim file documentation in the initial claim filing that is in addition to and in violation of the requirements provided in the CCI.

One commenter suggested that the policy be tabled because it is causing significant confusion and concern within the community.

Two commenters requested that the policy not move forward but provided no rationale.

One commenter noted that they believe it is a part of the CCI's original premise that a guarantor may request, on a case-by-case basis, additional documentation required to resolve discrepancies associated with an individual claim file.

**Response:**

The Committee would first clarify that the language that the proposal addresses has been in the *Common Manual* for some time. Its current placement and content has apparently resulted in very little notice or confusion. As one commenter noted, the option for the guarantor to request additional documentation to substantiate a claim was a part of the original CCI premise, and explicit language was attached to that premise in the original CCI development project. The current language was inserted initially as a part of the CCI process, in policy 205, batch 32. The language was added as a result of guarantor comments on policy 205, indicating that they needed language to ensure that they would, in exceptional circumstances, be able to request from the lender additional claim file documentation to assist in the resolution of a borrower dispute, a cohort default rate challenge, or other extraordinary event. It was never intended to provide a loophole to subvert the intent of the CCI by endorsing the routine collection of extensive initial claim file documentation. As such, the simple movement of the language from one paragraph to another cannot in and of itself violate the premise of CCI since the language was an original part of CCI.

However, since the policy itself has resulted in strong opposition, the Policy Committee is moving the policy to considered. The policy text will remain in the manual as it currently exists.

**Change:**

This policy is moved to considered without further development.

**ADDITIONAL COMMENTS RECEIVED:**

**COMMENT:**

Several commenters suggested changes in the location of the policy statement. Some wanted the sentence to remain where it is currently located and not in the paragraph to which the policy proposal changes it. Other commenters suggested that the phrase would be more appropriately located in other subsections, perhaps related to the claim return process.

**COMMENT:**

One commenter suggested that the word “promptly” be deleted from the policy language. The commenter noted that the word is not defined in the common policy text or in common usage and as such, adds little benefit to the policy itself.

**COMMENT:**

One commenter noted that the language that requires the claim to be “complete and legible” duplicates current common Claim form language and as such, is unnecessary. The commenter noted that other instructions from common forms are not duplicated in the manual.

bg/edited-tmh