

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1307	Removing Remaining References to Conditional Discharge Period	This change is necessary to eliminate all references to the conditional discharge period for loans discharged for total and permanent disability. No FFELP loans are still monitored under conditional discharge rules. All total and permanent disability discharge applicants are eligible for the post-discharge monitoring period rules for applications received on or after July 1, 2010.	Correction	Total and permanent disability discharge applications received on or after July 1, 2010

Batch 202 (Bulletin Language)

# COMMON MANUAL – CORRECTION POLICY PROPOSAL

Date: December 9, 2014

	DRAFT	Comments Due	
X	FINAL	Consider at GB meeting	3/19/2015
	APPROVED	with changes/no changes	

**SUBJECT:** Removing Remaining References to Conditional Discharge Period

**AFFECTED SECTIONS:** 5.5.A Prior Loan or TEACH Grant Service Obligation in a Conditional Discharge or Post-Discharge Monitoring Period Based on a Determination of a Total and Permanent Disability  
Figure 5-1 Effect of Title IV Loan Status on Student Aid Eligibility  
11.1.A General Deferment Eligibility Criteria  
11.20.F Forbearance of a Loan for a Comaker during the TPD Conditional Period  
11.21.S Total and Permanent Disability  
13.8.G Total and Permanent Disability

**POLICY INFORMATION:** 1307/Batch 202

**EFFECTIVE DATE/TRIGGER EVENT:** Total and permanent disability discharge applications received on or after July 1, 2010.

**BASIS:** §682.402(c); Preamble of the October 29, 2009, *Federal Register*, Vol. 74, No. 208, pp. 36560-36561.

**CURRENT POLICY:** Current policy states that borrowers who qualify for total and permanent disability discharge are placed into a 3-year conditional discharge period during which the borrowers' loans are placed in forbearance before discharge or a post-discharge monitoring period.

**REVISED POLICY:** Revised policy removes the references to conditional discharge period.

**REASON FOR CHANGE:** This change is necessary to eliminate all references to the conditional discharge period for loans discharged for total and permanent disability. No FFELP loans are still monitored under conditional discharge rules. All total and permanent disability discharge applicants are eligible for the post-discharge monitoring period rules for applications received on or after July 1, 2010. The conditional discharge rules are well represented in Appendix H: History of the FFELP and the *Common Manual* for historical reference.

**PROPOSED LANGUAGE - COMMON MANUAL:** Revise Subsection 5.5.A, page 10, column 1, paragraph 1, as follows:

**5.5.A**  
**Prior Loan or TEACH Grant Service Obligation in a ~~Conditional Discharge or Post-Discharge Monitoring Period~~ Based on a Determination of a Total and Permanent Disability**

A borrower whose ~~prior Title IV loan(s) is conditionally discharged or whose prior Title IV loan(s) or TEACH grant service obligation has been discharged and is in a 3-year post-discharge monitoring period based on a determination that the borrower is totally and permanently disabled, must do the following before a school may certify a new Stafford or PLUS loan for the borrower:~~

- Submit a request to the Department's total and permanent disability servicer ~~Conditional Discharge Disability Unit~~ that the loans held in a post-discharge monitoring period ~~conditionally discharged loan(s)~~ be returned to repayment.

- Advise the school that the borrower has begun the process of returning the ~~conditionally discharged loan(s) or~~ loan(s) in a post-discharge monitoring period to repayment.

Before a school may certify a new loan for such a borrower, the school must confirm that the borrower has initiated the process to return the loan(s) to repayment. The school also must determine whether the status of the loan (default or non-default) will trigger additional requirements before it certifies a new loan for the borrower. If the loan(s) was in default prior to being ~~conditionally discharged or~~ placed in a post-discharge monitoring period, the school may be required to document that the borrower has either made satisfactory repayment arrangements with the loan holder in order to reinstate Title IV eligibility, ~~or has rehabilitated, or consolidated~~ the defaulted loan(s) (see Subsection 5.2.E).

A borrower must do the following before he or she is 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."  
[§682.201(a)(6)(i)]
- Sign a statement acknowledging that any loan that ~~has been conditionally discharged or~~ is in a post-discharge monitoring period 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.  
[§682.201(a)(6)(ii); §682.201(a)(7)(ii)(A)]
- Sign a statement acknowledging that collection activity will resume on any ~~conditionally discharged loans or~~ loans that are in a post-discharge monitoring period.  
[§682.201(a)(7)(ii)(B)]
- Acknowledge that he or she is once again subject to the terms of the TEACH grant agreement, if the grant recipient's service obligation has been discharged and the grant recipient is in a 3-year post-discharge monitoring period.  
[§682.201(a)(6)(iii)]

The school must not deliver any new loan funds until it confirms that the loan holder has returned to repayment the ~~conditionally discharged loan(s) or~~ loan(s) in a post-discharge monitoring period.  
[§682.201(a)(5)]

If a loan is in ~~either the 3-year conditional period, or the 3-year post-discharge monitoring period, as applicable,~~ the discharge is terminated and the loan(s) is reinstated to the status it held prior to the initial discharge determination if either of the following occur within 3 years from the date that the physician completes and certifies the discharge application:

- The borrower receives a new TEACH grant.
- The borrower receives a new loan under any Title IV loan program (Federal Perkins Loan Program, FFELP, or Federal Direct Loan Program).

*Note:* If the borrower receives a new Consolidation loan that does not include any loans that are in a ~~conditional discharge period or the 3-year post-discharge monitoring period, neither the conditional discharge period nor the borrower's total and permanent disability final~~ discharge status is not affected ~~itself, as applicable, terminate.~~

...

If the borrower's ~~conditional discharge or final~~ discharge is terminated, the Department reinstates collection activities on any loan on which collection activity had been previously suspended based on an ~~initial~~ determination of the borrower's total and permanent disability. (See Subsection 13.8.G for more information regarding the total and permanent disability loan discharge and Appendix G for the definition of "totally and permanently disabled.")

[§682.402(c)(4)(i); §685.213(b)(4)(i)]

*Note:* A loan that is discharged based on a determination by the U.S. Department of Veterans Affairs that the borrower is totally and permanently disabled is not placed in a ~~conditional discharge or post-discharge monitoring period~~. See Subsection 5.5.B.  
[DCL GEN-09-07/FP-09-05, Q & A 14]

Revise Figure 5-1, page 12, as follows:

**Figure 5-1  
Effect of Title IV Loan Status on Student Aid Eligibility**

<b>Loan Status</b>	<b>Eligible for FFELP and Federal Perkins Loans</b>	<b>Eligible for Federal Pell, SEOG, FWS, and LEAP</b>
Defaulted	No	No
Written off as default	Yes <sup>1</sup>	Yes <sup>1</sup>
<del>Conditional discharge or</del> <del>Post-discharge</del> monitoring period based on a determination of total and permanent disability	Yes <sup>2</sup>	Yes
<del>Final discharge due to total and permanent disability</del>	Yes <sup>2</sup>	Yes
Paid in full after default	Yes	Yes
Satisfactory repayment arrangements made after default	Yes	Yes
Compromised after default	Yes	Yes
Discharged by bankruptcy or determined to be dischargeable in bankruptcy	Yes	Yes

<sup>1</sup>To be eligible, the applicant must (a) repay each written-off loan in full or (b) reaffirm each Title IV loan obligation with the holder of the note that was written off and make satisfactory repayment arrangements as part of the reaffirmation (for any loan in default before the write-off).

~~<sup>2</sup>To be eligible, the applicant must (a) obtain a physician's statement certifying that the borrower may now engage in substantial gainful activity, and (b) sign a statement acknowledging that any new loan the borrower receives may not be discharged based on the same or any disability existing at the time the loan is made, unless the disabling condition substantially deteriorates to the extent that the definition of total and permanent disability is met.~~

~~[§682.201(a)(6)(i) through (iii); §682.402(c); §685.200(a)(1)(iv)]~~

<sup>2</sup>~~To be eligible, the applicant must (a) submit a request to the Department's Conditional Discharge Disability Unit indicating that the conditionally discharged loan(s) or loan(s) in a post-discharge monitoring period be returned to repayment and advise the school that the process of returning the conditionally discharged loan(s) to repayment has been initiated; (b) obtain a physician's statement certifying that the borrower may now engage in substantial gainful activity; (c) sign a statement acknowledging that any loan the borrower receives cannot that has been conditionally discharged may not be discharged in the future on the basis of based on the same or any impairment 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 impairment substantially deteriorates to the extent that the definition of total and permanent disability is met; and (d) sign a statement acknowledging that collection~~

activity will resume on any ~~conditionally discharged loan(s) or loan(s)~~ in a post-discharge monitoring period.

~~[\$682.201(a)(5); §682.201(a)(6)(i); §682.201(a)(7)(ii)(A) and (B)]~~

Revise Section 6.15, page 48, column 2, paragraph 1 and 2, as follows:

## **6.15 School Certification of the Loan**

Before a school may certify a new loan for a borrower whose prior Title IV loan(s) is ~~conditionally discharged or~~ in a post-discharge monitoring period based on a determination that the borrower is totally and permanently disabled, the school must:

- Confirm that the borrower has initiated the process to have the loans reinstated ~~return~~ ~~he loan(s) to repayment.~~
- Determine whether the status of the loan (default or non-default) will trigger additional requirements before it ~~certifies~~ originates a new loan for the borrower.

If the loan(s) was in default prior to being ~~conditionally discharged or~~ placed in a post-discharge monitoring period, the school may be required to document that the borrower has either made satisfactory repayment arrangements with the loan holder in order to reinstate Title IV eligibility or has rehabilitated the defaulted loan(s) (see Subsection 5.2.E). See Subsection 5.5.A for more information regarding borrower eligibility for a new loan when the borrower's prior loan(s) is ~~conditionally discharged or~~ placed in a post-discharge monitoring period.

~~[\$685.200(a)(1)(iv)682.201(a)(5)]~~

Revise Section 8.7, page 10, column 2, paragraph 1, as follows:

## **8.7 Delivering Loan Funds at Eligible Schools**

A school must not deliver any new loan funds to a borrower whose prior Title IV loan(s) is ~~conditionally discharged or~~ in a post-discharge monitoring period based on a determination that the borrower is totally and permanently disabled until it confirms that the discharged loan(s) has been returned to repayment.

Revise Subsection 11.1.A, page 1, column 2, paragraph 1, bullet 5, as follows:

### **11.1.A General Deferment Eligibility Criteria**

There are several conditions under which borrowers qualify for deferment. In granting a deferment, the lender should be aware of the following general characteristics of deferments:

- ...
- ...
- ...
- ~~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.~~

The loan holder may apply an administrative forbearance to any delinquency that exists prior to the start date of the deferment or, if the lender is processing the deferment retroactively, the forbearance may also be used to satisfy any delinquency that remains after the end date of the deferment. ~~The administrative forbearance may be applied only for the time period that the nondisabled comaker is solely responsible for the loan's repayment and may not begin earlier than the date the loan holder receives either 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 administrative forbearance may not end later than the date the lender receives notification of the final discharge determination. The deferment and any associated administrative forbearance may cover a period less than, but never more than, the period of time the disabled comaker is granted a conditional discharge.~~

Revise Subsection 11.20.F, page 29, column 2, paragraph 4, as follows:

#### **11.20.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 nondisabled 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. The administrative forbearance may be applied only for the time period that the nondisabled comaker is solely responsible for the loan's repayment and may not begin earlier than the date the loan holder receives either 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 administrative forbearance may not end later than the date the lender receives notification of the final discharge determination. (See Subsection 10.6.C for repayment options; Sections 11.2 to 11.19 for deferment information; Section 11.22 for information on discretionary forbearance; and Subsection 11.22.A for information on reduced-payment forbearance.)~~

Revise Subsection 11.20.G, page 30, column 1, as follows:

#### **11.20.GF**

##### **Forbearance of Defaulted Loan**

Revise Subsection 11.20.H, page 30, column 2, as follows:

#### **11.20.HG**

##### **Borrower Contact during Forbearance**

Revise Subsection 11.20.I, page 31, column 1, as follows:

#### **11.20.IH**

##### **Establishing Repayment after Forbearance**

Revise Subsection 11.21.S, page 39, column 1, paragraph 1, as follows:

#### **11.21.S**

##### **Total and Permanent Disability**

...  
...  
...

~~For loans processed under rules that require a three-year conditional discharge period, 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.~~

Revise Subsection 13.8.G, page 50, column 1, paragraph 4, as follows:

**13.8.G**  
**Total and Permanent Disability**

*Suspending Collection*

...  
...

~~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. The administrative forbearance may be applied only for the time period that the nondisabled comaker is solely responsible for the loan's repayment and may not begin earlier than the date the loan holder receives notification that a loan discharge application was submitted to the Department. The administrative forbearance may not end later than the date the lender receives notification of the final discharge determination.

...

*General Requirements for Total and Permanent Disability Loan Discharge Based on a Physician Certification*

...  
...  
...

If a borrower, comaker, or endorser receives a new TEACH grant or a new Title IV loan (with the exception of a Consolidation loan that does not include any loans that are in a ~~conditional discharge status or post-discharge monitoring period~~) during ~~the 3-year conditional discharge period or the 3-year post-discharge monitoring period, as applicable,~~ the borrower, comaker, or endorser is not eligible for discharge on the loan on which he or she is a signatory or any loan made prior to that date. (See explanations of the terms “~~conditional discharge status~~” and “~~post-discharge monitoring period~~” later in this subsection under the subheading “Discharge Based on a Determination of Total and Permanent Disability.”)

...

...

#### *Discharge Based on a Determination of Total and Permanent Disability*

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...

...

~~For a total and permanent disability loan discharge application received on or after July 1, 2002, through June 30, 2010, a borrower who met certain eligibility criteria received an initial disability determination and was placed in a 3-year conditional discharge status. For a total and permanent disability loan discharge application received on or after July 1, 2010, a borrower who meets certain eligibility criteria receives a loan discharge and is placed in a 3-year post-discharge monitoring period.~~

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...

#### *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 nondisabled ~~comakers 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 the loan balance and continue collection activities. 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~~ continue loan collection activities on the full loan amount. The disabled comaker's obligation on the loan is discharged and the lender ~~may bill~~ must only bill the non-disabled comaker. If the Department denies the ~~final~~ discharge, the lender must ~~resume~~ continue collection activities with both comakers.

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.



The *Common Manual* has been updated to remove the remaining references to the conditional discharge period during which borrowers are placed in deferment for three years before the loan(s) is discharged due to total and permanent disability.

**GUARANTOR COMMENTS:**

None

**IMPLICATIONS:**

*Borrower:*

None

*School:*

None

*Lender/Service:*

None

*Guarantor:*

None

*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:**

July 29, 2014

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

MARCH 12, 2015

**PROPOSAL DISTRIBUTED TO:**

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

**Comments Received from:**

Great Lakes, MGA, NCHER, NELA, OCAP, PPSV, SCSL, TG, TSAC, UHEAA, and USA Funds.

**Responses to Comments**

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Most commenters supported this proposal as written. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

**COMMENT:**

One commenter suggested rewording any language that states "returned to repayment" to "reinstated" and "certify" to "originate". This suggestion comes from the August 28, 2009 private letter guidance from Pam Moran.

**Response:**

The Committee does not agree with this change. Per the FSA Handbook, a school must certify a loan before it is originated and the word certify is also used in the private guidance dated August 28, 2009.

**Change:**

The regulatory language has not changed.

**COMMENT:**

Two commenters requested retaining language in Figure 5-1 regarding final discharge due to total and

permanent disability that is relevant to the formerly used conditional discharge period.

**Response:**

The Committee disagrees with this suggestion. If the borrower received a total and permanent disability discharge and is past any 3-year conditional or post-discharge monitoring period, and is applying for new loans or TEACH grants, the borrower still must obtain a doctor's certification that he/she is able to engage in substantial gainful activity, and must acknowledge that new loans or TEACH grants can't be discharged in the future on the basis of existing disabilities unless they substantially deteriorate.

**Change:**

None.

**COMMENT:**

One commenter stated that for total and permanent disability applications received on or after July 1, 2010, the 3-year post-discharge monitoring period begins with the date the discharge is granted rather than the date the physician certified the application, as it was with the pre-July 1, 2010 conditional discharges. The four conditions that both FFEL and DL regulations list which will cause a loan(s) or TEACH grant service obligation to be reinstated after discharge is granted should be listed.

**Response:**

The section referenced is about the borrower obtaining a new loan. The additional bullets being suggested relates to how a borrower's debt obligation can be reinstated during the 3-year discharge monitoring period and does not apply here.

**Change:**

None.

**COMMENT:**

One commenter found another mention of conditional discharge originally missed by the Committee. It was suggested that Section 6.15 be revised to remove this mention of conditional discharge.

**Response:**

The Committee agrees.

**Change:**

The Policy Language has been revised as follows:

**6.15  
School Certification of the Loan**

Before a school may certify a new loan for a borrower whose prior Title IV loan(s) is ~~conditionally discharged or~~ in a post-discharge monitoring period based on a determination that the borrower is totally and permanently disabled, the school must:

- Confirm that the borrower has initiated the process to have the loans reinstated ~~return the loan(s) to repayment.~~
- Determine whether the status of the loan (default or non-default) will trigger additional requirements before it ~~certifies~~ originates a new loan for the borrower.

If the loan(s) was in default prior to being ~~conditionally discharged or~~ placed in a post-discharge monitoring period, the school may be required to document that the borrower has either made satisfactory repayment arrangements with the loan holder in order to reinstate Title IV eligibility or has rehabilitated the defaulted loan(s) (see Subsection 5.2.E). See Subsection 5.5.A for more information regarding borrower eligibility for a new loan when the borrower's prior loan(s) is ~~conditionally discharged or~~ placed in a post-discharge monitoring period.

[§685.200(a)(1)(iv)~~682-201(a)(5)~~]

**COMMENT:**

One commenter found another mention of conditional discharge originally missed by the Committee. It was suggested that Section 8.7 be revised to remove this mention of conditional discharge.

**Response:**

The Committee agrees.

**Change:**

The Policy Language has been revised as follows:

**8.7****Delivering Loan Funds at Eligible Schools**

A school must not deliver any new loan funds to a borrower whose prior Title IV loan(s) is ~~conditionally discharged or~~ in a post-discharge monitoring period based on a determination that the borrower is totally and permanently disabled until it confirms that the discharged loan(s) has been reinstated ~~returned to repayment~~.

**COMMENT:**

One commenter requested significant changes to language that discusses a borrower obtaining a new loan after discharge.

**Response:**

These changes did not directly relate to the removal of the remaining references to the conditional discharge period. The Committee will be researching this issue to determine if a separate proposal is warranted.

**Change:**

None.

**COMMENT:**

One commenter requested that chapters 11 and 13 be updated with the more recent guidance in Appendix V of the 6/12/13 Electronic Announcement.

**Response:**

These changes did not directly relate to the removal of the remaining references to the conditional discharge period. The Committee will be researching this issue to determine if a separate proposal is warranted.

**Change:**

None.