#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
1308	Three - Year Cohort Default Rates	Revised policy removes information pertaining to the two-year cohort default rate (CDR) and the transition to a three-year rate. Revised policy also: • Clarifies that, as part of a school's administrative capability standards, the school's CDR must be less than 30% for two of the three most recent fiscal years and must not exceed 15% for Perkins Loans. A school with a single-year CDR of 30% or greater will be required to establish a default prevention task force. A school with CDRs of 30% or greater for two consecutive years must revise its default prevention plan to implement additional default aversion measures, and could also be subject to provisional certification. • Provides that, beginning in 2014 with the publication of the fiscal year 2011 three-year CDR, a school may also raise a Participation Rate Index (PRI) challenge or appeal if its three-year CDR equals or exceeds 30% for two of the three most recent fiscal years for which rates have been calculated and the school's PRI in either of those fiscal years is less than or equal to 0.0625, in order to avoid placement on provisional certification. • Deletes obsolete CDR exemptions for Historically Black Colleges and Universities (HBCUs), tribally controlled community colleges, and Navajo community colleges. • Deletes obsolete language which provided that the definition of default also includes student borrowers with FDLP loans from proprietary non-degree-granting schools that are in repayment for at least 360 days under the income-contingent repayment plan with scheduled payments that are less than $15 per month and less than the interest accruing on the loan.	Federal	Removal of the two-year CDR information effective as of the publication of the official cohort default rates on September 15, 2014. Removal of exemptions from loss of eligibility due to excess CDR's for Historically Black Colleges and Universities (HBCUs), tribally controlled community colleges and Navajo community colleges effective October 29, 2009. Removal of the provision that included certain Direct Loan ICR borrowers in the numerator of a for-profit, non-degree institution's CDR effective November 1, 2002.

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: May 26, 2015

	DRAFT	Comments Due	
X	FINAL	Consider at GB meeting	Jun 18
	APPROVED	with changes/no changes	

SUBJECT: **Three - Year Cohort Default Rates**

AFFECTED SECTIONS:
4 2 Administrative Capability Standards
16.1 Overview of Cohort Default Rates and Terminology
16.2 Calculation of School Cohort Default Rates
Figure 16-1 Cohort Default Rate Formulas
Figure 16-2 Cohort Default Rate Formulas Beginning with Fiscal Year 2009
16.3 School Draft Cohort Default Rates and Challenges
16.4 School Official Cohort Default Rates, Adjustments, and Appeals
16.4.B School Appeals

POLICY INFORMATION: **P1308/Batch 203**

EFFECTIVE DATE/TRIGGER EVENT:
Removal of the two-year CDR information effective as of the publication of the official cohort default rates on September 15, 2014.

Removal of exemptions from loss of eligibility due to excess CDR's for Historically Black Colleges and Universities (HBCUs), tribally controlled community colleges and Navajo community colleges effective October 29, 2009.

Removal of the provision that included certain Direct Loan ICR borrowers in the numerator of a for-profit, non-degree institution's CDR effective November 1, 2002.

BASIS:
HEA §435(a); §668.181; §668.200; §668.202; §668.204; §668.214; *Federal Register* dated November 1, 2002. p. 6705; *Federal Register* dated October 28, 2009, pp. 55638-55639.

CURRENT POLICY:
Current policy contains information about the two-year cohort default rate and the transition from a two-year to a three-year CDR. Current policy also includes obsolete CDR exemptions for Historically Black Colleges and Universities (HBCUs), tribally controlled community colleges, and Navajo community colleges as well as language regarding <u>the</u> ~~removal~~ <u>inclusion</u> of certain Direct Loan income-contingent repayment plan borrowers ~~from~~ <u>in</u> the numerator of a for profit non-degree institution's CDR.

REVISED POLICY:
Revised policy removes information pertaining to the two-year cohort default rate (CDR) and the transition to a three-year rate. Revised policy also:

- Clarifies that, as part of a school's administrative capability standards, the school's CDR must be less than 30% for two of the three most recent fiscal years and must not exceed 15% for Perkins Loans. A school with a single-year CDR of 30% or greater will be required to establish a default prevention task force. A school with CDRs of 30% or greater for two consecutive years must revise its default prevention plan to implement additional default aversion measures, and could also be subject to provisional certification.

- Provides that, beginning in 2014 with the publication of the fiscal year 2011 three-year CDR, a school may also raise a Participation Rate Index (PRI) challenge or appeal if its three-year CDR equals or exceeds 30% for two of the three most recent fiscal years for which rates have been calculated and the school's PRI in either of those fiscal years is less than or equal to 0.0625, in order to avoid placement on provisional certification.

- Deletes obsolete CDR exemptions for Historically Black Colleges and Universities (HBCUs), tribally controlled community colleges, and Navajo community colleges.

- Deletes obsolete language ~~for proprietary non-degree granting schools only~~ which provided ~~that~~ ~~T~~the definition of default also includes student borrowers with FDLP loans from proprietary non-degree-granting schools that are in repayment for at least 360 days under the income-contingent repayment plan with scheduled payments that are less than $15 per month and less than the interest accruing on the loan.

REASON FOR CHANGE:
The Manual is being updated to comply with regulatory changes published in the October 28, 2009, *Federal Register*, Vol. 74, No. 207. The Manual is also being updated to remove some provisions that became obsolete through other regulatory revisions.

PROPOSED LANGUAGE - *COMMON MANUAL*:
Revise Section 4.2, page 25, column 1, bullet 5 as follows:

- The school must participate in the electronic processes that the Department provides at no substantial charge to the school. These processes will be identified in notices published in the *Federal Register*. The Department expects to provide these notices annually. Schools are not restricted to using only software and services provided by the Department.
[§668.16(e); §668.34(a)]

- The school's cohort default rate:

  - ~~Must be less than 25% for each of the three most recent fiscal years for each of the three most recent fiscal years for which two-year rates have been issued~~

  - ~~Beginning in 2014,~~. M~~m~~ust be less than 30% for at least two of the three most recent fiscal year's for which ED has issued rates for the institution.

  - Must not exceed 15% for Perkins loans.

  [HEA §435(a)(2); 668.16(m)]

- A school must annually report to the Department the amount of any reasonable expenses that were paid or provided by a private education loan lender or group of lenders to an agent.

Revise Section 16.1, page 1, column 1, paragraph 5, as follows:

16.1 Overview of Cohort Default Rates and Terminology

FFELP cohort default rates—and a series of increasingly stringent school requirements and limitations based on those rates—were added to federal regulations in 1989. These provisions were introduced to reduce the overall default rate in the federal student loan programs. FFELP cohort default rates for lenders and loan holders were introduced in the 1992 Reauthorization of the Higher Education Act of 1965, as amended. In addition, default rate provisions were expanded in the Omnibus Budget Reconciliation Act of 1993. The dual-program cohort default rate was implemented July 1, 1996, for schools with borrowers entering repayment in both the FFELP and FDLP (See Section 16.3). A provision in the Higher Education Opportunity Act of 2008 (HEOA) changed the cohort default rate formula by expanding the cohort default period from a two-year period to a three-year period beginning with fiscal year 2009. ~~Until there are three years of three-year rates, there will be a transition period during which schools will receive both two-year and three-year rates.~~ ~~Sanctions based on a high cohort default rate during this period will be based on a school's official two-year rate.~~ ~~Beginning with the publication of the official cohort default rates in calendar year 2014,~~ T~~t~~he Department uses the three-year measure to impose penalties on schools that have high cohort default rates.
[§668.206]

A school with a low official cohort default rate may qualify for specific regulatory exemptions, such as more flexible disbursement requirements. A school with persistently or excessively high official cohort default rates may lose ~~FFELP or~~ FDLP eligibility and may also become ineligible to participate in the Federal Pell Grant Program.

. . .

Revise Section 16.2, page 3, column 1-2, paragraphs 1 to 8, as follows:

16.2 Calculation of School Cohort Default Rates

~~A cohort default rate is defined as the percentage of a school's student borrowers who enter repayment during a specific fiscal year on certain FFELP or FDLP loans and who default on those loans before the end of the same or following fiscal year.~~

~~Beginning with fiscal year 2009, a~~A cohort default rate is defined as the percentage of a school's student borrowers who enter repayment during a specific fiscal year on certain FFELP or FDLP loans and who default on those loans before the end of the second fiscal year following the fiscal year in which the borrower entered repayment (see Section 16.1). This includes borrowers who borrow any of the following types of loans:

- A Federal Stafford loan, Federal SLS loan, or Direct Stafford loan.
- The portion of a Federal Consolidation loan or Federal Direct Consolidation loan used to repay a Federal Stafford loan, Federal SLS loan, or Direct Stafford loan.
[§668.202(c)(1)(iv)]

A TEACH grant that has been converted to an unsubsidized Direct Stafford loan is not considered for the purpose of calculating a school's cohort default rate.
[§668.202(b)(3)]

A FFELP cohort default rate is calculated for each school participating in the FFELP or FDLP at the beginning of the fiscal year, whether or not the school actually had student borrowers entering repayment on Stafford or SLS loans during that fiscal year.

~~An official cohort default rate is calculated for a school according to the formulas that follow in Figure 16-1 until fiscal year 2009. Formula A is used for schools that had thirty or more student borrowers who entered repayment during the fiscal year for which the rate is being calculated. Formula B is used for schools that had fewer than thirty student borrowers who entered repayment during the fiscal year for which the rate is being calculated. A draft cohort default rate is calculated for a school based on one year of data (using Formula A), even if the official cohort default rate for the school will be calculated based on several years of data (using Formula B).~~
~~[*Cohort Default Rate Guide*~~]

~~Beginning with fiscal year 2009,~~The Department calculates an official cohort default rate ~~will be calculated~~ for a school according to the formulas that follow in Figure 16-~~2~~1. Formula A ~~will be used for~~ applies to schools that had 30 or more student borrowers who entered repayment during the fiscal year for which the rate is being calculated. Formula B applies to schools that had fewer than 30 student borrowers who entered repayment during the fiscal year for which the rate is being calculated.
[HEA §435(m); DCL GEN-08-12/FP-08-10]

A dual-program cohort default rate is calculated when a school has student borrowers who entered repayment on both FFELP and FDLP loans in the same fiscal year. Although the same basic formulas are used to calculate FFELP, FDLP, and dual-program cohort default rates, slightly different definitions of default are used to determine which FFELP and FDLP student borrowers are included in the numerator of the formulas. For all schools, a FFELP loan is considered to be in default on the date the guarantor pays a default claim, and a FDLP loan (or a FFELP loan that has been purchased by the Department) is considered to be in default after 360 days of delinquency. ~~For proprietary non-degree-granting schools only, the definition of default also includes student borrowers with FDLP loans that are in repayment for at least 360 days under the income-contingent repayment plan with scheduled payments that are less than $15 per month and less than the interest accruing on the loan.~~ These conditions must have occurred before the end of the second fiscal year following the year in which the loan entered repayment.
[§668.202(c)(1)(i) and (ii); Cohort Default Rate Guide, September 2014, p. 2.1-8]

In some cases, the Department calculates an "unofficial cohort default rate" for a school. An "unofficial rate" is applicable if a school had fewer than 30 borrowers who entered repayment during the fiscal year for which the rate is being calculated, and no cohort default rate was calculated by the Department for the

school for either or both of the two previous fiscal years. An “unofficial cohort default rate” cannot be used to determine sanctions or benefits for a school because it does not meet the definition of an official cohort default rate.
[*Cohort Default Rate Guide*]

Revise Section 16.2, Figure 16.1, page 4, as follows:

~~Cohort Default Rate Formulas Figure 16-1~~

~~FORMULA A: Schools with Thirty or More Student Borrowers Who Entered Repayment~~

~~Number of student borrowers who entered repayment during the specified fiscal year and defaulted before the end of that fiscal year or the subsequent year.~~

~~Number of student borrowers who entered repayment during the specified fiscal year.~~

~~X 100~~

~~[§668.183(d)(1)]~~

~~Example~~

~~Student borrowers who entered repayment from October 1, 2005, through September 30, 2006 (inclusive), will be included in the denominator of the cohort default rate calculation for federal fiscal year 2006. If any of those student borrowers’ loans defaulted by the end of the next fiscal year (September 30, 2007), those student borrowers will be included in the numerator. Student borrowers who entered repayment during fiscal year 2006, but who defaulted after September 30, 2007, will only be included in the denominator of the formula for the fiscal year 2006 default rate calculation.~~

~~FORMULA: B: Schools with Fewer Than Thirty Student Borrowers Who Entered Repayment~~

~~Number of student borrowers who entered repayment during the specified fiscal year and the previous two fiscal years and who defaulted before the end of that fiscal year or the immediately following the fiscal year in which the borrower entered repayment.~~

~~Number of student borrowers who entered repayment during the specified fiscal year and the previous two fiscal years.~~

~~X 100~~

~~[§668.183(d)(2)]~~

~~Example~~
~~For calculating the federal fiscal year 2006 cohort default rate, the following periods are included:~~

~~Borrower Entered Repayment~~	*~~Borrower Defaulted on or Before~~*
~~10/01/03 – 9/30/04~~	~~9/30/05~~
~~10/01/04 – 9/30/05~~	~~9/30/06~~
~~10/01/05 – 9/30/06~~	~~9/30/07~~

~~Student borrowers who entered repayment during these periods are included in the denominator of the formula. Student borrowers who subsequently defaulted in the periods specified above are included in the numerator.~~

Revise Section 16.2, Figure 16.2, page 5, as follows:

Cohort Default Rate Formulas ~~Beginning with Fiscal Year 2009~~ Figure 16-~~2~~ 1

FORMULA A: Schools with 30 or More Student Borrowers Who Entered Repayment

Number of student borrowers who entered repayment during the specified fiscal year and defaulted before the end of the second fiscal year following the fiscal year in which the borrower entered repayment.

Number of student borrowers who entered repayment during the specified fiscal year.

X 100

Example

Student borrowers who entered repayment from October 1, ~~2008~~2011, through September 30, ~~2009~~2012(inclusive), will be included in the denominator of the cohort default rate calculation for federal fiscal year ~~2009~~ 2012. If any of those student borrowers' loans defaulted between October 1, ~~2008~~2011, and September 30, ~~2011~~2014, those student borrowers will be included in the numerator. Student borrowers who entered repayment during fiscal year ~~2009~~2012, but who defaulted after September 30, ~~2011~~2014, will only be included in the denominator of the formula for the fiscal year ~~2009~~ 2012 cohort default rate calculation.

FORMULA B Schools with Fewer Than 30 Student Borrowers Who Entered Repayment

Number of student borrowers who entered repayment during the specified fiscal year and the previous two fiscal years and who defaulted before the end of the second fiscal year following the fiscal year in which the borrower entered repayment.

____ **X 100**

Number of student borrowers who entered repayment during the specified fiscal year and the previous two fiscal years.
[§668.183(d)(2)]

Example
For calculating the federal fiscal year ~~2009~~2012 cohort default rate, the following periods are included:

Borrower Entered Repayment	*Borrower Defaulted on or Before*
10/01/~~06~~09 – 9/30/~~07~~10	9/30/~~09~~12
10/01/~~07~~10 – 9/30/~~08~~11	9/30/~~10~~13
10/01/~~08~~11 – 9/30/~~09~~12	9/30/~~11~~14

Student borrowers who entered repayment during these periods are included in the denominator of the formula. Student borrowers who subsequently defaulted in the periods specified above are included in the numerator.

Revise Section 16.2, page 6, column 2, paragraph 2, as follows:

Determining the Numerator

~~The numerator equals the number of student borrowers in the denominator who defaulted on any Federal Stafford, Federal SLS, or Federal Consolidation loan during the same fiscal year in which the loan or underlying loan entered repayment or during the following fiscal year. If a school had fewer than thirty borrowers who entered repayment during the fiscal year for which the cohort rate is being calculated, the Department identifies the school's student borrowers who entered repayment during the specified fiscal year and the two most recent prior fiscal years and who defaulted before the end of the fiscal year immediately following the fiscal year in which those borrowers entered repayment for inclusion in the numerator of the calculation for the specified year.~~
~~[§668.183(c)]~~

~~Beginning with fiscal year 2009,~~ T~~t~~he numerator ~~will~~ equals the number of student borrowers in the denominator who defaulted on any Federal Stafford, Federal SLS, or Federal Consolidation loan before the end of the second fiscal year following the fiscal year in which the loan or underlying loan entered repayment. If a school had fewer than 30 borrowers who entered repayment during the fiscal year for which the cohort default rate is being calculated, the Department identifies the school's student borrowers who entered repayment during the specified fiscal year and the two most recent prior fiscal years and who defaulted before the end of the second fiscal year following the fiscal year in which the loan or underlying loan entered repayment for inclusion in the numerator of the calculation for the specified year.
[HEA §435(m); §668.202(a)(2); DCL GEN-08-12/FP-08-10]

Revise Section 16.2, page 7, column 2, paragraph 3, as follows:

Types of Loans Included in Cohort Default Rates

Cohort default rates ~~for fiscal years 1993 and beyond~~ include FFELP and Direct Subsidized Stafford, FFELP and Direct Unsubsidized Stafford, and SLS loans, including underlying loans that are included in a Consolidation loan.
[§668.202(b)]

Revise Section 16.2, page 7, column 2, paragraph 5, as follows:

Schools That Change Status

Certain school changes affect the CDR calculation. See the CDR Guide for more information about school ~~Detailed information regarding the calculation of cohort default rates for schools that change status-due to~~ acquisitions or mergers, acquisitions of branches or locations, or branches or locations becoming separate schools affecting federal school identification numbers ~~can be found in federal regulations, as well as the Department's *Cohort Default Rate Guide*~~ .
[§668.203]

Revise Section 16.2, page 7, column 2, paragraph 6, as follows:

Change of Ownership Resulting in a Change of Control, Mergers, or Acquisition of Another School

If a school undergoes a change of ownership, and the school's new owner establishes eligibility for the school, the consequences of the school's previous cohort default rates continue to apply to the school. For mergers or acquisitions of another school, the CDR applicable to the school with the highest number of borrowers entering repayment during the two most recent cohorts published prior to the merger or acquisition applies to the new school organization.
[§668.203(b) and (c)]

The first CDR published after the date of the acquisition or merger includes borrowers from each school involved in the merger or acquisition transaction.
[§668.202(b)(c); §668.207]

Revise Section 16.3, page 8, column 2, paragraph 2, bullets 1 and 2 and by adding a new bullet 3, as follows:

Participation Rate Index (PRI) Challenge

A school can use the PRI challenge to put into perspective the overall federal fiscal impact of its CDR based on the low percentage of its students receiving FFELP or FDLP loans. (See section 16.1 for more information on the calculation of the PRI.) A school may submit a PRI challenge if its draft CDR meets one of the following criteria:

- The ~~two-year or~~ ~~here-year~~ CDR exceeds 40% and the school's PRI for that cohort's fiscal year is less than or equal to 0.~~6015.~~0832.

- ~~The two-year cohort default rate equals or exceeds 25% for the three most recent years for which rates have been calculated and the school's PRI for *any* of those fiscal years is less than or equal to 0.0375.~~

- The three-year CDR equals or exceeds 30% for the three most recent years for which rates have been calculated and the school's PRI for any of those fiscal years is less than or equal to 0.0625.

- For a potential placement on provisional certification based on two of the last three issued cohort default rates that equal or exceed 30%, the school's PRI is less than or equal to 0.0625 for either of the two cohorts' fiscal years.

[HEA 435(a)(2)(B); HEA 435(a)(8); §668.214(c)]

Revise Section 16.3, page 9, column 1, paragraph 1, as follows:

~~The Department will notify the school of its determination regarding the PRI challenge prior to the publication of official cohort default rates. If the challenge is successful, the school will not lose eligibility to participate in the FDLP and Federal Pell Grant Program when its official cohort default rate is~~

~~published, even if that rate exceeds the applicable regulatory threshold for participation in those programs. However, the successful challenge will not exempt the school from any other loss of eligibility. [§668.204(c)(4) and (5)]~~

. . .

Revise Section 16.4, page 9, column 2, paragraphs 1-4, as follows:

What Official Rates Mean for Schools

~~If the school's official cohort default rate is excessively high (most recent rate exceeds 40%), the school may lose eligibility to participate in the FFELP or FDLP. If the school's official cohort default rates are persistently high (three most recent official rates equal or exceed 25 %), the school may lose its eligibility to participate in the FFELP, the FDLP, and the Federal Pell Grant Program.~~
~~[§668.206(a)]~~

~~In addition, schools with an official cohort default rate of 25% or more in the three most recent fiscal years for which rates are available may be subject to provisional certification of the school's Title IV program participation.~~
~~[§668.16(m); §668.187(a)(2)]~~

~~Low official cohort default rates may qualify the school for exemption from selected disbursement requirements (see Subsection 7.7.B). The consequences for high cohort default rates differ for two- year rates and three-year rates.~~

~~*Two-Year Rates*~~
~~If the school's official two-year cohort default rate is excessively high (most recent rate exceeds 40%), the school may lose eligibility to participate in the FDLP. If the school's official two-year cohort default rates are persistently high (three most recent rates equal or exceed 25%), the school may lose its eligibility to participate in the FDLP and the Federal Pell Grant Program.~~
~~[§668.187(a)(1)]~~

~~In addition, a school with an official two-year cohort default rate of 25% or more in the three most recent fiscal years for which rates are available may be subject to provisional certification of the school's Title IV program participation.~~
~~[§668.16(m)(i); §668.187(a)(2)]~~

~~*Three-Year Rates*~~

For the first year that a school's cohort default rate is 30% or more, the school must establish a default prevention task force to prepare and submit a plan to the Department that identifies factors contributing to the high default rate, establishes steps to improve the default rate, and specifies actions that can improve repayment rates.
[HEA §435(a)(7)(A); §668.217(a)]

If the school's ~~three-year~~ official cohort default rate is 30% or more for a second consecutive year, the default prevention task force must re-evaluate and modify the plan to improve repayment rates.
[HEA §435(a)(7)(B); §668.217(b)]

Except for a successful appeal, ~~for fiscal year 2011 or later,~~ if the school's official ~~three-year~~ cohort default rate is excessively high (i.e., its most recent rate exceeds 40%), the school will lose its eligibility to participate in the FDLP. If the school's official ~~three-year~~ cohort default rates are persistently high (i.e., its three most recent rates each equal or exceed 30%), the school will lose its eligibility to participate in the FDLP and the Federal Pell Grant Program.
[§668.206(a)]

In addition, schools with an official ~~three-year~~ cohort default rate of 30% or more in two of the three most recent fiscal years for which rates are available may be subject to provisional certification of the school's Title IV program participation.
[§668.16(m)(2)]

Revise Subsection 16.4.B, page 12, column 2, paragraph 3, as follows:

Participation Rate Index (PRI) Appeals

The PRI puts into perspective the impact of the school's cohort default rate on the federal fiscal interest. Thus, a low PRI indicates that the overall impact of a school's students' defaults is not significant in terms of federal dollars. (See Section 16.1 for more information regarding the calculation of the PRI.) A school that is subject to provisional certification or a loss of ~~FFELP~~, FDLP, or Federal Pell Grant Program eligibility may use the PRI appeal based on any one 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 0.832.
  [§668.~~204(e)(1)(i)~~214(a)(1)]

- ~~The school has three consecutive two-year cohort default rates of 25% or more and the PRI for any of the three cohorts' fiscal years is less than or equal to 0.0375.~~
  ~~[HEA §435(A)(8)§668.195(a)(2)~~

- The three-year cohort default rate equals or exceeds 30% for the three most recent years for which rates have been calculated and the school's PRI for any of those fiscal years is less than or equal to 0.0625.

- For a potential placement on provisional certification based on two of the last three issued three-year cohort default rates that equal or exceed 30%, the school's PRI is less than 0.0625 for either of the two cohorts' fiscal years.

[HEA 435.(a)((2)(B); HEA 435(a)(8) §668.214]

A school ~~appealing a loss of eligibility based on its PRI~~ must submit ~~that~~ its appeal to the Department within 30 ~~45~~ days after receiving the notice of loss of eligibility. Detailed instructions for this appeal process can be found in the *Cohort Default Rate Guide* and federal regulations.
[§668.214(c); *Cohort Default Rate Guide*]

Revise Section 16.5, page 14, column 1, paragraph 2, as follows:

Consequences of High Official Cohort Default Rates for Schools

The Department may impose certain sanctions on schools with persistently high (three most recent official cohort default rates equal or exceed ~~25~~ 30%) or excessively high (greater than 40% for the most recent year) official cohort default rates. These sanctions are not imposed on schools that successfully appeal or adjust their cohort default rates..
(see Section 16.4).

Termination of Eligibility

Unless a school appeals or requests an adjustment to its official cohort default rate, the school loses eligibility to participate in the ~~FFELP and~~ FDLP 30 days after receiving notice that its most recent official cohort default rate exceeds 40%. A school loses eligibility to participate in the ~~FFELP,~~ FDLP and the Federal Pell Grant Program 30 days after the school receives notice that its three most recent official cohort default rates are ~~25~~30% or greater, unless the school appeals or requests an adjustment by that date. The loss of eligibility is applicable for the remainder of the fiscal year in which the cohort default rate notice is received and the two subsequent fiscal years. ~~A school will not lose its Federal Pell Grant Program eligibility under this section if the school was ineligible to participate or withdrew its participation in FFELP and FDLP in writing prior to October 7, 1998, and the eligibility was not reinstated, or the school has not certified a FFELP loan or originated a FDLP loan on or after July 7, 1998.~~

If a school is subject to a loss of eligibility based on three cohort default rates of 30% or greater, it may continue to participate in the Federal Pell Grant Program if the Department determines any of the following are true:

- The school was ineligible to participate in the FFELP or the FDLP before October 7, 1998 and their eligibility was not reinstated and;

- The school requested in writing before October 7, 1998, to withdraw participation in the FFEL and FDLP and was not later reinstated; and/or

- The school has not certified a FFELP loan or originated an FDLP loan on or after July 7, 1998.

The school may avoid a loss of eligibility by submitting a timely, complete appeal or request for adjustment of its official cohort default rate that results in a recalculation of the rate to below the applicable threshold for loss of eligibility. However, if that request for adjustment or appeal is denied, the school may incur liabilities payable to the Department if it continues to certify and deliver funds later than 30 days after the school receives its official cohort default rate notification. ~~The liability period for the school's delivery of FFELP funds ends 45 days after the school submits a completed, timely appeal or request for adjustment to the Department.~~
[§668.206(e) and (f)]

~~A school that loses its eligibility on the basis of its cohort default rate must inform all current and potential students that it is no longer eligible to participate in the FFELP and that students who attend may not receive FFELP funds. However, students already attending the school will remain eligible for in-school deferments based on their attendance at the school.~~

. . .

Revise Section 16.5, page 14, column 2, paragraph 4, as follows:

Default Prevention Plans

~~Beginning with the official publication of three-year cohort default rates. a~~A school whose ~~three-year~~ cohort default rate for a fiscal year is 30% or more must establish a default prevention task force to prepare a default prevention plan to:

- Identify the factors causing the school's rate to be 30% or more.

- Establish measureable objectives and steps to improve its default rate.

- Specify actions that can be taken to improve student loan repayment, including counseling regarding loan repayment options.
  [HEA §435(a)(7); §668.217]

The school must submit its Default Prevention Plan to the Department, and after reviewing the plan, the Department will offer technical assistance to the school to help improve the default rate. If, for a second year, the school's default rate is 30% or more, the task force must review and amend the plan submitted earlier and send it to the Department for review. The Department may require the school to take additional actions that promote student loan repayment.

Revise Section 16.5, page 16, column 1, sub-bullet 3, as follows:

- *After Students Leave School*

  – On a scheduled basis, schools should request and review their NSLDS Date Entered Repayment (DER) Report to assure that the data on this report matches their records.

  – Early Stage Delinquency Assistance (ESDA) begins at the time of separation or early in the grace period. This is a focused effort by lenders, guarantors, and schools to assist particular borrowers in preparing for entry into loan repayment. ESDA activities afford an opportunity to provide focused, enhanced loan counseling, borrower education, and personal support during the grace period to help decrease the chance of later loan default.

  – Late Stage Delinquency Assistance (LSDA) ~~requires~~ incorporates available services that may be provided by ~~collaboration with~~ guarantors and servicers to enhance communication with borrowers throughout repayment. LSDA techniques enable schools to help prevent seriously delinquent borrowers from defaulting.

  – . . .

Revise Section 16.5, page 16, column 2, paragraphs 1 and 2, as follows:

> ~~The school must submit the plan to the Department, and after reviewing the plan, the Department will offer technical assistance to the school to help improve the default rate.~~
>
> ~~If, for a second year, the school's default rate is 30% or more, the task force must review and amend the plan submitted earlier and send it to the Department for review. The Department may require the school to take additional actions that promote student loan repayment~~

Revise Section 16.5, page 16, column 2, paragraph 3 and 4, as follows:

> **~~Exemptions from Consequences of High Official Cohort Default Rates~~**
>
> ~~Certain schools may qualify for special relief from the consequences of high cohort default rates for one-year periods beginning on July 1 of the years 1999 through 2003. A school must be one of the following:~~
>
> - ~~A historically black college or university (as defined in the Act [HEA 322(2)]).~~
> - ~~A tribally controlled community college (as defined in the Tribally Controlled Community College Assistance Act of 1978).~~
> - ~~A Navajo community college (as defined under the Navajo Community College Act~~).
>
> ~~A school that otherwise qualifies must submit the necessary information and certifications to the Department by July 1 of the first one-year period that begins after the school's receipt of the notice of loss of eligibility. Additional steps in the exemption process are detailed in the *Cohort Default Rate* Guide and federal regulations.~~
> ~~[HEA 435(a)(2)(C)]~~
>
> **Preventing the Evasion of the Consequences of High Official Cohort Default Rates**
>
> In order to prevent a school from evading the consequences of a high official cohort default rate by the merger with or acquisition of another school, a school's loss of ~~FFELP~~ FDLP eligibility that is based on a single cohort default rate greater than 40%, or equal to or greater than ~~25~~30% for each of the three most recent official cohort default rates, is applied to another school that is eligible to participate in the ~~FFELP~~ FDLP if all of the following criteria are met:
>
> - . . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Three - year Cohort Default Rates

The *Common Manual* has been updated to remove information pertaining to the two-year cohort default rate (CDR) and the transition to a three-year rate. Revised policy:

- Clarifies that, as part of a school's administrative capability standards, the school's CDR must be less than 30% for two of the three most recent fiscal years and must not exceed 15% for Perkins Loans. A school with a single-year CDR of 30% or greater will be required to establish a default prevention task force. A school with CDRs of 30% or greater for two consecutive years must revise its default prevention plan to implement additional default aversion measures, and could also be subject to provisional certification.
- Provides that, beginning in 2014 with the publication of the fiscal year 2011 three-year CDR, a school may raise a Participation Rate Index (PRI) challenge if its three-year CDR equals or exceeds 30% for the three most recent fiscal years for which rates have been calculated and the school's PRI for any of those fiscal years is less than or equal to 0.0625.
- Deletes obsolete CDR exemptions for Historically Black Colleges and Universities (HBCUs), tribally controlled community colleges, and Navajo community colleges.
- Deletes obsolete language for proprietary non-degree-granting schools only. The definition of default

also includes student borrowers with FDLP loans that are in repayment for at least 360 days under the income-contingent repayment plan with scheduled payments that are less than $15 per month and less than the interest accruing on the loan.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
None.

School:
A school in one of the previously exempted categories may find it necessary to enhance its default prevention efforts since the school is no longer exempt from the loss of eligibility to participate in certain Title IV programs because of a high cohort default rate.

Lender/Servicer:
None.

Guarantor:
A guarantor may need to amend its program review procedures.

U.S. Department of Education:
The Department may need to amend its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
June 12, 2010

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, College Assist, FAME, Great Lakes, HESC, MDHE, MGA, NCHER, NELA, OCAP, PPSV, SCSL, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Most commenters supported this proposal as written. Some commenters recommended wordsmithing changes that were considered without comment. 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 requested revising the Current Policy Statement to qualify that Regulations prior to 11/1/2002 included a provision that if a Direct Loan borrower was making ICR payments that were less than $15/month and not covering the accruing interest for 360 days in the cohort window of a loan received at a for-profit non-degree school, that loan would be treated as in default (included in the numerator) for purposes of the cohort default rate calculation. The final 11/1/2002 Regulations eliminated that provision. They felt the proposed language as written, makes it sound as if this obsolete provision, now being removed from the Manual, exempted these borrowers from the default rate, when it actually added them.

Response:
The Committee agrees.

Change:
The Current Policy Statement has been revised as follows:

> "Current policy contains information about the two-year cohort default rate and the transition from a two-year to a three-year CDR. Current policy also includes obsolete CDR exemptions for Historically Black Colleges and Universities (HBCUs), tribally controlled community colleges, and Navajo community colleges as well as language regarding the ~~removal~~ inclusion of certain Direct Loan income-contingent repayment plan borrowers ~~from~~ in the numerator of a for-profit non-degree institution's CDR.

COMMENT:
One commenter suggested adding citations for the changes in the sections on the Participation Rate Index challenges and appeals, and for the removal of the provision on Direct Loan ICR treatment in the CDR calculations.

Response:
The Committee agrees.

Change:
The citations have been added as suggested.

COMMENT:
One commenter suggested wordsmithing to the revision of the second bullet of the Revised Policy statement and the Common Bulletin to clarify that the schools can also use PRI challenge/appeal when they only have two out of the last three years over 30%, in order to avoid placement on provisional certification.

Response:
The Committee agrees and appreciates the commenter's help in crafting a more accurate and concise policy.

Change:
The language has been changed as follows.

- Provides that, beginning in 2014 with the publication of the fiscal year 2011 three-year CDR, a school may also raise a Participation Rate Index (PRI) challenge or appeal if its three-year CDR equals or exceeds 30% for two of the three most recent fiscal years for which rates have been calculated and the school's PRI ~~for any~~ in either of those fiscal years is less than or equal to 0.0625, in order to avoid placement on provisional certification.

COMMENT:
One commenter felt that the language, as written in the fourth bullet of the Revised Policy statement and the Common Bulletin, into two separate sentences may be unclear. Current language may appear that we are deleting obsolete language for proprietary schools and there's a new definition of default. The "definition of default" referenced in the second sentence is the obsolete language referenced in the first sentence and shows that the definition of default in the second sentence is the obsolete language referenced in the first sentence.

Response:
The Committee agrees.

Change:

The language has been revised as follows:

- . . .
- . . .
- . . .
- Deletes obsolete language ~~for proprietary non-degree granting schools only~~ which provided that ~~T~~the definition of default also includes student borrowers with FDLP loans from proprietary non-degree-

granting schools that are in repayment for at least 360 days under the income-contingent repayment plan with scheduled payments that are less than $15 per month and less than the interest accruing on the loan.

om/edited-as