

## Summary of Changes Approved through April 2018

This summary lists changes made since the 2017 Annual Update of the *Common Manual*.

Policy changes were approved January 18 and April 19, 2018.

Changes made before the 2017 Annual Update are noted in Appendix H.

Common Manual Section	Description of Change	Effective Date/Triggering Event	Policy/Batch
<b>Chapter 13: Claim Filing, Discharge, and Forgiveness</b>			
<a href="#">13.8.G Total and Permanent Disability</a>	The current Manual verbiage is incongruent with the regulations.	Total and Permanent Disability Discharge Applications received on or after July 1, 2013	1326/213
<b>Appendix H: History of the FFELP and the <i>Common Manual</i></b>			
<a href="#">H.4.B HEROES Act Waivers</a>	The Department has announced another extension of the HEROES Act waivers and modifications and added updates to align the waivers and modifications with statutory and regulatory changes since the last extension. The Department has also clarified certain terms from the Act. Except for the extension of the HEROES waivers, there are no changes to the waivers and modifications for existing FFELP borrowers and loans.	September 29, 2017	1324/212
<a href="#">H.4.D Disaster Waivers</a>	Revisions to Subsection H.4.D will add guidance related to federally declared major disasters issued by the Department in 2017.	August 29, 2017	1325/212

seven-year period indicated on the SSDI or SSI benefit notice originally submitted with the TPD application. [§682.402(c)(7)]

- The Department reinstates the borrower's, comaker's, or endorser's obligation to repay a loan that was discharged if any of the following conditions apply to the disabled borrower, comaker, or endorser:
  - Annual earnings from employment exceed 100% of the poverty guideline for a family of two as determined by HHS.
  - The Department receives notice that a new TEACH grant or a new Title IV loan is disbursed, except for a Federal or Direct Consolidation loan that includes loans that were not discharged.
  - Some portion of a disbursement of a Title IV loan or TEACH grant received prior to the discharge date that was made during the 3-year period following the discharge date is not returned to the loan holder or to the Department, as applicable, within 120 days of the disbursement date.
  - The Department receives notice that the borrower is no longer considered disabled or that the borrower's continuing disability review will no longer fall into the five- to seven-year period otherwise indicated on the SSDI or SSI benefit notice originally submitted with the total and permanent disability discharge application.

[§682.402(c)(5); §682.402(c)(6)(i); §682.402(c)(7); §685.213(b)(7)(i); §685.213(b)(8)]

#### *NSLDS Reporting during Post-discharge Monitoring 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 post-discharge monitoring 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. If a final discharge is granted, the lender 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*

If the Department determines that the borrower, comaker, or endorser meets the criteria, the Department will advise the lender to file a claim with the guarantor. The guarantor will take the following actions, as appropriate:

- For a loan made solely to a single borrower, the guarantor will pay the lender the remaining balance on the loan, and, under the standard process, assign the loan to the Department. Under the VA process, the guarantor will pay the claim but does not assign the loan.
- If the borrower satisfies the criteria for a total and permanent disability loan discharge, the Department discharges the balance of the loan and the loan holder returns to the person who made the payments any that were received after the date of disability as provided by the Department (on or after date of disability, if based on VA documentation). The discharge and return of payments are made before the loan enters the post-discharge monitoring period. [§682.402(c)(3)(iii); §682.402(c)(8)(i)(C); §682.402(c)(9)(xii)(D); §685.213(b)(4)(iii)]<sup>1</sup>
- 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. If the discharge was made under the standard process, the guarantor will refer the loan to the Department for monitoring of the comaker during the post-discharge monitoring period. The loan is not referred under the VA process.
- 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 not remit a [claim](#) payment to the lender but will correct any applicable records to remove the endorser or comaker information. If the discharge was granted under the standard process, the guarantor will refer the loan to the Department for monitoring of the borrower or endorser, as applicable, during the post-discharge monitoring period. The loan is not referred under the VA process.

<sup>1</sup>. Policy 1326 (Batch 213), approved April 19, 2018

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

A lender must file a disability claim within 60 days of receiving notice from the Department that the borrower's discharge application has been approved. 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)(ii)]

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

If the Department grants a 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 comakers. If the Department denies the loan discharge, the lender must correct the loan balance and continue collection activities.

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

If the Department grants a 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 discharge, the lender may resume billing both the borrower and endorser, as appropriate.

### *Treatment of Payments*

If the lender receives a payment from or on behalf of the borrower ~~after the date the physician completed and certified the discharge application notification from the Department of the TPD discharge~~ but before the lender receives the claim payment, the lender must hold the payment. ~~After the lender receives the claim payment, the lender must forward the payment to the guarantor. After receiving the claim payment from the guarantor, the lender must refund to the sender payments received:~~

- After the total and permanent disability date provided in the Department's official approval notification for the standard disability discharge.

- On or after the total and permanent disability date provided in the Department's official approval notification for the veteran disability discharge.

[§682.402(c)(8)(i)(C); §682.402(c)(9)(xii)(D); §685.213(b)(4)(iii); §685.213(c)(2)(i)]<sup>1</sup>

## 13.8.H 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** a Loan Discharge Application: Unpaid Refund which includes a sworn statement (notarization is not required), made under penalty of perjury, that declares the following:

- 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.  
[§682.402(l)(4)(i)(A); §685.212(f); §685.216(c)(1)(i)(A)]
- 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.  
[§682.402(l)(4)(i)(B); §685.216(c)(1)(i)(B)]
- 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)(C); §685.216(c)(1)(i)(C)]
- Whether the borrower has any other discharge application pending for this loan, in full or in part.  
[§682.402(l)(4)(ii); §685.216(c)(1)(ii)]
- 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.  
[§682.402(l)(4)(iii)(A); §685.216(c)(1)(iii)(A)]

<sup>1</sup> Policy 1326 (Batch 213), approved April 19, 2018

- 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 Department.

#### 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 Waivers for Operations Desert Shield/Desert Storm

Several statutory and regulatory provisions were introduced in 1991 to provide additional benefits to borrowers who served on active duty in connection with Operations Desert Shield/Desert Storm. For additional information on these provisions, refer to DCLs GEN-91-11 and GEN-91-19 and the *Federal Register* dated September 16, 1991.

### H.4.B HEROES Act Waivers

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. Subsequent extensions in 2005, 2007, [2012](#), and changes published in the *Federal Register* notice September 27, 2012<sup>1</sup>, again extend the waivers to September 30, 2017<sup>2</sup>.

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 [Figures H-2 and H-3](#) under "HEROES Act Waivers and Modifications").<sup>1</sup>

#### 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

<sup>1</sup>. Policy 1324 (Batch 212), approved January 18, 2018

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.
- “Qualifying National Guard duty during a war or other military operation or national emergency” means service as a member of the National Guard on fulltime National Guard duty (as defined in 10 U.S.C. 101(d)(5)) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f), in connection with a war, another military operation, or a national emergency declared by the President and supported by Federal funds.
- “Serving on active duty during a war or other military operation or national emergency” includes service by an individual who is: (A) a Reserve member of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306, or any retired member of an Armed Force ordered to active duty under 10 U.S.C. 688, for service in connection with a war or other military operation or national emergency, regardless of the location at which that active duty service is performed; and (B) any other member of an Armed Force on active duty in connection with any war, operation, or emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the member is normally assigned.

## HEROES Act Waivers and Modifications

Figures H-2 and H-3 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 Figures H-2 and H-3 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>

<sup>1</sup> Policy 1324 (Batch 212), approved January 18, 2018

## HEROES Act Waivers and Modifications no Longer Applicable to Existing FFELP Loans or Borrowers

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	09-10 FSA Handbook, Application and Verification Guide, Chapter 2, p. AVG-39		X		X		
2. Reinstatement of Title IV Eligibility	5.2.E; 09-10 FSA Handbook, Volume 1, Chapter 3, p. 1-52	X		X		X	
32. Professional Judgment	6.5.D, 6.6.B; 09-10 FSA Handbook, Application and Verification Guide, Chapter 5, p. AVG-105	X		X		X	X
43. Need Analysis	6.6; 07-08 FSA Handbook, Application and Verification Guide, Chapter 3	X	X	X	X	X	X
54. Verification of AGI and Income Tax Paid	8.5; 09-10 FSA Handbook, Application and Verification Guide, Chapter 4, pp. AVG-87 and AVG-90	X		X			
65. Verification Signature Requirements	8.5; 09-10 FSA Handbook, Application and Verification Guide, Chapter 4, pp. AVG-86 to AVG-87		X		X		
76. Cash Management – Borrower Notice to Cancel Loan	8.2.D; 09-10 FSA Handbook, Volume 4, Chapter 1, pp. 4-3 to 4-5	X		X		X	
87. Cash Management – Required Authorizations	8.3; 09-10 FSA Handbook, Volume 4, Chapter 1, pp. 4-6 to 4-7	X		X		X	
98. Satisfactory Academic Progress	8.4; 09-10 FSA Handbook, Volume 2, Chapter 10, p. 2-125	X		X		X	
109. Delivering Credit Balances for a Withdrawn Student	8.8.D; 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-42 to 5-44	X		X		X	
11. Approved Leave of Absence	9.3; 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-32 to 5-38	X		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
4210. Refund of Institutional Charges	9.5.A; 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-38 to 5-41	X		X			
4311. Return of Title IV Funds – Post-withdrawal Disbursements	9.5.A; 09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-96	X		X		X	
4412. Return of Title IV Funds – Grant Overpayments Owed by the Student	9.5.A; 09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-104	X		X		X	X
45. In-School and Grace Period	10-2; 10-3.C	X		X		X	
46. Deferment – In-School and Graduate Fellowship	11-5; 11-6; Figure 11-1	X		X		X	
47. Forbearance	11-23.B	X		X		X	
48. Rehabilitation of Defaulted Loans	13-7	X		X		X	
49. Loan Forgiveness	13-9.A	X		X		X	
20. Consolidating Defaulted Title IV Loans	15-2	X		X		X	
21. Collection Activities on Defaulted Title IV Loans	§682.410-07-08 FSA Handbook, Volume 6	X		X		X	
22. Annual Reevaluation Requirements for Income-Based Repayment	10-8.D	X		X		X	

\* See the subheading “Affected Individuals,” above, for detailed information about criteria that HEROES Act waivers and modification recipients must meet.\*

\* Policy 1324 (Batch 212), approved January 18, 2018



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.

### Topics No Longer Applicable to Existing FFELP Loans

1. *Signatures Required on the Free Application for Federal Student Aid (FAFSA), Student Aid Report (SAR), and Institutional Student Information Record (ISIR)* (see the 09-10 FSA Handbook, Application and Verification Guide, Chapter 2, p. AVG-39)

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 09-10 FSA Handbook, Volume 1, Chapter 3, p. 1-52)

~~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.<sup>1</sup>

2. *Professional Judgment* (see Subsections 6.5.D and 6.6.B, and the 09-10 FSA Handbook, Application and Verification Guide, Chapter 5, p. AVG-105)

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).

3. *Need Analysis* (see Section 6.6 and the 07-08 FSA Handbook, Application and Verification Guide, 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

<sup>1</sup>. Policy 1324 (Batch 212), approved January 18, 2018



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."

4. *Verification of AGI and U.S. Income Tax Paid* (see [Section 8.5](#) and the [09-10 FSA Handbook, Application and Verification Guide, Chapter 4, pp. AVG-87 and AVG-90](#))

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.

5. *Verification Signature Requirements* (see [Section 8.5](#) and the [09-10 FSA Handbook, Application and Verification Guide, Chapter 4, pp. AVG-86 to AVG-87](#))

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.

6. *Cash Management - Borrower Notice to Cancel Loan* (see [Subsection 8.2.D](#) and the [09-10 FSA Handbook, Volume 4, Chapter 1, pp. 4-3 to 4-5](#))

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.

7. *Cash Management - Required Authorizations* (see [Section 8.3](#) and the [09-10 FSA Handbook, Volume 4, Chapter 1, pp. 4-6 to 4-7](#))

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.

8. *Satisfactory Academic Progress* (see [Section 8.4](#) and the [09-10 FSA Handbook, Volume 2, Chapter 10, p. 2-125](#))

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.

9. *Delivering Credit Balances for a Withdrawn Student* (see [Subsection 8.8.D](#) and the [09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-42 to 5-44](#))

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 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-32 to 5-38)~~

~~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.<sup>1</sup>~~

10. *Refund of Institutional Charges* (see Subsection 9.5.A and the 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-38 to 5-41)

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.

11. *Return of Title IV Funds – Post-withdrawal Disbursements* (see Subsection 9.5.A and the 09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-96)

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.

<sup>1</sup>. Policy 1324 (Batch 212), approved January 18, 2018

**12. Return of Title IV Funds – Grant Overpayments Owed by the Student** (see [Subsection 9.5.A](#) and the [09-10 FSA Handbook, Volume 5, Chapter 2, p. 5-104](#))

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.)

## HEROES Act Waivers and Modifications Applicable to Existing FFELP Loans or Borrowers

Figure H-3

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. Reinstatement of Title IV Eligibility	<a href="#">5.2.E; 09-10 FSA Handbook, Volume 1, Chapter 3, p. 1-52</a>	<u>X</u>		<u>X</u>		<u>X</u>	
2. Approved Leave of Absence	<a href="#">9.3; 09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-32 to 5-38</a>	<u>X</u>		<u>X</u>		<u>X</u>	
3. In-School and Grace Period	<a href="#">10.2, 10.3.C</a>	<u>X</u>		<u>X</u>		<u>X</u>	
4. Deferment – In-School and Graduate Fellowship	<a href="#">11.5, 11.6; Figure 11-1</a>	<u>X</u>		<u>X</u>		<u>X</u>	
5. Forbearance	<a href="#">11.23.B</a>	<u>X</u>		<u>X</u>		<u>X</u>	
6. Rehabilitation of Defaulted Loans	<a href="#">13.7</a>	<u>X</u>		<u>X</u>		<u>X</u>	
7. Loan Forgiveness	<a href="#">13.9.A</a>	<u>X</u>		<u>X</u>		<u>X</u>	
8. Consolidating Defaulted Title IV Loans	<a href="#">15.2</a>	<u>X</u>		<u>X</u>		<u>X</u>	

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
9. Collection Activities on Defaulted Title IV Loans	<a href="#">§682.410; 07-08 FSA Handbook, Volume 6</a>	X		X		X	
10. Annual Reevaluation Requirements for Income-Based Repayment	<a href="#">10.8.D</a>	X		X		X	

\* See the subheading “Affected Individuals,” above, for detailed information about criteria that HEROES Act waivers and modification recipients must meet.

### Topics Currently Applicable to Existing FFELP Loans or Borrowers

#### 1. Reinstatement of Title IV Eligibility (see [Subsection 5.2.E](#) and the [09-10 FSA Handbook, Volume 1, Chapter 3, p. 1-52](#))

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.

#### 2. Approved Leave of Absence (see [Section 9.3](#) and the [09-10 FSA Handbook, Volume 5, Chapter 2, pp. 5-32 to 5-38](#))

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.<sup>1</sup>

#### 3. 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

<sup>1</sup>. Policy 1324 (Batch 212), approved January 18, 2018



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.

4. *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.

5. *Forbearance* (see [Subsection 11.23.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.

6. *Rehabilitation of Defaulted Loans* (see [Section 13.7](#))

To be eligible for [rehabilitation](#), a defaulted borrower must make nine 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 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 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 nine on-time, monthly 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.

7. *Loan Forgiveness* (see [Subsection 13.9.A](#))

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](#).

8. *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 or income-based 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.

9. *Collection Activities on Defaulted Loans* (see [34 CFR 682.410](#) and the ~~07-08~~ [17-18](#) FSA Handbook, Volume 6)<sup>1</sup>

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.

10. *Annual Reevaluation Requirements for the Income-Based Repayment (IBR) Plan*

The lender must verify annually the borrower's income and family size, and determine whether the borrower continues to have a partial financial hardship (PFH), and requests annual documentation from each

borrower repaying under an IBR. A borrower who fails to provide the information required annually to confirm the PFH will have his or her monthly payment amount adjusted to the amount the borrower would pay under the ten-year standard payment plan.

Under the waiver, the lender must maintain the payment amount determined under the most recent PFH calculation if the borrower's status as an affected individual results in his or her inability to provide documentation of updated income and family size. The waiver persists for a three-year period followed by a three-month transition.

### Documentation Requirements

A school, lender, or [guarantor](#) 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.C 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 affected 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, an affected 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.

The Department waives the statutory and regulatory requirements pertaining to an interruption in a borrower's teaching service if the borrower was affected by Hurricane Katrina or Hurricane Rita. The waiver applies to any period beginning on the date of the relevant hurricane and continues through June 30, 2006.  
[\[DCL GEN-06-07\]](#)

<sup>1</sup>. Policy 1324 (Batch 212), approved January 18, 2018

See [Subsection H.4.D](#) for additional waivers pertaining to a student or borrower who is affected by a hurricane or other disaster.

## H.4.D Disaster Waivers

In DCL GEN-17-08, the Department provided updated information regarding the impact of a federally declared major disaster on the administration of the Title IV student assistance programs. This guidance applies to all recipients of Title IV aid and their families who at the time of a disaster were residing in, employed in, or attending a school located in a federally declared disaster area in the U.S. and all schools, guaranty agencies, and their servicers located in the federally declared disaster area. This DCL supplements all information in the Federal Student Aid Handbook and supersedes guidance included in previous Dear Colleague Letters, GEN-10-16, FP-10-06, GEN-05-17, and GEN-04-04.

The Department also provided non-regulatory guidance on flexibility and waivers for grantees and program participants impacted by federally declared disasters in DCL GEN-17-09.

A lender or guaranty agency in the Federal Family Education Loan (FFEL) Program should contact its regional Financial Partners representative. A list of regional Financial Partners representatives can be found on the financial partners' portal at <https://fp.ed.gov>.

In [DCL GEN-04-04](#) posted on February 24, 2004, the Department issued general guidance for helping Title IV participants affected by a disaster. This guidance supplements the [FSA Handbook](#) and [Disaster Letter 99-28](#), published August, 5, 1999, which provided separate guidance on the treatment of borrowers who have been affected by a disaster.

The [Pell Grant Hurricane and Disaster Relief Act \(P.L. 109-66\)](#) and the [Student Grant Hurricane and Disaster Relief Act \(P.L. 109-67\)](#) authorized the Department to provide a waiver of a student's [Title IV](#) grant overpayment if the student withdrew from a school because of a major disaster. On November 9, 2005, the Department issued [DCL GEN-05-17](#), to implement the Title IV grant overpayment waiver.

On June 24, 2008, the Department issued [GEN-08-10](#) to remind Title IV participants that the waivers first published in [DCL GEN-04-04](#) and [DCL GEN-05-17](#) remain in effect.

On August 23, 2010, the Department issued [DCL GEN-10-16](#) to provide updated guidance for helping Title IV participants affected by Federal disaster. The guidance provided in [DCL GEN-10-16](#) superseded the guidance in [DCL GEN-04-04](#) and [DCL GEN-05-17](#).

Unless stated otherwise, this regulatory relief applies to all Title IV recipients and their families who, at the time of a disaster, were residing in, employed in, or attending a school located in a federally-declared disaster area. This relief also applies to schools, lenders, servicers, and guaranty agencies that are located in such areas. Federally-declared disaster designations are available on the [Federal Emergency Management Agency's \(FEMA\) Website](#). Only disasters designated for "Individual Assistance" are eligible for this regulatory relief.

A school or lender that deviates from otherwise required actions on the basis of these waivers must document that fact and indicate what alternative procedures were followed.

Schools should consult [DCL GEN-10-16](#) for additional information about waivers that are specific to the [Federal Pell Grant](#), [Campus-Based](#), and [Federal Direct Loan Programs](#).

### Guidance No Longer Applicable to Existing FFELP Loans or Borrowers

#### 1. Need Analysis

A [financial aid administrator \(FAA\)](#) will not count special financial relief aid (for example, grants or low-interest loans) that a victim of a disaster received from the federal government or from a state as [estimated financial assistance \(EFA\)](#) or income for the purpose of calculating a student's [expected family contribution \(EFC\)](#).

#### 2. Professional Judgment

An FAA may exercise [professional judgment](#) to make adjustments to the [cost of attendance \(COA\)](#) or to the values of the items used in calculating the EFC to reflect a student's special circumstances (see [Subsections 6.5.D](#) and [6.6.B](#)). The Department encourages an FAA to use professional judgment in order to reflect more accurately the financial need of students and families who are affected by a disaster. The FAA still must make adjustments on a case-by-case basis and clearly document the student's file with the reason(s) for any adjustment.<sup>1</sup>

<sup>1</sup>. Policy 1325 (Batch 212), approved January 18, 2018

### 3. Verification

A school is not required to complete [verification](#) during the [award year](#) for Title IV federal student aid applicants selected for verification whose records were lost or destroyed because of a disaster. A school must document when it does not perform verification for this reason.

### 4. Recordkeeping Requirements for Schools

A school that is affected by a disaster is required to attempt to reconstruct Title IV federal student aid records that are lost because of the disaster. (See [Section 4.5](#) and the [08-09 FSA Handbook, Volume 2, Chapter 9](#) for more information about required records that a school must maintain.) However, a school will not be held responsible for records and documentation that, because of disaster damage, cannot be reconstructed. The school must document that the records were lost due to a disaster.

### 5. Disbursement of FFELP Loan Proceeds

A lender is not required to disburse FFELP loan proceeds to a school according to the school's original [disbursement](#) schedule if the lender has been informed that the school has delayed or will delay opening for a scheduled term, or has ceased operations for an undetermined period of time because the school was affected by a disaster. Such a school should request a revised [disbursement date\(s\)](#), and the lender should await a revised disbursement schedule from the affected school. A loan [holder](#) may revise information on the [loan period](#) and graduation date on a loan record related to the revised disbursement schedule as the information becomes available from the school. In this case, neither the school nor the lender should require a borrower to reapply for a loan.

### 6. Credit Balances

If a Title IV credit balance exists for any reason when a student withdraws, including as a result of the school's policy for refunding institutional charges, that credit balance must first be applied to any Title IV grant overpayment that exists as a result of the student's withdrawal. However, if a school grants a waiver of any Title IV grant overpayment that exists as a result of the student's withdrawal, the school must not apply any Title IV credit balance toward the grant overpayment. See "[Grant Overpayment Waiver](#)" below.

### 7. Satisfactory Academic Progress

If a student fails to meet a school's [satisfactory academic progress](#) standards due to a disaster, the school may suspend the satisfactory academic progress standards for that student in accordance with its policies for satisfactory academic progress appeals due to mitigating circumstances. (For more information, see the [08-09 FSA Handbook, Volume 2, Chapter 10, pp. 2-127 and 2-130](#).) The school must document in the student's file that a disaster constituted the mitigating circumstances that caused the student's failure to maintain satisfactory academic progress.

### 8. Enrollment Reporting

If, as a direct result of a disaster, a school is unable to complete and return its Enrollment Reporting Submittal File to the [National Student Loan Data System \(NSLDS\)](#) according to the school's established schedule, the school must contact the NSLDS Customer Service Center (see [Section D.6](#)) to modify its reporting schedule. A school that uses a servicer to report enrollment information to the NSLDS should contact its servicer to determine whether the school's [enrollment reporting](#) data submission schedule should be adjusted. If a school receives a warning letter from NSLDS regarding missed reporting deadlines, it should contact NSLDS Customer Service to ensure that reporting schedule modifications have been made.

### 9. In-School Period

A Stafford loan borrower who was in an [in-school period](#) on the date the borrower's attendance at a school was interrupted due to a disaster should be continued in an in-school status until such time as the borrower withdraws or re-enrolls in the next regular enrollment period, whichever is earlier. This period of disaster-related nonattendance should not result in a borrower entering or using any of his or her [grace period](#). This guidance does not affect the way a school should report a borrower's enrollment status on its Enrollment Reporting Submittal File (see [Section 9.2](#)).

### 10. Leaves of Absence<sup>1</sup>

A school is not required to collect a written request for an approved [leave of absence](#) from a student who was directly affected by a disaster, nor does the request have to be made before the leave of absence starts. A school's documentation of its decision to grant the leave of absence must include the reason for the leave

<sup>1</sup> Policy 1325 (Batch 212), approved January 18, 2018

of absence and the reason for waiving the required written request made prior to the leave of absence. For more information about the requirements for an approved leave of absence, see [Section 9.3](#).

#### **11. Institutional Charges and Refunds**

A school is strongly encouraged to provide a full [refund](#) of tuition, fees, and other institutional charges, or to provide a credit in a comparable amount against future charges for a student who withdraws from school as a direct result of a disaster. The Department urges a school to consider providing easy and flexible re-enrollment options to such a student. However, before a school makes a refund of institutional charges, it must perform the required [return of Title IV funds](#) calculation based upon the originally assessed institutional charges (see [Subsection 9.5.A](#)). After determining the amount that the school must return to the Title IV programs, any reduction of institutional charges should take into account the funds that the school is required to return. The Department does not expect that a school would both return funds to the Title IV programs and also provide a refund of those same funds to the student.

The school should not include the number of days on which classes were not offered as a result of the disaster in either the numerator or denominator of the return of Title IV funds calculation for students whose [withdrawal date](#) is after such an unscheduled break.

#### **12. Grant Overpayment Waiver**

A withdrawn student is not required to repay a Title IV grant overpayment if the circumstances of the student's withdrawal meet all of the following conditions:

- The student was residing in, employed in, or attending a school that is located in a federally-declared disaster area.
- The student withdrew because of the impact of the disaster on the student or the school.
- The student's withdrawal occurred within the [academic year](#) during which the federal disaster designation occurred or during the next succeeding academic year, beginning with any academic year that occurs, in whole or in part, with the 2005-06 [award year](#).

A school that waives a student's grant overpayment under these conditions is not required to notify the student or the NSLDS of the overpayment, or refer any portion of the overpayment to the Department. In addition, a school must not apply any Title IV credit balance toward the grant overpayment.

In addition to documenting the application of this waiver in the student's file, a school must also document the amount of any overpayment that has been waived.

#### **Deferment—In-School**

~~A loan holder must treat a loan that was in an in-school deferment status on the date disaster conditions interrupted normal operations at a school as if the loan continues in an in-school deferment until such time as the borrower withdraws or re-enrolls at the next regular enrollment period, whichever is earlier. The borrower, a member of the borrower's family, or another reliable source should notify the loan holder(s) of the borrower's status. This guidance does not affect the way a school should report a borrower's enrollment status on its Enrollment Reporting Submittal File (see Section 9.2).~~

#### **Administrative Forbearance**

~~A loan holder may grant an administrative forbearance for up to 3 months to a borrower who has been adversely affected by a disaster. The loan holder must provide notice to the borrower allowing the borrower an opportunity to decline the forbearance. See Subsection 11.21.N.~~

#### **13. Other Regulatory Requirements**

A school that is affected by a disaster should contact the appropriate School Participation Team (see [Section D.1](#)) to address case-by-case concerns about the following regulatory requirements:

- Credit balances.
- Notices and authorizations.
- Borrower request for loan cancellation.
- Time frames for delivery or return of FFELP funds.
- Institutional eligibility.
- Financial responsibility.<sup>1</sup>

<sup>1</sup> Policy 1325 (Batch 212), approved January 18, 2018

- Administrative capability.
- [Late disbursements](#).
- [Return of Title IV funds](#) deadlines and time frames, including the time frame for allowing a student, or parent borrower, to respond to the offer of a [post-withdrawal disbursement](#).

During the time a borrower is affected by a disaster, the loan holder must not treat any payment the borrower fails to make as a missed payment in the stream of three consecutive, on-time, voluntary full monthly payments required to establish eligibility to consolidate a defaulted loan. When the borrower is no longer affected by the disaster, the required sequence of qualifying payments may resume at the point at which it was discontinued.<sup>1</sup>

#### **Guidance Applicable to Existing FFELP Loans or Borrowers**

##### 1. *Deferment – In-School*

A loan holder must continue to report to NSLDS as “in-schools” the loan status of each borrower who was in an “in-school” status on the date the borrower’s attendance at the school was interrupted due to a disaster. The loan holder must continue the borrower in that loan status until the school reports the borrower as withdrawn or reenrolled in the next enrollment period, whichever is earlier, per the enrollment reporting requirements in 34 CFR 682.610(c). As part of the non-regulatory guidance provided in DCL GEN-17-09, the Department states the period of non-attendance due to a disaster should not result in a borrower entering or using any of the grace period on the loan.

##### 2. *Administrative Forbearance*

A loan holder may grant an administrative forbearance for up to 3 months to a borrower who is in repayment and has been adversely affected by a disaster. The loan holder must provide notice to the borrower allowing the borrower an opportunity to decline the forbearance. See [Subsection 11.21.N](#). As part of the non-regulatory guidance provided in DCL GEN-17-09, the Department states that the loan holder must document the reason why the forbearance is granted, but does not need supporting documentation or a signed written statement from the borrower.

##### 3. *Satisfactory Repayment Arrangements*

During the time a borrower is affected by a disaster, the loan holder must not treat any payment the borrower fails to make as a missed payment in the stream of six consecutive, on-time, voluntary full monthly payments required to re-establish the borrower’s eligibility for assistance under Title IV of the HEA. When the borrower is no longer affected by the disaster, the required sequence of qualifying payments may resume at the point at which it was discontinued.

## **H.4.E Waiver of Borrower-by-Borrower LLR Designation**

Through June 30, 2009, if a school requests and is granted a [lender of last resort \(LLR\)](#) designation by the Department, eligible student borrowers attending the school and eligible parent borrowers may obtain loans from the LLR. The LLR must make loans to eligible student borrowers attending the school and to eligible parent borrowers even if they are otherwise unable to obtain Stafford or PLUS loans from other eligible lenders for the same [period of enrollment](#). [[HEA §428\(j\)\(3\)](#)]

A school that wishes to apply for the LLR designation must meet criteria established by the Department, including that the school, at a minimum:

- Demonstrates that it has made at least three attempts to identify participating lenders, beyond those lenders that had previously provided FFELP loans to students and parents of students attending the school, that will make FFELP loans.
- Documents its determination that 80% or more of the students and parents of students at its school are unable to obtain FFELP loans.
- Provides other documentation and information specified by the Department. [[HEA §428\(j\)\(4\)](#); [DCL GEN-08-08](#)]

<sup>1</sup>. Policy 1325 (Batch 212), approved January 18, 2018