

Common Manual Policy Proposal Batch 219 Transmittal**January 16, 2020**

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1330	Income-Based Repayment Request as a Cure	Revised policy incorporates confirmation from the Department and clarifies that a signed IDR request qualifies as a curing instrument.	Federal	Income-Driven Repayment (IDR) Plan Requests received after October 28, 2019, unless guarantor implemented earlier.

Batch 219 (Approved)

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: January 16, 2020

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	No Changes	01/16/2020

SUBJECT: Income-Based Repayment Request as a Cure

AFFECTED SECTIONS: 14.5 Cures and Reinstatement of the Guarantee

POLICY INFORMATION: 1330/Batch 219

EFFECTIVE DATE/TRIGGER EVENT: Income-Driven Repayment (IDR) Plan Requests received after October 28, 2019, unless guarantor implemented earlier.

BASIS:
Private letter guidance from the Department (Jon Utz) dated October 28, 2019.

CURRENT POLICY:
Current policy is silent as to whether a signed IDR request qualifies as a signed repayment agreement for purposes of curing a lost guarantee.

REVISED POLICY:
Revised policy incorporates guidance from the Department that a signed IDR request qualifies as a curing instrument.

REASON FOR CHANGE:
Private letter guidance from the Department that confirms an IDR requests qualifies as a curing instrument.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 14.5, column 2, page 10, paragraph 4 as follows:

Receipt of a New Signed Repayment Agreement

For the lender's receipt of a new repayment agreement (original, photocopy, or facsimile) signed by the borrower to constitute a cure, both the lender and borrower must agree to the terms. The lender's receipt of a signed Income-Driven Repayment (IDR) Plan Request is considered a repayment agreement and constitutes a cure. Furthermore, the terms of the new agreement must comply with the applicable repayment limitation and minimum annual payment requirement, unless it is an IDR Plan Request. If the borrower signs the agreement but makes immaterial alterations (for example, changes to his or her name, Social Security number, or address), the lender must review the changes and make the necessary alterations to the account, but may consider the account cured.

[§682.209(a)(8), Appendix D, I.D.]

PROPOSED LANGUAGE - COMMON BULLETIN:

IDR Request as a Cure

The *Common Manual* has been updated to clarify that a signed Income-Driven Repayment Plan Request qualifies as a repayment agreement for purposes of curing a loan that has lost its guarantee.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: None.

School: None.

Lender/Servicer: Lenders can cure loans that have lost their guarantee by receiving a signed Income-Driven Repayment Plan Request from the borrower.

Guarantor: Guarantors will accept a signed Income-Driven Repayment Plan Request as a curing instrument in the same manner as any other signed repayment agreement.

U.S. Department of Education: None.

To be completed by the Policy Development and Maintenance Contractor (PDMC)**POLICY CHANGE PROPOSED BY:**

PDMC

DATE SUBMITTED TO POLICY DEVELOPMENT AND MAINTENANCE CONTRACTOR:

June 29, 2018

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

January 16, 2020

PROPOSAL DISTRIBUTED TO:

CM Governing Board Chair
CM Guarantor Designees
Interested Industry Groups and Others

Comments Received from:

Evidens, PHEAA, PPSV, VSAC, UHEAA

Responses to Comments

We appreciate the commenters for their thoughtful review.

COMMENT: One commenter suggested changing the trigger event to say "IDR Plan Requests received on or after July 1, 2010." The commenter pointed out that the Department's private letter guidance reaffirms longstanding and existing practices used to obtain repayment agreements for cure purposes which include any signed document that captures the borrower's agreement to repay a FFELP loan. The IDR application is a signed agreement to repay a FFELP loan and has been in use since July 1, 2010. Therefore, any signed IDR application the lender has received since July 1, 2010 should constitute a cure of an uninsured FFELP loan.

Response:

While we partially agree with the commenter's sentiment, we believe the change they propose could make guarantors have to reassess cure denials since 2010, when whether a signed IDR application truly constituted a cure was an open question until ED issued this guidance. We believe this proposal change should be prospective in nature. There isn't any language in the Department's guidance that suggests it should be applied retroactively. While guarantors could and did accept signed IDR forms as cures prior to the private letter guidance, they were not required to. We have updated the trigger event description to make clear the guarantors could accept signed IDR Plan Requests as curing instruments previous to this guidance.

Change:

The trigger event has been changed to read "Income-Driven Repayment (IDR) Plan Requests received after October 28, 2019, unless guarantor implemented earlier."

COMMENT: One commenter suggested the following changes to Subsection 14.5, column 2, page 10, paragraph four:

“For the lender’s receipt of a new repayment agreement (original, photocopy, or facsimile), which includes an Income-Driven Repayment (IDR) Plan Request, signed by the borrower to constitute a cure, both the lender and borrower must agree to the terms. Furthermore, the terms of the new agreement must comply with the applicable repayment limitation and minimum annual payment requirement, unless it is an IDR Request. The lender’s receipt of a signed Income-Driven Repayment (IDR) Plan Request also is considered a repayment agreement and constitutes a cure. If the borrower signs the agreement or IDR Request but makes immaterial alterations (for example, changes to his or her name, Social Security number, or address), the lender must review the changes and make the necessary alterations to the account, but may consider the account cured.”
[§682.209(a)(8), Appendix D, I.D.]

The commenter thought the language should be clear that the borrower and lender do not need to agree on the IDR terms, and that the IDR Plan Request does not need to abide by the minimum annual payment requirement.

Response:

While lenders are required to accept (and therefore agree to) valid IDR Plan Requests, and borrowers agree to the terms of the IDR Plan Request by signing and submitting it, we modified the proposed language for clarity. We believe the original proposal language addresses the fact that IDR plans do not need to conform to the minimum annual payment requirement.

Change:

The original proposal language has been modified; the following is now a standalone sentence: “The lender’s receipt of a signed Income-Driven Repayment (IDR) Plan Request is considered a repayment agreement and constitutes a cure.”

COMMENT: One commenter suggested that the trigger date be changed to “Retroactive to the implementation of the *Common Manual*.” The commenter believes that this policy change clarifies current and long-standing practice, and that servicers can use IDR Plan Requests as curing instruments regardless of when they were received.

Response:

We partially agree with the commenter, and believe the trigger date change discussed above addresses the issue. We don’t believe changing the trigger date to the implementation of the *Common Manual* makes sense, as the *Common Manual* has been around much longer than IBR.

Change:

None.