



Unified Student Loan Policy

**Policy Update Proposals –Action Required
Comments due Friday, January 27, 2023**

To: *Common Manual* Governing Board Representatives
Interested Industry Groups and Others

From: Nancy Masten
Common Manual Policy Development and Maintenance Contractor (PDMC)

Re: *Common Manual* Policy Update
Batch 226: Proposals 1337 & 1338

Date: January 6, 2023

The PDMC issues **Batch 226** for review and comment.

Policies 1337 & 1338 are federal policy proposals and are intended to align Common Manual text with federal regulations and other federal publications.

Policy updates are distributed to all guarantors and others in the FFELP community for the opportunity to comment before Governing Board review and approval.

Please review the policy update and provide written comments by Friday, January 27, 2023 to:

Nancy Masten
Ascendium Education Solutions, Inc.
policy@ascendiumeducation.org

If you have any questions about the enclosed proposal please contact Nancy Masten via phone at 608-733-2581 or via email at policy@ascendiumeducation.org.

Enclosures:

Policy Proposal Transmittal
Common Manual Policy Proposals 1337 & 1338

Common Manual Policy Proposal Batch 226 Transmittal

January 6, 2023

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1337	Total and Permanent Disability Discharge	Incorporates the quarterly data match process that began in September 2021 between ED and SSA that identifies TPD-eligible borrowers. Also incorporates the TPD rules changes included in the Final Rule published on November 1, 2022, that expand the Social Security Administration (SSA) categories that qualify a borrower for TPD, expand the list of acceptable SSA documentation, allow other healthcare professionals to certify borrowers for TPD, and eliminate most aspects of the 3-year post-discharge monitoring period.	Federal	Automatic SSA TPD discharge notifications received from the Department on or after September 30, 2021. TPD eligibility determinations made, documentation submitted, or applications certified on or after July 1, 2023.
1338	Closed School Discharge	Incorporates the closed school discharge rule changes included in the Final Rule published on November 1, 2022, that amend the definition of what it means for a school to close for closed school discharge purposes, extend the time frame in which a student must have been enrolled in the closed school to be eligible for discharge from 120 to 180 days before the school closing, include a non-exhaustive list of exceptional circumstances for which the Department may extend the 180-day time frame, and explain that if a borrower does not complete their program of study at another branch or location of the school or through a teach-out agreement at another school within one year of the school closing, the borrower is eligible for automatic closed school discharge.	Federal	Closed school discharge applications received, or eligibility determinations made on or after July 1, 2023.

Batch 226 (Out for Comment)

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 6, 2023

X	DRAFT	Comments Due	Jan 27, 2023
	FINAL	Consider at GB meeting	
	APPROVED	With Changes/No Changes	

SUBJECT: Total and Permanent Disability Discharge

AFFECTED SECTIONS: 13.8.G Total and Permanent Disability

POLICY INFORMATION: Y006/1337/Batch 226

EFFECTIVE DATE/TRIGGER EVENT: Automatic SSA TPD discharge notifications received from the Department on or after September 30, 2021.

TPD eligibility determinations made, documentation submitted, or applications certified on or after July 1, 2023.

BASIS:
Final Rule (86 FR 46972) published August 23, 2021 and Final Rule (87 FR 65904) published November 1, 2022.

CURRENT POLICY:
Current policy does not reference the Department’s quarterly data match process with the Social Security Administration (SSA) that automatically identifies borrowers eligible for TPD. The process became effective on September 30, 2021, per the Final Rule published on August 23, 2021. Current policy also does not explain that the Department will not require an application or additional documentation for borrowers identified through the data match process.

Current policy does not include the rule changes made to the TPD process by the Final Rule published on November 1, 2022, that expand the SSA categories that qualify a borrower for TPD, expand the list of acceptable SSA documentation used to establish TPD eligibility, allow other healthcare professionals to certify borrowers for TPD, and eliminate most aspects of the 3-year post-discharge monitoring period.

REVISED POLICY:
Revised policy explains the quarterly data match process that began in September 2021 between ED and SSA that identifies TPD-eligible borrowers, and that TPD discharge can be granted without an application or other documentation for borrowers identified through this process.

Revised policy also incorporates the TPD rule changes included in the Final Rule published on November 1, 2022, as outlined above.

REASON FOR CHANGE:
Final Rule changes published in *Federal Register* 86 FR 46972 and 87 FR 65904.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 13.8.G, page 47, column 2, as follows:

The lender must refer to the Department any borrower or borrower’s representative who asserts that the borrower is totally and permanently disabled. The Department will notify the lender if the borrower notifies the Department of their intent to apply for a total and permanent disability discharge or if the Department automatically determines the borrower is eligible through its quarterly database match

processes with the Department of Veterans Affairs (VA) or the Social Security Administration (SSA), and will instruct the lender to suspend collection activity for a period not to exceed 120 days. The Department will also notify the lender if it receives a loan discharge application, and will instruct the lender to suspend collection activities pending the Department's review of the application. The lender must notify the guarantor that the borrower or some party to a loan has applied for total and permanent disability discharge and that the discharge application is under review. A lender must report to the guarantor its receipt of these TPD review notices at least monthly.
[§682.402(c)(2)(ii); and §682.402(c)(2)(vi); §682.402(c)(9); §685.213(d)(1)]

Revise Subsection 13.8.G, page 48, column 1, paragraph 4, as follows:

Discharge Requests Based on VA Determinations

...

A borrower is eligible for loan discharge due to total and permanent disability if the VA has determined the borrower to be unemployable due to a service-connected condition. The VA and the Department identify disabled veterans with student loan debt through a quarterly database match process. A borrower identified through this process as eligible for discharge is considered by the Department to meet the definition of "totally and permanently disabled," as defined in paragraph (2) of the definition of that term in §682.200(b)(2), and the Department will not require an application or additional documentation to discharge the borrower's loans. ~~The borrower may opt out of the discharge by notifying the Department of the opt out decision within 60 days of being notified of their eligibility. The Department will notify the borrower that it will discharge their loans unless the borrower notifies the Department, by a date specified in the notification, that the borrower does not wish to receive the loan discharge.~~
[§682.402(c)(9); §685.213(d)(1)]

Revise Subsection 13.8.G, page 48, column 2, paragraph 2, as follows:

Discharge Requests Based on SSA Determinations

If any party to a loan claims to be totally and permanently disabled based on a determination by the Social Security Administration (SSA), the lender must refer that party to the Department to determine if an application for loan discharge is necessary ~~begin the process of applying for loan discharge~~. An eligible party includes any one of the following:

- A borrower.
- One of two comakers on a PLUS or Consolidation loan.
- An endorser, if the lender is pursuing collection activities against the endorser.

~~The borrower's, comaker's, or endorser's representative, when authorized to do so, may work with the Department to provide the loan discharge application and copy of the SSA documentation.~~

A borrower is eligible for loan discharge due to total and permanent disability if the Department is notified the borrower meets one of the following SSA categories through its quarterly database match process with SSA:

- The borrower qualifies for Social Security Disability Insurance (SSDI) benefits or Supplemental Security Income (SSI) based on disability and the borrower's next continuing disability review has been scheduled between 5 and 7 years.
- The borrower qualifies for SSDI benefits or SSI based on disability and the borrower's next continuing disability review has been scheduled at 3 years.
- The borrower has an established onset date for SSDI or SSI of at least 5 years prior or has been

receiving SSDI benefits or SSI based on disability for at least 5 years prior to the application for a disability discharge.

- The borrower qualifies for SSDI benefits or SSI based on a compassionate allowance.
- For a borrower who is currently receiving SSA retirement benefits, documentation that, prior to the borrower qualifying for SSA retirement benefits, the borrower met any of the above requirements.

[§682.402(c)(2)(iv)(C); §685.213(b)(2)(iii)]

The Department will not require an application or additional documentation to discharge the borrower's loans identified through the database match process. The Department will notify the borrower that it will discharge their loans unless the borrower notifies the Department, by a date specified in the notification, that the borrower does not wish to receive the loan discharge.

[§682.402(c)(9); §685.213(d)(1)]

A borrower not identified through the database match process with SSA may apply for discharge by providing borrower provides documentation from the SSA that includes a notice of award or Benefit Planning Query (BPQY) for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits or other documentation acceptable to the Department indicating one of the SSA categories listed above. The letter must include a statement that the borrower's next scheduled disability review will occur within 5 to 7 years. The borrower is not required to provide additional documentation to support the discharge; however, the borrower is required to complete Sections 1 and 3 of the Discharge Application: Total and Permanent Disability. If approved by the Department, the discharge is effective on the date the Department receives the SSA documentation. The borrower's, comaker's or endorser's representative, when authorized to do so, may work with the Department to provide the loan discharge application and copy of the SSA documentation.

[§682.402(c)(2)(iv)(B)(C) and (c)(3)(i)(B); §685.213(b)(2)(iii) and (4)]

Revise Subsection 13.8.G, page 49, column 1, subheading and paragraph 4, as follows:

Discharge Requests Based on ~~Physician~~ Healthcare Professional Certification

...
...
...

The borrower must submit the certification to the Department within 90 days of the date that the ~~physician~~ healthcare professional completed and certified the discharge application. If approved by the Department, the discharge is effective on the date the ~~physician~~ healthcare professional signed the TPD application.

[§682.200(b); §682.402(c)(2)(iv)-(v) and (c)(3)(i)(A); §685.213(b)(1) and (b)(4); *Federal Register* dated July 23, 2009, p. 36559]

Revise Subsection 13.8.G, page 49, column 2, paragraph 5, as follows:

General Requirements for Total and Permanent Disability Loan Discharge Based on a ~~Physician~~ Healthcare Professional's Certification

If a ~~doctor of medicine or osteopathy, legally authorized to practice in a state,~~ healthcare professional certifies that the borrower, the comaker, or the endorser on a PLUS loan is totally and permanently disabled, the borrower's, comaker's or endorser's obligation to repay all or a portion of the loan may be discharged. For these purposes, a healthcare professional is:

- A doctor of medicine or osteopathy legally authorized to practice in a State.
- A nurse practitioner or physician assistant licensed by a State.
- A licensed or certified psychologist at the independent practice level.

If a comaker on a joint Consolidation loan is determined to be totally and permanently disabled, the disabled comaker's underlying loans are discharged but the disabled comaker and the non-disabled comaker both remain jointly and severally liable for repayment of the balance of the loan. For a comade PLUS loan, if one comaker is determined to be totally and permanently disabled, that comaker's obligation on the loan is discharged and the non-disabled comaker assumes responsibility for repayment of the entire loan balance. If the lender has begun collection activities with respect to the endorser's obligation on a PLUS loan, and if the endorser is determined to be totally and permanently disabled, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance.

[§682.402(a)(2) and (3); §682.402(c)(2)(iv)(A) and (B)]

Revise Subsection 13.8.G, page 50, column 1, paragraphs 3 and 4, as follows:

If a borrower, comaker, or endorser received a TEACH grant or Title IV loan prior to the date the ~~physician~~ healthcare professional certified the borrower's discharge application and a disbursement of that loan or grant is made during the period from the date of the ~~physician's~~ healthcare professional's certification until the date the Department grants a discharge, the Department will suspend processing of the borrower's loan discharge request until the borrower ensures that the full amount of the disbursement has been returned to the loan holder or to the Department, as applicable. If the full amount of the disbursement is not returned, the Department will deny the total and permanent disability (TPD) loan discharge application. If the borrower, comaker, or endorser receives a new loan or TEACH grant after the date that the borrower became disabled and while the TPD loan discharge application is being reviewed, the Department will deny the discharge application and will instruct all holders of the borrower's loans to return those loans to repayment.

[§682.402(c)(4)-(5); §685.213(b)(5)-(6)]

The Department may require the borrower to submit additional medical evidence if it determines that the borrower's application does not conclusively prove that the borrower is totally and permanently disabled. As part of the Department's review of the borrower's discharge application, the Department may arrange for an additional review of the borrower's condition by an independent physician or other healthcare professional identified by the Department at no expense to the borrower.

[§682.402(c)(3)(ii); §685.213(b)(4)(ii)]

Revise Subsection 13.8.G, page 51, column 1, as follows:

Post-Discharge Monitoring Period

If the Department makes a determination that the borrower, comaker, or endorser is totally and permanently disabled, the Department places the loan(s) into a post-discharge monitoring period that will last for 3 years after the date the Department grants the discharge. (TPD determinations made based on VA documentation are not subject to the post-discharge monitoring requirement.)

~~The Department's notification identifies the following conditions that apply during the 3-year post-discharge monitoring period:~~

- ~~• The disabled borrower, comaker, or endorser must promptly notify the Department of any changes in his or her address or phone number.~~
- ~~• The disabled borrower, comaker, or endorser must promptly notify the Department if his or her annual earnings from employment exceed 100% of the poverty guideline for a family of two as determined by the Department of Health and Human Services (HHS).~~

- ~~The disabled borrower, comaker, or endorser must provide the Department, upon request, with documentation of his or her annual earnings from employment.~~
- ~~If the TPD determination is made based on SSA documentation, the borrower must notify the Department if he or she receives notice from the Social Security Administration 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 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 the Department receives that a new TEACH grant or a new loan under the Direct Loan Program, except for a Direct Consolidation Loan that includes loans that were not discharged. 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); and (6)(i); §682.402(c)(6)(i); §682.402(c)(7); §685.213(b)(7); §685.213(b)(8)}~~

Revise Subsection 13.8.G, page 52, column 1, bullet 1, as follows:

- 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)(7)(i)(C); §682.402(c)(9)(8)(xii)(D); §685.213(b)(4)(iii)}~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Total and Permanent Disability Discharge

The Manual has been updated to reference the quarterly data match process between the Department and the Social Security Administration (SSA) to automatically identify borrowers eligible for total and permanent disability (TPD) discharge that became effective on September 30, 2021. In addition, recent regulatory changes will change the TPD process beginning in July 2023. The changes expand the SSA categories that qualify borrowers for TPD, expand the list of acceptable SSA documentation used to establish eligibility for TPD, allow additional healthcare professionals to certify a borrower's eligibility for TPD, and eliminate most aspects of the 3-year post-discharge monitoring period.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: The TPD process is streamlined for borrowers through the data match process used by the

Department and the Social Security Administration (SSA) to automatically identify eligible borrowers. In addition, more borrowers will be eligible for TPD based on the expanded SSA categories that are recognized as qualifying borrowers for TPD. The TPD process is further streamlined through an expanded list of acceptable documentation for SSA-related categories and the healthcare professionals who can certify borrowers for TPD discharge. The 3-year post-monitoring period is eased for borrowers by eliminating the annual earnings and other documentation requirements.

School: None.

Lender/Service: Lenders/serviceers may receive more notifications from the Department of borrowers eligible for TPD. Lenders/serviceers should understand the changes to the TPD process to address borrower questions.

Guarantor: Guarantors may see more TPD discharges as the result of the streamlined TPD process and the additional categories that qualify borrowers for TPD. Guarantors should understand the changes to the TPD process to address borrower questions.

U.S. Department of Education: The Department will identify more borrowers eligible for TPD based on the additional categories that qualify borrowers for TPD. The 3-year monitoring process for the Department is eased.

To be completed by the Policy Development and Maintenance Contractor (PDMC)

POLICY CHANGE PROPOSED BY:

PDMC

DATE SUBMITTED TO POLICY DEVELOPMENT AND MAINTENANCE CONTRACTOR:

November 27, 2022

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Guarantor Designees
Interested Industry Groups and Others

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 6, 2023

X	DRAFT	Comments Due	Jan 27, 2023
	FINAL	Consider at GB meeting	
	APPROVED	With Changes/No Changes	

SUBJECT: Closed School Discharge

AFFECTED SECTIONS: 13.8.B

POLICY INFORMATION: Y007/1338/Batch 226

EFFECTIVE DATE/TRIGGER EVENT: Closed school discharge applications received, or eligibility determinations made on or after July 1, 2023.

BASIS:

Final Rule (87 FR 65904) published November 1, 2022 and Final Rule (87 65426) published October 28, 2022.

CURRENT POLICY:

Current policy states that an entire school or location must close for a borrower to be eligible for closed school discharge. Current policy also states that a student has to have been enrolled within 120 days of the school closing to be eligible for discharge. Current policy does not list examples of exceptional circumstances in which the Department could extend the 120-day enrollment requirement. Finally, current policy states that a borrower may qualify for discharge is they do not re-enroll within 3 years of their school closing.

REVISED POLICY:

Revised policy amends the definition of what it means for a school to close for closed school discharge purposes: it is the earlier of the date the Department determines the school ceases to provide educational instruction in programs in which most students at the school are enrolled or the date the Department determines the school ceased to provide educational instruction to all its students.

The policy is revised to extend the time frame in which a student must have been enrolled in the closed school to be eligible for discharge from 120 to 180 days before the school closing. The policy is revised to include a non-exhaustive list of exceptional circumstances for which the Department may extend the 180-day time frame. The policy is also amended to explain that if a borrower does not complete their program of study at another branch or location of the school or through a teach-out agreement at another school within one year of the school closing, the borrower is eligible for automatic closed school discharge. If the borrower accepts but does not complete a continuation of the program at another branch or location or a teach-out agreement at another school, the borrower is eligible for discharge one year after the borrower's last date of attendance in the teach-out program.

REASON FOR CHANGE:

Final Rule changes published in *Federal Register* 87 FR 65904 and *Federal Register* 87 65426.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 13.8.B, page 21, column 2, as follows:

13.8.B
Closed School

If a borrower (or a student for whom a parent obtained a PLUS loan) is unable to complete his or her program of study due to the closing of a school, the borrower may qualify to have his or her applicable

loans discharged. A borrower is eligible for loan discharge of all or part of his or her Consolidation loan for the amount of the closed school loan discharge that would have been applicable to the borrower's underlying loan(s). If a school closes, the closure date is the earlier of the date the Department determines the school ceased to provide educational instruction in programs in which most students at the school were enrolled, or the date when the Department determines the school ceased to provide educational instruction for all of its students. A borrower is not eligible for loan discharge if the student's program of study, either traditional, distance, or online, was terminated by the school, but the school did not close at that time. For Title IV eligibility purposes, a distance education program is not considered to be a separate location of a school. A location is a physical site that is geographically separate from the main campus at which the school offers at least where a student can receive instruction in 50% or more of an eligible educational program. A borrower who obtained loans for a distance or online education program would qualify for a closed school discharge on those loans only if the main campus of the school closes. An online or distance education program is considered to be associated with the school's main campus. An entire school or location at which the program is offered must close for a borrower to be eligible for loan discharge.
[\$682.402(d)(1)(ii)(A); §685.214(a)(2); §600.2 definition of *Additional Location* (1)]

In most cases, to qualify for a closed school loan discharge, a borrower must complete, certify, and submit to his or her lender or guarantor the Loan Discharge Application: School Closure form approved by the Department. The borrower may be eligible to have a loan discharged if he or she meets all the following criteria:

- The borrower (or student for whom a parent obtained a PLUS loan) received any part of the proceeds of a FFELP loan on or after January 1, 1986, to attend a school that later closed.
- The borrower (or student) did not complete the program of study at the school for which the loan was obtained because the school closed while the student was enrolled or on an approved leave of absence, or the student withdrew ~~within 120~~ not more than 180 days of before the school's closing. The Department may extend the ~~120~~180-day period due to exceptional circumstances related to a school's closing.

The Department will determine whether an exceptional circumstance exists on a case-by-case basis. Exceptional circumstances include, but are not limited to:

- The revocation or withdrawal by an accrediting agency of the school's institutional accreditation.
- The school is or was placed on probation or issued a show-cause order, or placed on an accreditation status that poses an equivalent or greater risk to its accreditation, by its accrediting agency for failing to meet one or more of the agency's standards.
- The revocation or withdrawal by the State authorization or licensing authority to operate or to award academic credentials in the State.
- The termination by the Department of the school's participation in a Title IV, HEA program.
- A finding by a State or Federal government agency that the school violated State or Federal law related to education or services to students.
- The teach-out of the student's educational program exceeds the 180-day look back period for a closed school discharge.
- The school responsible for the teach-out of the student's educational program fails to perform the material terms of the teach-out plan or agreement, such that the student does not have a reasonable opportunity to complete his or her program of study.
- The school discontinued a significant share of its academic programs.

- The school permanently closed all or most of its ground-based or in-person locations while maintaining online programs.
- The school was placed on the heightened cash monitoring payment method as defined in 34 CFR §668.162(d)(2). [§682.402(d)(9); §685.214(h)]
- The borrower (or student) did not complete—and is not currently in the process of completing—the ~~same or a similar~~ program of study at another branch or location of the school or through a teach-out agreement at another school, approved by the school’s accrediting agency and, if applicable, the school’s State authorizing agency by transferring to another school all or a portion of the academic credits or clock hours earned at the closed school, or by benefiting by any other means from the training provided by the closed school. [§682.402(d)(3)(i)-(iii); §685.214(d)(1)(i)(C)]

Revise Subsection 13.8.B, page 22, column 2, paragraph 1, as follows:

The guarantor or the Department may initiate the discharge process if either determines that the borrower is eligible for discharge based on information in its possession. If, however, the borrower initiates the process by requesting a discharge based on a school closure, the borrower must submit to the lender or guarantor a completed, certify, and submit to the lender or guarantor the Loan Discharge Application: School Closure form, and the factual assertions in the application must be true and made under penalty of perjury. Through submission of this loan discharge application, the borrower:

- Agrees to provide to the Department, as requested, other documentation reasonably available ~~true and correct documentation~~ that demonstrates that the borrower’s eligibility meets the qualifications for discharge. [§682.402(d)(3)(iv)(A); §685.214(d)(1)(iii)(A)]
- Agrees to cooperate with the Department or its designee in any enforcement action or attempt to recover discharged loan amounts, and to transfer and relinquish to the Department any right to a refund on a discharged loan. [§682.402(d)(3)(iv)(B) & (d)(4)-(5); §685.214(d)(1)(iii)(B)]
- States whether the student has made a claim with respect to the school’s closing with any third party, such as the holder of a performance bond or tuition recovery program. If so, the borrower must disclose in the discharge application the amount of any payment received by the borrower (or student) or credited to the loan obligation.

Revise Subsection 13.8.B, page 22, column 2, paragraph 3, as follows:

Discharge Without an Application

~~In some cases, a~~ A borrower may qualify for will receive a closed school loan discharge without submitting a loan discharge application if the borrower received a closed school loan discharge on a loan under the Federal Perkins Loan Program or the Federal Direct Loan Program for the same program of study at the same school. Also, the borrower may not be required to submit a loan discharge application if the Department or the guarantor, with the Department’s permission, determines that the borrower qualifies for a discharge based on information in the Department’s or guarantor’s possession. ~~With respect to schools that closed on or after November 1, 2013, a borrower’s obligation to repay a loan will be discharged without an application from the borrower if the Department or guaranty agency determines that the borrower did not subsequently re-enroll in any title-IV eligible school within a period of three years after the school closed.~~

If the borrower did not complete the program at another branch or location of the school or through a teach-out at another school, approved by the school’s accrediting agency and, if applicable, the school’s State authorizing agency, the Department or guarantor will discharge the loan one year after the

school's closure date without an application or any statement from the borrower. If the borrower accepts but does not complete a continuation of the program at another branch or location of the school or a teach-out agreement at another school, approved by the school's accrediting agency, and, if applicable, the school's State authorizing agency, the Department or guarantor will discharge the loan one year after the borrower's last date of attendance in the teach-out program.
[§682.402(d)(8)(i); §685.214(c)]

Revise Subsection 13.8.B, page 24, column 1, paragraph 1, as follows:

If the borrower continues to make payments during the forbearance period, the lender is not required to return those payments to the borrower until the guarantor determines the borrower's eligibility for loan discharge. The lender must resume collection activity if the borrower fails to return a completed loan discharge application within ~~60~~ 90 days after the date the application is sent to the borrower, or within 30 days from receiving notification that the loan is ineligible for closed school loan discharge. The lender may capitalize the interest accrued during the administrative forbearance period. Upon resuming collection activity, the lender must provide the borrower with another discharge application and an explanation of the requirements and procedures for obtaining a discharge.

[§682.402(d)(7)(ii); §685.214(f)(4)]

Revise Subsection 13.8.B, page 24, column 1, paragraph 2, as follows:

Notifying the Borrower

Along with the loan discharge application due to school closure, the lender or guarantor must provide the following information to potentially eligible borrowers:

- Eligibility requirements for closed school loan discharge.
- Instructions for completing the loan discharge application and submitting it within ~~60~~ 90 days.
- An explanation of the administrative forbearance applied to each of the borrower's potentially eligible loans and the effect of the capitalization of interest accrued during the forbearance period.

Revise Subsection 13.8.B, page 24, column 2, paragraph 3, sentence 1, as follows:

If a borrower fails to submit a completed loan discharge application within ~~60~~ 90 days of being notified of that option, the lender must resume collection activity on the affected loan(s).

Revise Subsection 13.8.B, page 24, column 2, paragraph 4, sentence 1, as follows:

A borrower's request for loan discharge cannot be denied solely due to the borrower's failure to return the completed loan discharge application within ~~60~~ 90 days.

Revise Subsection 13.8.B, page 25, column 1, paragraph 5, as follows:

If the borrower does not return the loan discharge application within ~~60~~ 90 days, or the guarantor or the Department has not instructed the lender to file a closed school loan discharge claim, the lender must discontinue the administrative forbearance and file the default claim. (See Subsection 11.22.C for more information regarding the administrative forbearance on the loan and how it impacts the loan's delinquency.)

Revise Subsection 13.8.B, page 25, column 2, paragraph 1, sentence 1, as follows:

If the borrower returns a completed loan discharge application within ~~60~~ 90 days and the guarantor returned the claim to the lender, the lender must refile the claim as a closed school loan discharge claim within 60 days of the date on which it receives either the completed loan discharge application or notice from the guarantor to file a closed school loan discharge claim.

Revise Subsection 13.8.B., page 26, column 1, paragraph 1, as follows:

If the guarantor did not return the claim, and the borrower returns a completed and signed loan discharge application within ~~60~~ 90 days, the lender must forward all pertinent documentation to the guarantor. If the guarantor did not return the claim and the borrower fails to return the completed loan discharge application within ~~60~~ 90 days, the lender must notify the guarantor that the closed school loan discharge is no longer pending.

PROPOSED LANGUAGE - COMMON BULLETIN:

Closed School Discharge

The Manual has been revised to incorporate regulatory changes that become effective on July 1, 2023. The revisions amend the definition of what it means for a school to close. For closed school discharge purposes, a school is considered closed by the Department on the earlier of the date the Department determines the school ceases to provide educational instruction in programs in which most students at the school are enrolled or the date the Department determines the school ceased to provide educational instruction to all its students.

In addition, the Manual is revised to extend the time frame in which a student must have been enrolled in the closed school to be eligible for discharge from 120 to 180 days before the school closing, and now includes a non-exhaustive list of exceptional circumstances for which the Department may extend the 180-day time frame. Finally, the Manual is revised to explain that if a borrower does not complete their program of study at another branch or location of the school or through a teach-out agreement at another school within one year of the school closing, the borrower is eligible for automatic closed school discharge. If the borrower accepts but does not complete a continuation of the program at another branch or location or a teach-out agreement at another school, the borrower is eligible for discharge one year after the borrower's last date of attendance in the teach-out program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: The closed school discharge requirements are expanded to allow more borrowers to qualify.

School: None.

Lender/Service: Lenders/service providers may receive more notifications from the Department or guarantors of borrowers eligible for closed school discharge. Lenders/service providers should understand the changes to the closed school discharge qualifications to address borrower questions.

Guarantor: Guarantors may see more closed school discharge applications and an increase in borrowers qualifying for discharges. Guarantors should understand the changes to the closed school discharge qualifications to address borrower questions.

U.S. Department of Education: The Department may identify more borrowers eligible for closed school discharge as the result of the regulatory changes.

To be completed by the Policy Development and Maintenance Contractor (PDMC)

POLICY CHANGE PROPOSED BY:

PDMC

DATE SUBMITTED TO POLICY DEVELOPMENT AND MAINTENANCE CONTRACTOR:

November 27, 2022

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:
CM Guarantor Designees
Interested Industry Groups and Others