

**Common Manual Policy Proposal Batch [230] Transmittal****[June 20, 2024]**

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1344	HEROES Act Waivers	Revised policy extends the HEROES waivers to January 24, 2029, adds clarifying points included in the <i>Federal Register</i> notice for a couple of the waivers, and removes outdated references to the FSA Handbook.	Federal	Waivers granted on or after January 24, 2024 until January 24, 2029

Batch [230] (Approved)

# COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: June 20, 2024

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With Changes/No Changes	June 20, 2024

**SUBJECT:** HEROES Act Waivers

**AFFECTED SECTIONS:** Appendix H, H.4 History of Statutory and Regulatory Waivers

**POLICY INFORMATION:** Z003/1344/Batch 230

**EFFECTIVE DATE/TRIGGER EVENT:** Waivers granted on or after January 24, 2024 until January 24, 2029

**BASIS:**

*Federal Register* (89 FR 4553) published January 24, 2024.

**CURRENT POLICY:**

Current policy states the HEROES waivers expired on September 30, 2022.

**REVISED POLICY:**

Revised policy extends the HEROES waivers to January 24, 2029, adds clarifying points included in the *Federal Register* notice for a couple of the waivers, and removes outdated references to the FSA Handbook.

**REASON FOR CHANGE:**

Notification from the Department of waivers in *Federal Register* (89 FR 4553), published January 24, 2024.

**PROPOSED LANGUAGE - COMMON MANUAL:**

Revise Subsection H.4.B, page 149, column 2, paragraph 2, as follows:

## 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 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 29, 2017, ~~again~~ extended the waivers to September 30, 2022. A *Federal Register* notice October 17, 2017, was issued to provide definitions used in the HEROES Act that are outside the statutes and regulations administered by the Department to help ensure the terms are not misinterpreted. A *Federal Register* notice published January 24, 2024, updated and extends the waivers until January 24, 2029.

Revise Figure H-3, page 157, as noted in attached.

Revise Subsection H.4.B, page 158, column 1, paragraph 2, as follows:

1. *Reinstatement of Title IV Eligibility* (see Subsection 5.2.E and the ~~17-18 FSA Handbook, Volume 1, Chapter 3, p. 1-68~~)

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~~ 20 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~~ Loan holders 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. If there is an arrangement or agreement in place between the borrower and the loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of 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 ~~17-18~~ FSA Handbook, Volume 5, Chapter 1, pp- ~~5-10 to 5-15~~)

*Note:* no other changes are proposed for this paragraph.

Revise Subsection H.4.B, page 158, column 2, paragraph 1, as follows:

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 an affected individual 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 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 11.6 and 11.7, 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 11.6 and 11.7, 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 (or, in the case of an in-school deferment on a parent PLUS loan, the student on whose behalf the loan was obtained) 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 (or, in the case of an in-school deferment on a parent PLUS loan, the student on whose behalf the loan was obtained) returns to school. The Department pays interest that accrues on a subsidized Stafford loan as a result of extending a borrower's (or, in the case of an in-school deferment on a parent PLUS loan, the student on whose behalf the loan was obtained) eligibility for either type of deferment under this waiver.

Revise Subsection H.4.B, page 159, column 1, paragraph 1, as follows:

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. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the series of payments. When a 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 borrowers' status.

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 Direct 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 arrangement. Satisfactory repayment arrangements for Direct Consolidation loan eligibility purposes are defined as three, consecutive, on-time (received within ~~15~~ 20 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~~ Loan holders 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. If there is an arrangement or agreement in place between the borrower and loan holder and the borrower makes a payment during this period, the loan holder must treat the payment as an eligible payment in the required series of 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 17-18 FSA Handbook, Volume 6~~)

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. Alternatively, the loan holder may rely upon evidence that the borrower is receiving Imminent Danger Pay or Hostile Fire Pay (IDP/HFP) to determine the time frame in which collection should be suspended, including 3 months after that special pay ends. The loan holder must document in the loan file the reason that it suspended collection activities.

**PROPOSED LANGUAGE - COMMON BULLETIN:**

**HEROES Act Waivers**

The Manual has been revised to reflect the Department's notice in the January 24, 2024 *Federal Register* about updated Higher Education Relief Opportunities for Students (HEROES) Act waivers. The waivers are effective January 24, 2024 and expire January 24, 2029.

**GUARANTOR COMMENTS:**

None

**IMPLICATIONS:**

*Borrower:* Borrowers will receive HEROES waivers as authorized.

*School:* Schools will grant HEROES waivers to students as authorized.

*Lender/Servicer:* Lenders and servicers will grant HEROES waivers to borrowers as authorized.

*Guarantor:* Guarantors will grant HEROES waivers to defaulted borrowers as authorized.

*U.S. Department of Education:* The Department will grant HEROES waivers as appropriate.

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

**POLICY CHANGE PROPOSED BY:**

PDMC

**DATE SUBMITTED TO POLICY DEVELOPMENT AND MAINTENANCE CONTRACTOR:**

January 24, 2024

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

May 9, 2024

**PROPOSAL DISTRIBUTED TO:**

CM Guarantor Designees  
Interested Industry Groups and Others

**Comments Received from:**

PPSV and PHEAA

**Responses to Comments**

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One commenter supported the proposal as written, and the other provided the following comments.

**COMMENT:** One commenter suggested revising H.4.B, page 158, column 2, paragraph 2, item 3 *In-School and Grace Period* to remove reference to grace period. The commenter's understanding of the updated grace period waiver is that it no longer applies to FFELP loans. The commenter noted that at the beginning

of the *Federal Register* notice sections describing each individual waiver, there is a list of the applicable statutes and regulations that are being modified by the waiver. Historically, the section for the grace period waiver included HEA and regulatory citations for both Direct and FFELP, indicating that the waiver applied to both. The current version of the waiver is no longer applicable to FFELP loans. The commenter suggested revising the section as follows:

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 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.

**Response:** The PDMC agrees in part. The Grace Period waiver in the 2024 *Federal Register* is for a borrower who is in grace *and* is an affected individual by virtue of being called or ordered to active duty as a member of an Armed Forces reserve component for a period of more than 30 days. The commenter is correct that, per the references only to Direct Loan regulations, this waiver would be available to Direct Loan borrowers who are affected individuals (i.e., called or ordered to active duty), but not similarly situated FFELP borrowers. However, the PDMC believes more revisions are needed to item 3 than the commenter suggested to fully align it with the waiver outlined in the *Federal Register*.

**Change:** Section H.4.B, page 158, column 2, paragraph 1, is revised as follows.

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 an affected individual 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 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.~~

**COMMENT:** One commenter suggested revising H.4.B., page 158, column 2, paragraph 4, item 4 *Deferment – In School and Graduate Fellowship* to include reference to parent PLUS loan borrowers. The comment states that the language found in the *Federal Register* (89 FR 4553), published January 24, 2024, includes reference to this additional impacted class.

**Response:** The PDMC agrees.

**Change:** Section H.4.B, page 158, column 2, paragraph 2, – In School and Graduate Fellowship is revised to

read:

5. *Deferment – In School and Graduate Fellowship* (see Sections 11.6 and 11.7, 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 11.6 and 11.7, 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 (or, in the case of an in-school deferment on a parent PLUS loan, the student on whose behalf the loan was obtained) 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 (or, in the case of an in-school deferment on a parent PLUS loan, the student on whose behalf the loan was obtained) returns to school. The Department pays interest that accrues on a subsidized Stafford loan as a result of extending a borrower's (or, in the case of an in-school deferment on a parent PLUS loan, the student on whose behalf the loan was obtained) eligibility for either type of deferment under this waiver.

**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	5.2.E; <del>17-18 FSA Handbook, Volume 1, Chapter 3, p. 1-68</del>	X		X		X	
2. Approved Leave of Absence	9.3; <del>17-18 FSA Handbook, Volume 5, Chapter 1, pp. 5-10 to 5-15</del>	X		X		X	
3. In-School and Grace Period	10.2, <del>10.3.C</del>	X		X		X	
4. Deferment – In-School and Graduate Fellowship	11.6, 11.7; Figure 11-1	X		X		X	
5. Forbearance	11.24.B	X		X		X	
6. Rehabilitation of Defaulted Loans	13.7	X		X		X	
7. Loan Forgiveness	13.9.A	X		X		X	
8. Consolidating Defaulted Title IV Loans	15.2	X		X		X	
9. Collection Activities on Defaulted Title IV Loans	\$682.410; <del>17-18 FSA Handbook, Volume 6</del>	X		X		X	
10. 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.