

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1293	Verbal Forbearance for Defaulted Loans	<p>11.20.B Documentation Required for Authorized Forbearance 11.20.C Forbearance Length 11.20.H Forbearance of Defaulted Loans 11.22 Discretionary Forbearance</p> <p>States that if a lender grants a verbal request and affirmation of the obligation to repay the debt, the forbearance period is limited to a period of 120 days and cannot be granted consecutively. The lender must verbally review with the borrower or endorser the terms of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower or endorser.</p> <p>Also, adds information regarding a borrower's or endorser's affirmation of the debt. An affirmation in this case means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation of the debt may include, but is not limited to, one of the following:</p> <ul style="list-style-type: none"> • A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt; • A verbal acknowledgment and agreement to repay the debt documented by the lender in the borrower's file and confirmed by the lender in a notice to the borrower or endorser; or • A payment made on the loan by the borrower or endorser. <p>Further, states that if the lender grants a discretionary forbearance based on a verbal agreement and affirmation of the debt, the lender must record the forbearance terms and the affirmation of the debt in the borrower's file. The lender must send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement and affirmation of the debt as well as information on all other repayment options available to the borrower or endorser.</p>	Federal	Forbearances requested after the date of default and granted by the lender on or after July 1, 2014, based on the borrower's or endorser's verbal request. The lender may choose to implement the provision no earlier than November 1, 2013.

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1294	Forbearance Provisions for Borrowers Receiving Department of Defense Student Loan Repayment Benefits	<p>11.24.C National Service, Loan Forgiveness, Department of Defense Repayment, or Active Military State Duty</p> <p>States that a lender must grant a mandatory forbearance to cover borrowers who are performing qualifying service for student loan repayment under <i>other</i> Department of Defense (DOD) programs for repayment of student loans.</p>	Federal	Forbearance requests from borrowers performing service that qualifies them for Department of Defense loan repayment programs as of July 1, 2014. A lender may choose to implement the provision no earlier than November 1, 2013.
1295	Administrative Forbearance for Delinquency before an Authorized Forbearance	<p>11.20.G Forbearance of Delinquent Loans</p> <p>Figure 11-2 Forbearance Eligibility Chart</p> <p>11.21.G Delinquency before a Deferment or Certain Forbearances</p> <p>Retains information about processing an administrative forbearance to resolve an outstanding delinquency that precedes a deferment, and adds language stating that a lender may process an administrative forbearance to resolve an outstanding delinquency that proceeds an authorized period of forbearance.</p>	Federal	Administrative forbearances granted by the lender on or after July 1, 2014, to resolve a delinquency before an authorized period of forbearance. The lender may choose to implement the provision no earlier than November 1, 2013.

Batch 198 (Out for Comment)

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: December 6, 2013

X	DRAFT	Comments Due	Dec 27
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Verbal Forbearance for Defaulted Loans

AFFECTED SECTIONS: 11.20.B Documentation Required for Authorized Forbearance
11.20.C Forbearance Length
11.20.H Forbearance of Defaulted Loans
11.22 Discretionary Forbearance

POLICY INFORMATION: 1293/Batch 198

EFFECTIVE DATE/TRIGGER EVENT: Forbearances requested after the date of default and granted by the lender on or after July 1, 2014, based on the borrower's or endorser's verbal request. The lender may choose to implement the provision no earlier than November 1, 2013.

BASIS:
§682.211(d); §685.205(a)(8).

CURRENT POLICY:

Current policy states that a lender may grant a discretionary forbearance to a borrower or endorser to resolve a delinquency and permit the resumption of payments after the date of default only if the forbearance is granted prior to the lender's receipt of the claim payment. Also, current policy states that the lender must obtain a verbal or written agreement regarding the terms of the discretionary forbearance and a new signed agreement to repay the debt. Further, if a lender grants a discretionary forbearance based on a verbal agreement, the lender must record the forbearance terms in the borrower's file and send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement.

REVISED POLICY:

Revised policy states that if a lender grants a verbal request and affirmation of the obligation to repay the debt, the forbearance period is limited to a period of 120 days and cannot be granted consecutively. The lender must verbally review with the borrower or endorser the terms of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower or endorser.

Revised policy also adds information regarding a borrower's or endorser's affirmation of the debt. An affirmation in this case means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation of the debt may include, but is not limited to, one of the following:

- A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt;
- A verbal acknowledgment and agreement to repay the debt documented by the lender in the borrower's file and confirmed by the lender in a notice to the borrower or endorser; or
- A payment made on the loan by the borrower or endorser.

Further, revised policy states that if the lender grants a discretionary forbearance based on a verbal agreement and affirmation of the debt, the lender must record the forbearance terms and the affirmation of the debt in the borrower's file. The lender must send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement and affirmation of the debt as well as information on all other repayment options available to the borrower or endorser.

REASON FOR CHANGE:

This change is necessary to incorporate into the *Common Manual* final rules published by the Department in the *Federal Register*, Volume 78, No. 212, dated November 1, 2013.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 11.20.B, page 29, column 1, paragraph 1, as follows:

11.20.B

Documentation Required for Authorized Forbearance

In cases where a forbearance agreement is required, a lender and a borrower or endorser may agree to the terms of the forbearance verbally or in writing. A lender that grants a forbearance based on a written agreement with the borrower or endorser may use any form or format that is acceptable to the guarantor, and the lender must retain a copy of the agreement. A lender that grants a forbearance based on a verbal agreement with the borrower or endorser must send a notice confirming the terms of the forbearance agreement to the borrower or endorser within 30 days of the date that agreement was made and record the forbearance terms in the borrower's ~~or endorser's~~ file. In order to grant a forbearance after the date of default based on either a verbal or a written agreement with the borrower or endorser, the lender must also obtain a new signed agreement to repay the debt or a written or verbal affirmation of the obligation to repay the debt (see Subsection 11.20.H). For each forbearance period, regardless of whether an agreement is required, the lender must document in the borrower's file or the loan's servicing history the forbearance beginning and ending dates and the reason for granting forbearance.

[HEA §428(c)(3)(A) and (c)(10); §682.211(b)(1); §682.211(d); §682.414(a)(4)(ii)(G); §685.205(a)(8)]

Revise Subsection 11.20.C, page 29, column 1, paragraph 2, as follows:

11.20.C

Forbearance Length

~~With the exception of administrative and mandatory forbearances that are not subject to a maximum time frame or are~~ In certain cases, forbearances are subject to ~~other specific~~ regulatory time frames (see Subsection 11.20.H and Sections 11.21, 11.23, and 11.24); ~~If not otherwise regulated,~~ a lender may grant a single forbearance for up to one year at a time if both the borrower or endorser and the lender agree. This one year includes any past and future forbearance months. For example, a forbearance that is granted for 3 months retroactively may extend only 9 months into the future.

...

Revise Subsection 11.20.H, page 30, column 2, paragraph 1, as follow:

11.20.H

Forbearance of Defaulted Loans

A lender may grant a discretionary forbearance to a borrower or endorser to resolve a delinquency and permit the resumption of payments after the date of default only if the forbearance is granted prior to the lender's receipt of the claim payment. In order to grant a forbearance after the date of default, the lender must obtain a verbal or written agreement regarding the terms of the discretionary forbearance, ~~and The lender must also obtain a new signed agreement to repay the debt~~ a written or verbal affirmation of the obligation to repay the debt. At the lender's discretion, the signed agreement to repay the debt or written affirmation of the obligation to repay the debt may be included in the context of a written forbearance agreement or may be separate.

An affirmation in this case means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation may include, but is not limited to, one of the following:

- A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt;
- A verbal acknowledgment and agreement to repay the debt documented by the lender in the borrower's file and confirmed by the lender in a notice to the borrower or endorser; or
- A payment made on the loan.

If the forbearance is based on the borrower's or endorser's verbal request and affirmation of the obligation to repay the debt, all of the following provisions apply:

- The forbearance period is limited to a period of 120 days.
- A verbal request and affirmation of the debt must not be granted consecutively.
- The lender must verbally review with the borrower or endorser the terms of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower or endorser.

If the lender grants a discretionary forbearance based on a verbal agreement and affirmation of the debt, the lender must record the forbearance terms and the affirmation of the debt in the borrower's file, and The lender must send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement and affirmation of the debt as well as information on all other repayment options available to the borrower or endorser. (See Section 11.22 for more information about granting a discretionary forbearance.) The lender is not required to obtain a new signed agreement to repay the debt if an administrative forbearance is granted in conjunction with an authorized deferment that begins prior to the 270th day of delinquency.
[§682.211(b) and (d); §685.205(a)(8)]

Revise Section 11.22, page 40, column 2, paragraph 1, as follows:

11.22 Discretionary Forbearance

...

If the discretionary forbearance is based on a verbal agreement, the lender must send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance. Certain rules apply to verbal discretionary forbearance requests and affirmation of the debt for defaulted loans that have not yet been claim paid (see Subsection 11.20.H).

PROPOSED LANGUAGE - COMMON BULLETIN: Verbal Forbearance for Defaulted Loans

The *Common Manual* has been updated to align with November 1, 2013, final rules regarding verbal discretionary forbearance and affirmation of the obligation to repay the debt granted by the lender on defaulted loans that have not yet been claim paid. The updated policy states that if a lender grants a verbal request and affirmation of the obligation to repay the debt, the forbearance period is limited to a period of 120 days and cannot be granted consecutively. The lender must verbally review with the borrower or endorser the terms of the forbearance, including the consequences of interest capitalization, and all other repayment options available to the borrower or endorser.

Updated policy also adds information regarding an affirmation of the debt. An affirmation in this case means an acknowledgement of the loan by the borrower or endorser in a legally binding manner. The form of the affirmation of the debt may include, but is not limited to, one of the following:

- A new signed repayment agreement or schedule, or another form of signed agreement to repay the debt;
- A verbal acknowledgment and agreement to repay the debt documented by the lender in the borrower's or endorser's file and confirmed by the lender in a notice to the borrower or endorser; or
- A payment made on the loan.

Further, the updated policy states that if the lender grants a discretionary forbearance based on a verbal agreement and affirmation of the debt, the lender must record the forbearance terms and the affirmation of the debt in the borrower's file. The lender must send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement and affirmation of the debt as well as information on all other repayment options available to the borrower or endorser.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:*Borrower:*

A borrower may verbally request and be granted a discretionary forbearance and may verbally provide an affirmation of the obligation to repay the debt if his or her loan(s) is in default, but has not yet been claim paid. A borrower must be aware that this forbearance may only be granted for 120 days, and therefore must take some other action to bring the account current.

School:

A school may need to update its loan counseling materials.

Lender/Servicer:

A lender may need to update its processes and procedures for granting a verbal discretionary forbearance and receiving a verbal affirmation of the obligation to repay the debt.

Guarantor:

A guarantor may need to update its program review procedures.

U.S. Department of Education:

The Department may need to update its program review procedures.

To be completed by the Policy Committee**POLICY CHANGE PROPOSED BY:**

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

JUNE 15, 2012

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

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

ma/edited chh

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: December 6, 2013

X	DRAFT	Comments Due	Dec 27
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Forbearance Provisions for Borrowers Receiving Department of Defense Student Loan Repayment Benefits**

AFFECTED SECTIONS: **11.24.C National Service, Loan Forgiveness, Department of Defense Repayment, or Active Military State Duty**

POLICY INFORMATION: **1294/Batch 198**

EFFECTIVE DATE/TRIGGER EVENT: Forbearance requests from borrowers performing service that qualifies them for Department of Defense loan repayment programs as of July 1, 2014. A lender may choose to implement the provision no earlier than November 1, 2013.

BASIS:
§682.211(h).

CURRENT POLICY:
Current policy requires a lender to grant forbearance to a borrower who is performing service that qualifies the borrower for partial loan repayment under the Student Loan Repayment programs administered by the Department of Defense and authorized by 10 U.S.C. 2171.

REVISED POLICY:
Revised policy states that a lender must grant a mandatory forbearance to cover borrowers who are performing qualifying service for student loan repayment under *other* Department of Defense (DOD) programs for repayment of student loans.

REASON FOR CHANGE:
This change is necessary to align the Manual with federal regulations published November 1, 2013, which added the provision that borrowers performing eligible military service for DOD Student Loan Repayment programs other than the repayment programs authorized by 10 U.S.C. 2171 are eligible for mandatory forbearance while performing the eligible service.

PROPOSED LANGUAGE - COMMON MANUAL:
Revise Subsection 11.24.C, page 43, column 2, paragraph 1, as follows:

11.24.C
National Service, Loan Forgiveness, Department of Defense, or Active Military State Duty

The lender must grant forbearance in yearly increments— or a lesser period equal to the actual period during which the borrower is eligible—for any period during which the borrower meets one of the following criteria:

...

- Performs service that would qualify the borrower for partial loan repayment under the Student Loan Repayment Programs administered by the U.S. Department of Defense authorized under 10 U.S.C. 2171, 2173, 2174 or any other Department of Defense programs for repayment of student loans. Before granting a forbearance to a borrower or endorser under this program, the lender must require the borrower or endorser to submit documentation of the beginning and ending dates for which the U.S. Department of Defense considers the borrower to be eligible for a partial repayment of the borrower's loan under the Student Loan Repayment Programs.

PROPOSED LANGUAGE - COMMON BULLETIN:

Forbearance Provisions for Borrowers Receiving Department of Defense Student Loan Repayment Benefits

The *Common Manual* has been updated to align with November 1, 2013 final rules regarding mandatory forbearance for borrowers who are receiving Student Loan Repayment benefits authorized under the Department of Defense. The updated policy states that lenders must grant borrowers who are performing eligible service under any Department of Defense programs for repayment of student loans forbearance in yearly increments or lesser amounts to equal the actual service period that the borrower is eligible.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

An eligible borrower will benefit from the additional mandatory forbearance provision.

School:

Schools may need to update their counseling materials.

Lender/Servicer:

A lender/servicer will need to revise its forbearance procedures to accommodate this new provision.

Guarantor:

None.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

Common Manual Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

June 15, 2012

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

an/tmh

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: December 6, 2013

X	DRAFT	Comments Due	Dec 27
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Administrative Forbearance for Delinquency before an Authorized Forbearance

AFFECTED SECTIONS: 11.20.G Forbearance of Delinquent Loans
Figure 11-2 Forbearance Eligibility Chart
11.21.G Delinquency before a Deferment or Certain Forbearances

POLICY INFORMATION: 1295/Batch 198

EFFECTIVE DATE/TRIGGER EVENT: Administrative forbearances granted by the lender on or after July 1, 2014, to resolve a delinquency before an authorized period of forbearance. The lender may choose to implement the provision no earlier than November 1, 2013.

BASIS:
§682.211(f)(2); §685.205(b)(2).

CURRENT POLICY:

Current policy states that a lender must not administratively forbear a delinquent borrower in cases where the borrower is delinquent before a mandatory forbearance or certain mandatory administrative forbearances. A lender should resolve any delinquencies that exist before these types of forbearance by working with the borrower to grant a discretionary forbearance. This requirement to resolve existing delinquency using a discretionary forbearance does not apply to mandatory administrative forbearances granted for military mobilization, local or national emergencies, or a designated disaster area.

REVISED POLICY:

Revised policy retains information about processing an administrative forbearance to resolve an outstanding delinquency that precedes a deferment, but adds language that states that a lender may process an administrative forbearance to resolve an outstanding delinquency that proceeds an authorized period of forbearance. This allows a borrower to exit the forbearance in a current status.

REASON FOR CHANGE:

This change is necessary to incorporate into the *Common Manual* final rules published by the Department in the *Federal Register*, Volume 78, No. 212, dated November 1, 2013.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 11.20.G, page 30, column 1, paragraph 4, as follows:

11.20.G Forbearance of Delinquent Loans

~~A lender must not administratively forbear a delinquent borrower in cases where the borrower is delinquent before a mandatory forbearance or certain mandatory administrative forbearances. A lender should resolve any delinquencies that exist before these types of forbearance by working with the borrower to grant a discretionary forbearance. This requirement to resolve existing delinquency using a discretionary forbearance does not apply to mandatory administrative forbearances granted for military mobilization, local or national emergencies, or a designated disaster area (see Subsection 11.23.B for more information).~~

Revise Figure 11-2, page 32, row 2 under Administrative, as follows:

Administrative	
Borrower ineligible for Deferment ⁶	Beginning date to ending date of the ineligible deferment
Delinquency before a Deferment or Certain Authorized Forbearances ⁶	First date of overdue payment to the day before the beginning date of deferment or other forbearance type

Revise Subsection 11.21.G, page 36, column 1, paragraph 1, as follows:

11.21.G

Delinquency before a Deferment or Certain an Authorized Period of Forbearances

A lender may process an administrative forbearance to resolve an outstanding delinquency that precedes a deferment or an authorized period of forbearance ~~any of the events listed below~~. The forbearance may be granted from the date on which the borrower's delinquency began and may be extended through the day before the first date on which the borrower is eligible for: the deferment or forbearance.

- ~~A deferment.~~
- ~~An administrative forbearance granted due to a military mobilization, a local or national emergency, or a natural disaster (see Subsection 11.21.N).~~
- ~~A mandatory administrative forbearance granted due to exceptional circumstances—a military mobilization, a local or national emergency, or a designated disaster area (see Subsection 11.23.B).~~

[§682.211(f)(2); ~~§682.211(f)(12); §682.211(i)(2)~~§685.205(b)(2)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Administrative Forbearance for Delinquency before an Authorized Forbearance

The *Common Manual* has been updated to align with November 1, 2013, final rules. Lenders may now use an administrative forbearance to resolve the delinquency that exists before an authorized period of forbearance. This allows a borrower to exit the deferment or forbearance in a current status.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Student/Borrower:

A borrower will benefit from this forbearance by not being in a delinquent repayment status upon exiting an authorized period of forbearance.

School:

A school may need to update its loan counseling materials.

Lender/Servicer:

A lender may need to update its processes and procedures.

Guarantor:

The guarantor may need to update its program review procedures.

U.S. Department of Education:

The Department may need to update its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

July 30, 2013

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees
Interested Industry Groups and Others

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