



Unified Student Loan Policy

**POLICY UPDATE PROPOSALS – IMMEDIATE ACTION REQUIRED
COMMENTS DUE FRIDAY, MARCH 24, 2017**

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

FROM: Benjamin Lee
Great Lakes, CM Policy Development and Maintenance Contractor

RE: *Common Manual* Policy Update
[Batch 211: Proposal 1323]

DATE: March 3, 2017

Enclosed with this memorandum is the **Two Hundred and Eleventh** batch completed by the *Common Manual* Policy Development and Maintenance Contractor (PDMC).

Policy 1323 is a federal policy proposal and is intended to align *Common Manual* text with federal regulations.

Every policy update drafted by the PDMC must be distributed to each guarantor for comment before it is presented to the Governing Board for review and approval. Every proposal is also sent to higher education organizations and others in the FFELP community who request the opportunity to comment.

Please review this policy update proposal and provide written comments by Friday, March 24, 2017, to:

Benjamin Lee
Great Lakes Higher Education Guaranty Corporation
E-Mail: Policy@glhec.org

Following the review of comments received, the PDMC will update the proposal and distribute it to each member of the *Common Manual* Governing Board for review and approval at its April 2017 meeting.

If you have any questions about the enclosed proposal please contact Benjamin Lee via phone at 608-246-1580 or via email at Policy@glhec.org.

Enclosures:

Policy Proposal Transmittal
Common Manual Policy Proposal (1323)

Common Manual Policy Proposal Batch 211 Transmittal

March 3, 2017

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1323	Closed School Discharge	<p>13.8.B Closed School</p> <p>Revised policy states that upon resuming collection on a loan for which a borrower has failed to submit a completed Loan Discharge Application: School Closure form within 60 days of being notified of that option, the lender must provide the borrower another Loan Discharge Application: School Closure form and an explanation of the requirements and procedures for obtaining a discharge. Revised policy also explains why lenders may be informed of a borrower's automatic discharge related to schools that close on or after November 1, 2013. For such schools, a borrower's obligation to repay the loan can be discharged without the borrower completing a Loan Discharge Application: School Closure form if the Department or guaranty agency determines that the borrower did not re-enroll in any title IV-eligible institution within a period of three years after the school closed.</p>	Federal	<p>Closed school discharge applications sent to borrowers on or after July 1, 2017, for sending a second application.</p> <p>Notifications received on or after July 1, 2017, from guarantors or the Department of automatic discharges.</p>

Batch 211 (Out for Comment)

COMMON MANUAL – FEDERAL POLICY PROPOSAL

Date: March 3, 2017

X	DRAFT	Comments Due	03/24/17
	FINAL	Consider at GB meeting	
	APPROVED	With Changes/No Changes	

SUBJECT: Closed School Discharge

AFFECTED SECTIONS: 13.8.B Closed School

POLICY INFORMATION: 1323/Batch 211

EFFECTIVE DATE/TRIGGER EVENT: Closed school discharge applications sent to borrowers on or after July 1, 2017, for sending a second application.

Notifications received on or after July 1, 2017, from guarantors or the Department of automatic discharges.

BASIS:

Final Rule published in November 1, 2016 *Federal Register* (81 FR 75926); §682.402(d)(6)(ii)(I), §682.402(d)(6)(ii)(K)(3), §682.402(d)(7)(ii) and (iii), and §682.402(d)(8)(ii).

CURRENT POLICY:

Current policy states that in most cases borrowers must submit a Loan Discharge Application: School Closure form to have their loans discharged under the closed school discharge regulations, and that a lender will resume collection on a loan for which a borrower has failed to submit a completed application form within 60 days of the borrower being notified of their potential eligibility for closed school discharge.

REVISED POLICY:

Revised policy states that upon resuming collection on a loan for which a borrower has failed to submit a completed Loan Discharge Application: School Closure form within 60 days of being notified of that option, the lender must provide the borrower another Loan Discharge Application: School Closure form and an explanation of the requirements and procedures for obtaining a discharge. Revised policy also explains why lenders may be informed of a borrower's automatic discharge related to schools that close on or after November 1, 2013. For such schools, a borrower's obligation to repay the loan can be discharged without the borrower completing a Loan Discharge Application: School Closure form if the Department or guaranty agency determines that the borrower did not re-enroll in any title IV-eligible institution within a period of three years after the school closed.

REASON FOR CHANGE:

These changes are to conform to regulations published in the November 1, 2016 *Federal Register* (81 FR 75926), which made multiple changes to the closed school discharge regulations.

Note: There is another regulatory change related to closed school discharge that is not being addressed in the Manual at this time. That change is related to a new requirement that the guarantor notify a borrower who has been denied discharge of the option to have the denial reviewed by the Department. As written, the regulations in §682.402(d)(6)(ii)(F) require the guarantor to notify borrowers with *defaulted* loans of the review option. There is no corresponding requirement for guarantors to provide such notification to borrowers with non-defaulted loans who have been denied discharge, nor is there a corresponding requirement for the lender to notify a borrower who has been denied discharge of the review option in §682.402(d)(7). More specifically, §682.402(d)(7)(v) was not revised to expand the lender's notification requirement beyond telling the borrower of the reason for denial. As such, the PDMC does not feel the Manual should include a requirement for lenders that is not clearly delineated in regulation.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 13.8.B, page 23, column 1, paragraph 1, as follows:

In some cases, a borrower may qualify for a closed school discharge 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.

[§682.402(d)(8)]

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 the loan discharge. The lender must resume collection activity if the borrower fails to return a completed loan discharge application within 60 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 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 2, paragraph 2, as follows:

If a borrower fails to submit a completed loan discharge application within 60 days of being notified of that option, the lender must resume collection activity on the affected loan(s). 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. The lender is deemed to have exercised forbearance on the loans(s) beginning on the date on which the lender suspends collection activity. The lender may capitalize unpaid interest that accrues during the forbearance period.

~~[§682.402(d)(6)(ii)(H); §682.402(d)(7)(ii); §685.214(f)(4)]~~

Revise Subsection 13.8.B, page 27, column 1, paragraph 2 as follows:

If the Department or guarantor determines that a loan is eligible for closed school loan discharge, the guarantor will refund to the borrower all payments made by or on behalf of the borrower, less any payments received from a third-party source—unless the guarantor also holds a defaulted loan for the borrower that is not eligible for the discharge. If the guarantor holds such a loan, the guarantor may apply the borrower's refund to the outstanding balance of the defaulted loan account. Any payment exceeding the remaining balance of the defaulted loan account will be forwarded to the borrower. The guarantor will notify the borrower of the application of the refund to repay the defaulted loan(s). (For more information on how to manage an overpayment on a loan, see the subheading "Claim Payment.")

Revise Subsection 13.8.B, page 27, column 2, paragraph 3, as follows:

If a guarantor determines that a loan is not eligible for discharge under closed school loan discharge provisions, it will return the claim to the lender with an explanation of why the borrower is not eligible. The lender must, within 30 days:

- Notify the borrower of the reasons for denial.
- Resume collection efforts. The lender may capitalize outstanding interest that accrued during the forbearance period.
- Provide the borrower another discharge application and an explanation of the requirements and procedures for obtaining a discharge.

[§682.402(d)(7)(v); ~~§682.402(d)(6)(ii)(I)~~; §685.214(f)(6)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Closed School Discharge Changes

The Manual is being revised to incorporate new regulatory requirements for closed school discharge. A lender will be required to send another closed school discharge application at the time the lender

resumes collection activity for a borrower who fails to submit an application within 60 days of being notified of the option for discharge or if the borrower has been denied discharge. The Manual is also revised to explain the possibility that the Department or guarantor may determine that a borrower is automatically eligible for a closed school discharge (i.e., no application needed). Such determinations can be made by either the Department or guarantor for borrowers who attended schools that closed on or after November 1, 2013, when the borrower fails to re-enroll in any title-IV eligible school within three years from the date the borrower's school closed.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: If a borrower fails to submit a completed Loan Discharge: Closed School Application form within 60 days of being notified of that option, they will receive another application and an explanation of the requirements and procedures for obtaining a discharge. For borrowers that attended a school that closed on or after November 1, 2013, they may have their loans discharged without submitting an application if they do not re-enroll in any title IV-eligible institution within a period of three years after the school closed, as determined by the Department or guarantor.

School: None.

Lender/Service: If a borrower fails to submit a completed Loan Discharge: Closed School Application form within 60 days of being notified of that option, the lender/service must, when resuming collection, send the borrower another discharge application and an explanation of the requirements and procedures for obtaining a discharge.

Guarantor: A guarantor will automatically grant a closed school discharge if the borrower's school closed on or after November 1, 2013, and the borrower does not re-enroll in any title IV-eligible institution within a period of three years after the school closed. It is anticipated that the Department will develop a process for this with the guarantors.

U.S. Department of Education: The Department may grant a discharge without a borrower application if the borrower's school closed on or after November 1, 2013, and the borrower does not re-enroll in any title-IV eligible institution within a period of three years after the school closed.

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

POLICY CHANGE PROPOSED BY:

Policy Development and Maintenance Contractor

DATE SUBMITTED TO CM POLICY DEVELOPMENT AND MAINTENANCE CONTRACTOR:

December 15, 2016

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

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