

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1072	Eligible Lender - Eligible Financial Institutions	<p><u>3.1</u> <u>Eligible Lenders</u></p> <p>Adds a third exemption for the criterion that FFELP loans may not represent more than 50% of a lender's consumer credit loan portfolio in order for the lender to be considered eligible to participate in the FFELP. This exemption is for a National or State chartered bank or credit union with assets of less than \$1 billion.</p>	Federal	August 14, 2008.
1073	New School-as-Lender Audit Requirement	<p><u>3.2</u> <u>Schools Acting as Lenders and Eligible Lender Trustee Relationships</u></p> <p>Adds the requirement that a school-as-lender (SAL), a lender serving as a trustee for a school, or a school-affiliated organization participating as a lender in the FFELP must have an annual audit of its lending function that focuses on ensuring that the income (special allowance, interest received from students and the Department, proceeds of any loan sale, etc.) is used to provide need-based grants and that the school applies only a reasonable portion of those proceeds to administrative expenses. The audit must confirm that the proceeds of the loan portfolio are used to supplement and not to supplant federal and non-federal funds that would otherwise be directed to need-based grant programs.</p>	Federal	First auditable period of the school lender or ELT that begins on or after August 14, 2008.
1074	Credit Reporting Requirements	<p><u>3.5.C</u> <u>Credit Bureau Reporting</u></p> <p><u>13.8</u> <u>Discharge</u></p> <p>Changes credit bureaus to "consumer reporting agencies" to align with new statutory terminology. The policy also requires the lender to report to all national consumer reporting agencies, and adds to the list of data that the lender is required to report that the lender must report that the loan is an education loan.</p>	Federal	Loans on which the lender reports credit transactions on or after August 14, 2008.

1075	Lenders of Last Resort	<p><u>3.7.A</u> <u>Eligible Lenders</u> <u>3.7.C</u> <u>How the LLR Program Works</u></p> <p><u>Appendix G</u> Includes new and amended provisions for lender of last resort (LLR) loans outlined in the Ensuring Continued Access to Student Loans Act (ECASLA) and subsequent federal guidance.</p>	Federal	May 7, 2008.
1076	Drug Conviction Notices	<p><u>4.4.B</u> <u>Consumer Information</u> <u>5.8</u> <u>Effect of Drug Conviction on Eligibility</u></p> <p>Adds the requirement that a school must provide a written notice to a student who has been convicted of a state or federal offense involving drug possession or sale while the student is enrolled in school and receiving Title IV aid.</p> <p>Adds the requirement that a school must provide a written notice to a student who loses Title IV eligibility due to a drug-related conviction that advises the student of his or her loss of Title IV eligibility and the ways in which the student may regain eligibility for Title IV aid.</p>	Federal	<p>For the notice upon enrollment: Students who enroll at the school on or after August 14, 2008.</p> <p>For the notice upon loss of Title IV eligibility due to a drug conviction: School determinations of a student's loss of Title IV eligibility on or after August 14, 2008.</p> <p><i>If the Department publishes guidance with a different triggering event, the Common Manual will immediately notify the FFELP community of the change.</i></p>
1077	Multiple School Enrollment	<p><u>5.15</u> <u>Multiple School Enrollment</u> <u>6.7</u> <u>Determining the Amount of Estimated Financial Assistance (EFA)</u></p> <p>Adds that for a student enrolled simultaneously at multiple schools, any Stafford or PLUS loan certified by one school is not included as estimated financial assistance (EFA) by any other school when determining a student or parent borrower's loan eligibility for the same payment period or period of enrollment.</p>	Federal	Publication date of the 05-06 FSA Handbook.

1078	Teacher Education Assistance for College and Higher Education (TEACH) Grants	<p><u>6.6</u> <u>Determining the Expected Family Contribution (EFC)</u></p> <p><u>6.7</u> <u>Determining the Amount of Estimated Financial Assistance (EFA)</u></p> <p><u>6.11.A</u> <u>Stafford Annual Loan Limits</u></p> <p><u>6.11.B</u> <u>Stafford Aggregate Loan Limits</u></p> <p><u>9.5.A</u> <u>Return Amounts for the Title IV Grant and Loan Programs</u></p> <p><u>9.5.B</u> <u>Processing Returned Funds</u></p> <p><u>13.8.G</u> <u>Total and Permanent Disability</u></p> <p><u>16.2</u> <u>Calculation of School Cohort Default Rates</u></p> <p>Adds information on certain TEACH grant provisions and their implications for FFELP borrowers and loan eligibility. These provisions relate to: estimated financial assistance (EFA); Stafford annual and aggregate loan limits; return of Title IV funds calculation; total and permanent disability; and a school's cohort default rate.</p> <p>Adds a glossary definition to the Manual for TEACH grants.</p>	Federal	<p>For provisions regarding estimated financial assistance (EFA), annual, and aggregate Stafford loan limits: Loan eligibility determinations made by a school on or after July 1, 2008.</p> <p style="text-align: right;">Fo</p> <p>r provisions regarding the return of Title IV funds: TEACH Grant recipients who withdraw on or after July 1, 2008.</p> <p>For total and permanent disability discharge determinations: total and permanent disability discharge applications received by the lender on or after July 1, 2008.</p> <p>For all other provisions: July 1, 2008.</p>
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COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 15, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Jan 15

SUBJECT: Eligible Lender - Eligible Financial Institutions

AFFECTED SECTIONS: 3.1 Eligible Lenders

POLICY INFORMATION: 1072/Batch 155

EFFECTIVE DATE/TRIGGER EVENT: August 14, 2008.

BASIS:

HEA §435(d)(1)(A)(ii)(IV) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:

Current policy states that one of the criteria for a national or state chartered bank, mutual savings bank, savings and loan association, stock savings bank, or credit union to be considered eligible to participate in the FFELP is that FFELP loans may not represent more than 50% of the lender's consumer credit loan portfolio. Under current policy, there are three exemptions to this criterion.

REVISED POLICY:

Revised policy adds a fourth exemption for the criterion that FFELP loans may not represent more than 50% of a lender's consumer credit loan portfolio in order for the lender to be considered eligible to participate in the FFELP. The additional exemption is for a national or state chartered bank or credit union with assets of less than \$1 billion.

REASON FOR CHANGE:

This change is made to comply with provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 3.1, page 1, column 1, paragraph 2, as follows:

3.1

Eligible Lenders

Eligible lenders participate in the FFELP on a voluntary basis. An eligible lender can be any of the following:

- A national or state chartered bank, mutual savings bank, savings and loan association, stock savings bank, or credit union. To be considered eligible to participate in the FFELP, the lender must meet both of the following criteria:
[HEA §435(d)(1)(A); §682.200(b)]
 - The lender is subject to examination and supervision in its capacity as a lender by an agency of the United States or the state in which its principal place of operation is established.
[HEA §435(d)(1)(A)(I); §682.200(b)]
 - The lender does not have as its primary consumer credit function the making or holding of FFELP loans to students and parents. FFELP loans may not represent more than 50% of the lender's consumer credit loan portfolio (including home mortgages). Loans held in trust by a trustee lender are not considered part of the trustee lender's consumer credit function. A lender is exempt from this requirement in any one ~~either~~ of the ~~two~~ four following scenarios:

- (1) The lender is a bank wholly owned by a state, or a bank that is subject to examination and supervision by an agency of the United States; makes student loans as a trustee pursuant to an express trust; has operated as a lender under the loan programs before January 1, 1975; and has met these requirements before the enactment of the Higher Education Amendments of 1992; or.
- (2) The lender is a single, wholly-owned subsidiary of a bank holding company that does not have as its primary consumer credit function the making or holding of student loans; .
- (3) The lender is a bank [as defined in section 3(a)(1) of the Federal Deposit Insurance Act] that is a wholly-owned subsidiary of a tax-exempt, nonprofit foundation [as described in section 501(c)(3) of Internal Revenue Code of 1986, and exempt from taxation under section 501(c)(1) of the Code], for purposes of making FFELP loans only to undergraduate students age 22 or younger, provided the bank's FFELP portfolio does not exceed \$5 million.
- (4) The lender is a national or state chartered bank, or credit union, with assets of less than \$1 billion.
[HEA §435(d)(1)(A)(ii); §682.200(b)]

Revise Section 3.1, page 1, column 2, bullet 7, as follows:

- ...
- A nonprofit private agency functioning in any state as a secondary market, for purposes of making Federal Consolidation loans.
[HEA §435(d)(1)(J); §682.101(a)]
- ~~A bank [as defined in section 3(a)(1) of the Federal Deposit Insurance Act] that is a wholly-owned subsidiary of a tax-exempt, nonprofit foundation [as described in section 501(c)(3) of IRS Code of 1986, and exempt from taxation under section 501(c)(1) of the Code], for purposes of making FFELP loans only to undergraduate students aged 22 or younger, provided the bank's FFELP portfolio does not exceed \$5 million.
[HEA §435(d)(1)(A)(ii); §682.200(b)]~~
- A consumer finance company subsidiary of a national bank that, on October 7, 1998, acted as a small business lending company (as defined in regulations prescribed by the Small Business Administration) through one or more subsidiaries. The bank's direct and indirect subsidiaries together must not have as their primary consumer function the making or holding of education loans.
[HEA §435(d)(1)(K); §682.200(b)]

Proposed Language - Common Bulletin:

Eligible Lender - Eligible Financial Institutions

The *Common Manual* has been revised to amend the requirements for certain kinds of lenders to be considered eligible to participate in the FFELP. Under the current requirements, a lender's FFELP loans may not represent more than 50% of the lender's consumer credit portfolio. Existing policy provides three exemptions from this 50% rule and these three existing exemptions remain unchanged. However, the Higher Education Opportunity Act of 2008 adds a fourth exemption for a national or state chartered bank, or credit union, with assets of less than \$1 billion.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may have more choice among lenders from which to obtain a FFELP loan.

School:

A school may have more lenders that are able to offer FFELP loans to their students.

Lender/Service:

A small lender that had been limited in FFELP lending by the 50% rule may now be permitted to re-enter the FFELP market.

Guarantor:

May need to review program participation parameters.

U.S. Department of Education:

May need to review program participation parameters.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

January 8, 2009

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designee
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received from:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESAA, HESC, KHEAA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Most commenters supported this proposal as written. Other commenters recommended wordsmithing changes that made no substantive changes to the policy but that added clarity to the proposed language. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

Several commenters identified that HEA §435(d)(1)(A)(ii) contained three exemptions from the 50% rule prior to enactment of the HEOA. The HEOA added that a national or state chartered bank, or credit union, with assets of less than \$1 billion, is a fourth exemption. Of those commenters, one noted that the *Common Manual* addressed the third exemption as a separate bullet and suggested to move this verbiage to be included as an exemption under the 50% rule.

Response:

The Committee agrees.

Change:

The policy has been revised so that all four exemptions to the 50% rule are in one location in the *Common Manual*.

COMMENT:

One commenter recommended revising the Common Bulletin language as follows:

"The *Common Manual* has been revised to amend the requirements for certain kinds of lenders ~~a lender that is a national or state chartered bank, mutual savings bank, savings and loan association, stock savings bank, or credit union~~ to be considered eligible to participate in the FFELP..."

The change would clarify that the exemption added as a result of enactment of the HEOA is only applicable to a lender that is a national or state chartered bank, or credit union.

Response:

The Committee agrees.

Change:

The Bulletin Language has been modified as suggested by the commenter.

jhh/edited-as

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 15, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Jan 15

SUBJECT: **New School-as-Lender Audit Requirement**

AFFECTED SECTIONS: **3.2 Schools Acting as Lenders and Eligible Lender Trustee Relationships**

POLICY INFORMATION: **1073/Batch 155**

EFFECTIVE DATE/TRIGGER EVENT: First auditable period of the school lender or ELT that begins on or after August 14, 2008.

BASIS:
HEA §435(d)(8), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:
Current policy does not specify that the school-as-lender must have an annual audit performed to confirm that the school or its affiliates are using income from its loan portfolio to provide need-based grants and that the school uses only a reasonable portion of that income to pay administrative expenses.

REVISED POLICY:
Revised policy adds the requirement that the school-as-lender, a lender serving as a trustee for a school, or a school-affiliated organization participating as a lender in the FFELP have an annual audit of its lending function that focuses on ensuring that the income (special allowance, interest received from students and the Department, proceeds from any loan sale, etc.) from its portfolio is used to provide need-based grants and that only a reasonable portion of this income is used to pay administrative expenses. The audit must confirm that the income from the loan portfolio is used to supplement and not to supplant federal and non-federal funds that would otherwise be directed to need-based grant programs.

REASON FOR CHANGE:
This change is made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 3.2, page 2, column 2, paragraph 3 , bullet 5, as follows:

Schools Acting as Lenders

An eligible school may act as a lender under the Federal Stafford Loan Program if it meets all eligibility requirements applicable as of February 7, 2006, and made its first loan under the FFELP on or before April 1, 2006. In addition, in order to continue to participate, the eligible school must meet all of the following criteria:

- ...
- ...
- ...
- ...
- ...
- ...

- ...
- ...
- ...
- The school submits to the Department an annual lender compliance audit for each fiscal year ~~beginning on or after July 1, 2006~~, in which the school engages in activities as an eligible lender. This requirement applies regardless of the size of the school's loan portfolio or annual loan volume. (See Subsection 3.8.A for more information regarding the annual compliance audit.)
[HEA §435(d)(2)(A)(vii); §682.601(a)(7)]
 - The school submits to the Department an annual audit of its lending function to document that the school's revenue from lending (special allowance payments, interest payments received from students and the Department, proceeds from any loan sale, etc.) is used to provide need-based grants and that the school applies only a reasonable portion of this revenue toward direct administrative expenses. The purpose of the program audit is to ensure that the revenue from the loan portfolio is used to supplement and not supplant federal and nonfederal funds that would otherwise be directed to need-based grant programs.
[HEA §435(d)(8)]

Revise Section 3.2, page 3, column 1, paragraph 1, as follows:

~~Effective January 1, 2007, and for all loans first disbursed on or after that date under an ELT relationship,~~ The parties involved in the ELT relationship must meet the following eligibility requirements:

Revise Section 3.2, page 3, column 1, paragraph 1, bullet 3, by adding a new subbullet 5, as follows:

- An eligible lender acting as a trustee:
 - ...
 - ...
 - ...
 - ...
 - Must submit to the Department an annual program audit of its lending function that focuses on ensuring that the revenue from its lending function (special allowance payments, interest payments received from students and the Department, proceeds of any loan sale, etc.) is used to provide need-based grants and that the school applies only a reasonable portion of this revenue to direct administrative expenses. The purpose of the program audit is to ensure that the revenue from the loan portfolio is used to supplement and not supplant federal and nonfederal funds that would otherwise be directed to need-based grant programs.
[HEA §435(d)(8)]

PROPOSED LANGUAGE - COMMON BULLETIN:

New School-as-Lender Audit Requirement

The *Common Manual* has been revised to add the requirement that a school functioning as a lender, a lender serving as a trustee for a school, or a school-affiliated organization participating as a lender in the FFELP have an annual program audit of its lending function that focuses on ensuring that the income (special allowance payments, interest payments received from students and the Department, proceeds from any loan sale, etc.) from its portfolio is used to provide need-based grants and that only a reasonable portion of this income is used to pay administrative expenses. The purpose of the program audit is to ensure that the income from the loan portfolio is used to supplement and not supplant federal and nonfederal funds that would otherwise be directed

to need-based grant programs.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

A school acting as a lender must obtain an audit that focuses on its use of the proceeds of its lending function and provide the necessary reports to the Department.

Lender/Service:

None.

Guarantor:

A guarantor may be required to amend program review procedures.

U.S. Department of Education:

The Department may be required to amend program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 20, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

January 8, 2009

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

CM Governing Board Representatives

Comments Received from:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESAA, HESC, KHEAA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Most commenters supported this proposal as written. One commenter recommended a wordsmithing change that made no substantive changes to the policy but that added clarity to the proposed language. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

NOTE:

During the period in which the Committee was reviewing comments received on this policy proposal, the Department published its summary of the HEOA changes in DCL GEN-08-12. The following change was made to this policy proposal to align its text more closely with the guidance published in this DCL.

Change:

The Effective Date/Trigger Event has been modified to more closely align with the DCL, as follows:

~~School-as-lender fiscal years~~ First auditable period of the school lender or ELT that begins on or after August 14, 2008.

bg/edited - kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 15, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Jan 15

SUBJECT: Lender Consumer Reporting Requirements

AFFECTED SECTIONS: 3.5.C Credit Bureau Reporting
13.8 Discharge

POLICY INFORMATION: 1074/Batch 155

EFFECTIVE DATE/TRIGGER EVENT: Loans on which the lender reports credit transactions on or after August 14, 2008.

BASIS:
HEA §430A(a), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:
Current policy requires the lender to report to at least one national credit bureau, and specifies data elements that the lender is required to report.

REVISED POLICY:
Revised policy changes credit bureaus to "consumer reporting agencies" to align with statutory terminology. The policy also requires the lender to report to all national consumer reporting agencies and to report that the loan is an education loan.

REASON FOR CHANGE:
This change is made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: Other references to "credit bureaus" and "credit bureau reporting" in the context of the Common Manual will be amended via technical edits to support the new statutory terminology.

Revise Subsection 3.5.C, page 14, column 2, paragraph 2, as follows:

3.5.C **Credit Bureau Reporting to Consumer Reporting Agencies**

A lender must report information on each FFELP loan it makes or holds to ~~at least one~~ all national credit bureau consumer reporting agencies. ~~Federal regulations require that~~ The lender must report all of the following information be reported within the specified time frames, as applicable:

[HEA §430A(a); §682.208(b)(1)]

- The loan is an education loan.
[HEA §430A(a)]
- The total amount of loans made to the borrower (to be reported within 90 days of each disbursement).
[§682.208(b)(1)(i)]
- The outstanding balance of the borrower's FFELP loans held by the lender.
[§682.208(b)(1)(ii)]
- The repayment status of ~~delinquent~~ delinquent loans, including delinquent loans, not to affect any otherwise applicable provisions of the Fair Credit Reporting Act. The minimum

frequency with which a lender must report status changes to ~~at least one~~ all national ~~credit bureau~~ consumer reporting agencies is quarterly. To avoid unnecessarily confusing the borrower and damaging the borrower's credit history, a lender is strongly encouraged to wait until a borrower is at least 60 days delinquent before reporting the delinquency to ~~a credit bureau~~ the consumer reporting agencies .
[§682.208(b)(1)(iii); DCL 96-L-186/96-G-287, Q&A#16]

- The date the loan is paid in full by or on behalf of the borrower (to be reported within 90 days of the date the loan is paid in full).
[§682.208(b)(1)(iv)]
- The date the loan is discharged due to the borrower's death, disability, bankruptcy, or discharged under the spouses and parents of September 11, 2001, victims provisions (to be reported within 90 days of the date the loan is discharged).
[§682.208(b)(1)(iv)]
- The date the loan is discharged due to a closed school or false certification (to be reported within 30 days of the date the lender is notified that the loan is discharged). The lender also must request that the ~~credit bureau~~ consumer reporting agency remove any negative or inaccurate information regarding a loan discharged due to a closed school or false certification. For more information on closed school and false certification claims, see Subsections 13.8.B, 13.8.D, and 13.8.E.
[§682.402(d)(7)(iv) and (e)(2)(iv)]
- Other information required by federal or state law.
[§682.208(b)(1)(v)]

A lender purchasing a FFELP loan must report the preceding information, as applicable, to all national ~~credit bureau~~ consumer reporting agencies within 90 days of purchasing the loan. The lender must retain evidence of its credit bureau reporting.
[§682.208(b)(2)]

If a borrower or endorser requests that the lender provide information on the repayment status of his or her loan to a ~~credit bureau~~ consumer reporting agency , the lender must do so within 30 days of the request. If a consumer dispute has been filed with a ~~credit bureau~~ consumer reporting agency , the lender must respond to a borrower's or endorser's request for information within 30 days.
[§682.208(c)(1)]

A guarantor will report each loan it purchases as a default claim to all national ~~credit bureaus~~ consumer reporting agencies.
[§682.410(b)(5)]

If a lender receives a valid identity theft report or notification of an alleged identity theft from a ~~credit bureau~~ of an alleged identity theft consumer reporting agency, the lender must suspend ~~credit bureau~~ reporting on at the loan to the consumer reporting agency for a period not to exceed 120 days while the lender determines the legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the lender still determines the loan to be legally unenforceable, the lender must notify the ~~credit bureau~~ consumer reporting agency of the determination. FFELP ~~credit bureau~~ consumer reporting requirements do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to a borrower while a lender determines the legal enforceability of a loan after receiving a valid identity theft report or notification from a ~~credit bureau~~ consumer reporting agency of an alleged identity theft. See Subsection 13.8.E for more information on loan discharge as a result of the crime of identity theft.
[§682.208(b)(3); 682.411(o)(2)]

Revise Section 13.8, page 16, column 2, paragraph 4, as follows:

Credit Bureau Reporting to Consumer Reporting Agencies

As required under Subsection 3.5.C, the lender must report to ~~at least one~~ all national credit bureau consumer reporting agencies the date a borrower's loan is discharged due to the disability, bankruptcy, or the death of the borrower or dependent student, as applicable. For closed school and false certification ~~claims discharges~~, the current loan holder must, within 30 days of the date the lender is notified that a loan is discharged, notify all credit consumer reporting agencies to which any adverse credit has been reported that the loan obligation has been discharged and that the adverse credit information must be corrected. [HEA §430A(a); §682.208(b)(1)(iv); §682.402(d) and (e)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Lender Consumer Reporting Requirements

The *Common Manual* has been revised to reflect statutory changes from the Higher Education Opportunity Act (HEOA) that require the lender to report to all national consumer reporting agencies and that require the lender to report, in addition to previous credit bureau data reporting requirements, that the loan is an education loan.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

The borrower's outstanding credit history will be more consistently reflected at all national credit reporting agencies.

School:

None.

Lender/Service:

A lender must amend its consumer reporting processes and procedures to ensure that the borrower's loans are reported to all national consumer reporting agencies and to include information to show that the loan is an education loan.

Guarantor:

The guarantor must amend its program review procedures.

U.S. Department of Education:

The Department may be required to amend its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 14, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

January 8, 2009

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received from:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESAA, HESC, KHEAA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Most commenters supported this proposal as written. Other commenters recommended wordsmithing changes that made no substantive changes to the policy but that added clarity to the proposed language. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

bg/edited - kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 15, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB Meeting	
X	APPROVED	With No Changes	Jan 15

SUBJECT: Lenders of Last Resort

AFFECTED SECTIONS: 3.7.A Eligible Lenders
3.7.C How the LLR Program Works
Appendix G

POLICY INFORMATION: 1075/Batch 155

EFFECTIVE DATE/TRIGGER EVENT: May 7, 2008.

BASIS:

HEA §428(j) as amended by the Ensuring Continued Access to Student Loans Act (ECASLA); DCLs GEN-08-05 and GEN-08-08.

CURRENT POLICY:

Current policy does not include the following statutory changes to:

- Extend lender of last resort (LLR) provisions to all FFELP loans except Consolidation loans.
- Limit the terms of LLR loans to the applicable statutory interest rate and maximum origination and federal default fees.
- Provide that, as a temporary measure, an LLR designation may be made on a school-wide basis, rather than an individual borrower basis.

In addition, current policy still alludes to certain responsibilities of the Student Loan Marketing Association (SLMA) with respect to LLR loans.

REVISED POLICY:

Revised policy includes new and amended provisions for LLR loans, as follows:

- Removes references to SLMA as an LLR designated by the Department.
- Includes parent and Grad PLUS Loans in the definition of eligible LLR loans.
- Requires the LLR to charge the borrower the maximum applicable rates for interest and fees.
- Provides that, on a temporary basis, the LLR designation may be made on a school-wide basis rather than an individual borrower basis.
- Requires the LLR to provide at least 60 days notice to the designated guarantor if it intends to cease LLR operations. In that 60-day period, the LLR must continue to accept and process loan certifications.
- Requires an LLR that intends to cease LLR operations to ensure that each loan made under the LLR program is fully disbursed prior to the date on which it ceases those operations.

REASON FOR CHANGE:

Statutory changes and subsequent federal guidance regarding LLR programs, as noted above, have substantially amended policies with respect to the LLR.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 3.7.A, page 20, column 2, paragraph 3, as follows:

**3.7.A
Eligible Lenders**

The following entities may make LLR loans in any given state:

- The designated guarantor of FFELP loans in the state.
- An eligible FFELP lender that is an agency of the state, or a nonprofit private agency

- designated by the state.
- Any eligible FFELP lender, through arrangement with either of the eligible entities identified above.

If the Department determines that an eligible borrower is unable to obtain a subsidized or unsubsidized Stafford loan through the LLR program for the state, the Student Loan Marketing Association (Sallie Mae) may be authorized to make an LLR loan for the borrower.
[HEA §435(d)(1)(D); HEA §439(q); §682.401(c)(1)]

Revise Subsection 3.7.C, page 21, column 1, paragraph 1, as follows:

3.7.C
How the LLR Program Works

A student or parent may request assistance under the lender of last resort (LLR) program if the student or parent is an eligible FFELP borrower and ~~to participate in the FFELP and meets all of the following conditions:~~

- ~~• The student qualifies for interest benefits:
— [§682.401(c)(2)(i)]~~
- ~~• The student is eligible for a combined subsidized and unsubsidized Stafford loan amount of at least \$200:
[§682.401(c)(2)(ii)]~~
- ~~• The student is otherwise unable to obtain loans from another eligible lender for the same period of enrollment or is attending a school that has been designated an LLR school:
— [§682.401(c)(2)(iii)]~~

~~A student who meets these conditions is entitled to receive Stafford loans under the LLR program. In addition, an LLR may offer unsubsidized Stafford loans and PLUS loans through LLR programs to eligible borrowers who have has been otherwise unable to obtain a Stafford or PLUS those loans, as applicable, from another eligible lender for the same period of enrollment. An eligible student or parent borrower who requests assistance under the LLR program may be referred to the designated guarantor in the student's state of residence or to the designated guarantor in the state where the student is attending school.
[§682.401(c)(3); DCL GEN-08-08]~~

Within 60 days of receiving a complete request from the borrower for an LLR loan, the guarantor must respond to the borrower with an approval or denial. If the LLR loan is approved, the guarantor will either serve as the lender or designate an eligible lender to make the LLR loan. A lender under the LLR program may refuse to make a loan if the borrower fails to meet the lender's credit standards.
[§682.401(c)(4)(v); 07-08 FSA Handbook, Volume 4, Chapter 1, p. 4-8]

The LLR is required to charge the applicable statutory maximum interest rate and origination and federal default fees to students and parents borrowing under the LLR program. The LLR is not permitted to offer to the LLR borrowers other loan terms or conditions that are more favorable than those explicitly provided in statute and regulation. A lender that provides LLR loans is prohibited from marketing those loans and from violating the prohibited inducement provisions (see Subsection 3.4.C).
[DCL GEN-08-08]

If the LLR chooses to cease its participation as an LLR, it must provide at least 60 days' notice to the designated guarantor of its intent to cease LLR operations and that it will ensure that all loans made under the LLR designation are fully disbursed prior to the date on which it ceases LLR operations. The lender must continue to accept additional certifications under the LLR provisions during this 60-day period.
[DCL GEN-08-05]

Revise Appendix G, page 13, column 1, paragraph 1, as follows:

Lender of Last Resort: (LLR) A lender ~~(or guarantor, in some cases)~~ that agrees to make Stafford and/or PLUS loans to each of the following:

- Sstudents and/or parent borrowers who qualify for interest benefits, who are eligible for combined subsidized and unsubsidized Stafford loan amounts of at least \$200 and who are otherwise unable to obtain loans from other eligible lenders for the same period of enrollment, ~~or~~
- Student borrowers who are attending schools that have been designated as LLR schools) and parents of students attending such schools. See Section 3.7 and Subsection H.4.D.

Revise Appendix H by adding a new subsection H.4.D, as follows:

H.4.D

Waiver of Borrower-by-Borrower LLR Designation

Through June 30, 2009, if a school requests and is granted an LLR designation by the Department, eligible student borrowers attending the school and eligible parent borrowers may obtain loans from the LLR. The LLR must make loans to eligible student borrowers attending the school and to eligible parent borrowers even if they are otherwise unable to obtain Stafford or PLUS loans from other eligible lenders for the same period of enrollment.

[HEA §428(j)(3)]

A school that wishes to apply for the LLR designation must meet criteria established by the Department, including that the school, at a minimum:

- Demonstrates that it has made at least three attempts to identify participating lenders, beyond those lenders that had previously provided FFELP loans to students and parents of students attending the school, that will make FFELP loans.
- Documents its determination that 80% or more of the students and parents of students at its school are unable to obtain FFELP loans.
- Provides other documentation and information specified by the Department.
[HEA §428(j)(4); DCL GEN-08-08]

PROPOSED LANGUAGE - COMMON BULLETIN:

Lender of Last Resort (LLR) Changes

The *Common Manual* has been revised to update the glossary definition of "lender of last resort," to remove the Student Loan Marketing Association as a designated LLR option, and to insert in the history appendix "waiver" subsections of the *Common Manual* new text to reference the school-wide LLR options authorized in statute through June 30, 2009.

Revised policy also states that the LLR is not permitted to offer reduced interest rates or reductions or waivers of origination or federal default fees, and that the LLR may not offer other loan terms or conditions to the LLR borrowers that are more favorable than those explicitly provided in statute and regulation. Revised policy stipulates that a lender that provides LLR loans is prohibited from marketing those loans and from violating the prohibited inducement provisions. The policy requires that the LLR provide at least 60 days' notice to the designated guarantor of its intent to cease LLR operations and that the LLR ensure that all loans made under the LLR program are fully disbursed prior to the date on which it ceases LLR operations.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who has difficulty finding an eligible, willing lender may have access to an LLR based on his or her school's designation through June 30, 2009. Eligible unsubsidized Stafford and PLUS borrowers have more consistent access to FFELP funds.

School:

For a brief period, a school may obtain a single LLR designation to ease its students' and parents' difficulties in finding financial aid for attendance at the school, should such difficulties actually arise.

Lender/Service:

A lender who is an LLR participant is not permitted to charge lesser interest rates or fees, or to provide more favorable loan terms or conditions to borrowers under the LLR program. If the lender chooses to cease LLR participation, it must provide a minimum 60-day notice to the guarantor and must ensure that all loans made under the LLR program are fully disbursed prior to ceasing LLR operations.

Guarantor:

A guarantor acting as an LLR is bound to the same terms and conditions as a lender functioning as an LLR.

U.S. Department of Education:

The Department must establish and administer policies and processes for the LLR designation of schools.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 2, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

January 8, 2009

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received from:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESAA, HESC, KHEAA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Most commenters supported this proposal as written. Other commenters recommended wordsmithing changes that made no substantive changes to the policy but that added clarity to the proposed language. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter proposed revisions to the first sentence in the Appendix H update, stating that the phrasing regarding "eligible student and parent borrowers at the school" is awkward.

Response:

The Committee concurs.

Change:

The language has been revised as requested to read "...eligible student borrowers attending the school and eligible parent borrowers...".

COMMENT:

One commenter suggested that the sentence under Subsection 3.7.A regarding prohibited lender activities is awkwardly placed and would fit more logically into the new text of Subsection 3.7.C, following the existing description of other prohibited LLR activities.

Response:

The Committee concurs.

Change:

The sentence that states that the LLR may not engage in marketing activities with respect to the LLR loans and may not provide any otherwise prohibited inducements with respect to the making of those loans has been moved to the new text in Subsection 3.7.C, as the last sentence in the first new paragraph.

COMMENT:

One commenter asked that the word “applicable” be inserted as part of the description of the interest rates that the LLR is required to charge. The commenter noted that interest rates may vary according to types of loans and certain loan parameters, such as first disbursement dates.

Response:

The Committee concurs.

Change:

The sentence as been revised to read as follows:

“The LLR is required to charge the applicable statutory maximum interest rate and . . .”

COMMENT:

One commenter suggested that the definition in Appendix G be amended to show the two categories of LLR-eligible borrowers in bullet points. The commenter notes that a bullet-point treatment will more succinctly show the two distinct categories.

Response:

The Committee concurs.

Change:

The text in the glossary definition has been amended to include bullet points, separating the borrowers who obtain loans under LLR provisions because they are unable to find a FFELP lender from those who obtain loans based on the school’s designation as an LLR school.

bg/edited - kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 15, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Jan 15

SUBJECT: Drug Conviction Notices

AFFECTED SECTIONS: 4.4.B Consumer Information
5.8 Effect of Drug Conviction on Eligibility

POLICY INFORMATION: 1076/Batch 155

EFFECTIVE DATE/TRIGGER EVENT: For the notice upon enrollment: Students who enroll at the school on or after August 14, 2008.

For the notice upon loss of Title IV eligibility due to a drug conviction: School determinations of a student's loss of Title IV eligibility on or after August 14, 2008.

If the Department publishes guidance with a different triggering event, the Common Manual will immediately notify the FFELP community of the change.

BASIS:

HEA §485(k) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

CURRENT POLICY:

Current policy does not include two notices that a school must provide to a student concerning the consequences for a student who is convicted of a drug-related offense that occurred during a period of enrollment for which the student receives Title IV aid.

REVISED POLICY:

Revised policy requires a school to provide a student, upon enrollment, with a separate, clear, and conspicuous written notice of the penalty (i.e., the loss of Title IV eligibility) if the student is convicted of a state or federal offense involving drug possession or sale that occurs while the student is enrolled in school and receiving Title IV aid.

Revised policy also requires a school to provide a student who loses Title IV eligibility due to a drug-related conviction with a timely, separate, clear, and conspicuous written notice. The notice must advise the student of his or her loss of Title IV eligibility and the ways in which the student may regain that eligibility.

REASON FOR CHANGE:

This change is necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.4.B, page 21, column 2, by adding the following after bullet 4, as follows:

- ...
- ...
- ...
- ...

Drug Conviction Penalty Information

Upon a student's enrollment, a school must provide the student with a separate, clear, and

conspicuous written notice of the penalty (i.e., the loss of Title IV eligibility) if the student is convicted of a state or federal offense involving the possession or sale of an illegal drug that occurred while the student was enrolled in school and receiving Title IV aid. See Section 5.8 for detailed information about the time frame for which a student loses Title IV eligibility based on whether the student is convicted of a first, second, or third offense for drug possession, or a first or second offense for drug sale.
[HEA §485(k)(1)]

A school must provide a student who loses Title IV eligibility due to a drug-related conviction with a timely, separate, clear, and conspicuous written notice. The notice must advise the student of his or her loss of Title IV eligibility and the ways in which the student may regain that eligibility (see Section 5.8).
[HEA §485(k)(2)]

Format and Documentation Requirements

...

Revise Section 5.8, page 12, column 2, by adding a new paragraph 3, as follows:

5.8 Effect of Drug Conviction on Eligibility

As part of its consumer information disclosure requirements, a school must provide a separate, clear, and conspicuous written notice to the student about the penalty if the student is convicted of a drug-related offense that occurred while a student was enrolled in school and receiving Title IV aid. A school must provide the notice upon the student's enrollment at the school.
[HEA §485(k)(1)]

A student who is convicted of a state or federal offense involving the possession or sale of an illegal drug that occurred while the student was enrolled in school and receiving Title IV aid, is not eligible for Title IV funds. . .

Revise Section 5.8, page 13, column 1, by adding a new paragraph 3, as follows:

...

A student who is convicted of a drug-related offense that occurred while the student was enrolled in school and receiving Title IV aid loses Title IV eligibility as follows:

- For the possession of illegal drugs:
 - 1st offense: one year from the date of conviction.
 - 2nd offense: two years from the date of the second conviction.
 - 3rd offense: indefinitely from the date of the third conviction.
[§668.409(b)(1)]
- For the sale of illegal drugs:
 - 1st offense: two years from the date of conviction.
 - 2nd offense: indefinitely from the date of the second conviction.
[§668.409(b)(2)]

A school must provide a student who loses Title IV eligibility due to a drug-related conviction with a timely, separate, clear, and conspicuous written notice. The notice must advise the student of his or her loss of Title IV eligibility and the ways in which the student may regain that eligibility.

[HEA §485(k)(2)]

A student may regain eligibility at any time by completing an approved drug rehabilitation program and by informing the school that he or she has done so. . .

- . . .
- . . .
- . . .
- . . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Drug Conviction Notices

The *Common Manual* has been updated to include provisions from the Higher Education Opportunity Act that incorporate two new consumer information disclosure requirements for a school. Upon a student's enrollment, a school must provide the student with a separate, clear, and conspicuous written notice of the penalty (i.e., the loss of Title IV eligibility) if the student is convicted of a state or federal offense involving the possession or sale of an illegal drug that occurred while the student was enrolled in school and receiving Title IV aid. The current *Common Manual* includes detailed information about the time frame for which a student loses Title IV eligibility based on whether the student is convicted of a first, second, or third offense for drug possession, or a first or second offense for drug sale.

A school must also provide a student who loses Title IV eligibility due to a drug-related conviction with a timely, separate, clear, and conspicuous written notice. The notice must advise the student of his or her loss of Title IV eligibility and the ways in which the student may regain that eligibility.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will be afforded an opportunity to take note of the negative impact of drug possession or sale on his or her Title IV aid eligibility upon enrollment at a school. A borrower who loses Title IV eligibility due to a drug-related conviction will be notified timely of that penalty and the ways in which the borrower may restore his or her Title IV eligibility.

School:

A school will be required to update its procedures for providing student consumer information and responding to information about a student's conviction for a drug-related offense during a period of enrollment for which the student is receiving Title IV aid.

Lender/Service:

None.

Guarantor:

A guarantor may be required to update its program review procedures regarding student consumer information and notification requirements for a school.

U.S. Department of Education:

The Department may be required to update its program review procedures regarding student consumer information and notification requirements for a school.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

January 8, 2009

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESAA, HESC, KHEAA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCCLC, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Other commenters recommended wordsmithing changes that were considered without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter observed that in the first new sentence of Subsection 4.4.B and Section 5.8, it was unclear whether the loss of Title IV eligibility is based on "conviction while enrolled" or "offense while enrolled" for which the student is later convicted. The commenter referred to existing language in Section 5.8, page 13, column 1, paragraph 3, which states this more clearly.

Response:

The Committee agrees.

Change:

The first new sentences of both Subsection 4.4.B and Section 5.8 have been revised to conform with existing Manual text.

jcs/edited - aes/kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 15, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Jan 15

SUBJECT: Multiple School Enrollment

AFFECTED SECTIONS:

5.15	Multiple School Enrollment
6.7	Determining the Amount of Estimated Financial Assistance (EFA)
6.11	Loan Limits

POLICY INFORMATION: 1077/Batch 155

EFFECTIVE DATE/TRIGGER EVENT: Publication date of the 05-06 FSA Handbook.

BASIS:
05-06 FSA Handbook, Volume 3, Chapter 5, p. 3-66.

CURRENT POLICY:
For a student enrolled simultaneously at multiple schools, current policy does not address whether one school must include as EFA a Stafford or PLUS loan certified by another school for the same payment period or period of enrollment.

REVISED POLICY:
Revised policy states that for a student enrolled simultaneously at multiple schools, a Stafford or PLUS loan certified by one school is not included as EFA by another school when determining a student or parent borrower's Stafford or PLUS loan eligibility for the same payment period or period of enrollment.

REASON FOR CHANGE:
This change is needed to update Manual text with additional Departmental clarification on loans certified by multiple schools for simultaneous enrollment periods.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 5.15, page 18, column 1, paragraph 1, as follows:

**5.15
Multiple School Enrollment**

A student may be enrolled simultaneously on at least a half-time basis ~~in~~ at more than one school. In this case, the student may be eligible to receive a Stafford and a Grad PLUS loan, if applicable—and the parent of a dependent undergraduate student may be eligible to receive a PLUS loan—at more than one school for the same payment period or period of enrollment. A Stafford or PLUS loan certified by one school is not included as estimated financial assistance (EFA) by another school when determining a student or parent borrower's eligibility for a Stafford or PLUS loan for the same payment period or period of enrollment.
[08-09 FSA Handbook, Volume 3, Chapter 5, p. 3-90]

...

Revise Section 6.7, page 19, column 1, paragraph 1, by adding a new bullet 8, as follows:

A student's EFA does not include:

- ...
- ...

- ...
- ...
- ...
- ...
- ...
- For a student who is enrolled simultaneously at multiple schools, the amount of a Stafford or PLUS loan certified at another school for the same payment period or period of enrollment. For more information about determining eligibility for a student who is enrolled simultaneously at multiple schools, see Section 5.15. [08-09 FSA Handbook, Volume 3, Chapter 5, p. 3-90]

Revise Section 6.11, page 23, column 1, paragraph 2, as follows:

6.11 Loan Limits

Based on all information available, a school is responsible for certifying a loan amount that ensures a borrower does not receive a loan in excess of the Stafford annual or aggregate loan limits. PLUS loans may not exceed the cost of attendance (COA) minus estimated financial assistance (EFA).

[§682.506(a); §682.603(e)(2)(i)]

For more information on annual loan limits, schools should refer to Subsection 6.11.A and the guidelines issued by the Department in the ~~07-08~~ 08-09 FSA Handbook, Volume 3, Chapter 5, ~~pp. 3-77 to 3-87.~~ For more information about the impact of simultaneous, multiple school enrollment on annual loan limits, see Section 5.15.

PROPOSED LANGUAGE - COMMON BULLETIN:

Multiple School Enrollment

The *Common Manual* has been updated based on clarification contained in the FSA Handbook concerning a student who is enrolled simultaneously on at least a half-time basis at more than one school. In such a case, a Stafford or PLUS loan certified by one school is not included as estimated financial assistance (EFA) by another school when determining the student or parent borrower's eligibility for a Stafford or PLUS loan for the same payment period or period of enrollment.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

In the case of a student who is simultaneously enrolled at multiple schools, a student or parent borrower's eligibility for a Stafford or PLUS loan at one school will not be reduced by including in estimated financial assistance the amount of a Stafford or PLUS loan certified by another school.

School:

A school may need to revise its procedures for determining Stafford and PLUS loan eligibility when one of its students is simultaneously enrolled at another school(s) for the same payment period or period of enrollment.

Lender/Service:

None.

Guarantor:

A guarantor may be required to revise program review procedures.

U.S. Department of Education:

The Department may be required to revise program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 21, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

January 8, 2009

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received From:

AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESAA, HESC, KHEAA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Other commenters recommended wordsmithing changes that were incorporated without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter requested the addition of language to Section 6.11, Loan Limits, to clarify that the total of all loans borrowed by a student enrolled simultaneously at multiple schools cannot exceed the annual or aggregate loan limits.

Response:

The clarification that the commenter requests concerning the impact of multiple school enrollment on annual loan limits is already present in *Common Manual* Section 5.15, Multiple School Enrollment. The Committee agrees that a cross-reference to Section 5.15 would be a useful addition to Section 6.11. The Committee believes that it is not necessary to clarify specifically the impact of simultaneous, multiple school enrollment on the Stafford aggregate loan limit, which is inherently composed of the outstanding principal balances on all loans received at all schools at which the borrower enrolls.

Change:

A cross-reference to Section 5.15 has been added to Section 6.11.

jcs/edited - aes-kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 15, 2009

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	With No Changes	Jan 15

SUBJECT: Teacher Education Assistance for College and Higher Education (TEACH) Grants

AFFECTED SECTIONS:

- 6.6 Determining the Expected Family Contribution (EFC)
- 6.7 Determining the Amount of Estimated Financial Assistance (EFA)
- 6.11.A Stafford Annual Loan Limits
- 6.11.B Stafford Aggregate Loan Limits
- 9.5.A Return Amounts for the Title IV Grant and Loan Programs
- 9.5.B Processing Returned Funds
- 13.8.G Total and Permanent Disability
- 16.2 Calculation of School Cohort Default Rates

Appendix G

POLICY INFORMATION: 1078/Batch 155

EFFECTIVE DATE/TRIGGER EVENT: For provisions regarding estimated financial assistance (EFA) and annual and aggregate Stafford loan limits: Loan eligibility determinations made by a school on or after July 1, 2008.

For provisions regarding the return of Title IV funds: TEACH grant recipients who withdraw on or after July 1, 2008.

For total and permanent disability discharge determinations: total and permanent disability discharge applications received by the lender on or after July 1, 2008.

For all other provisions: July 1, 2008.

BASIS:

§668.22(a)(2) and (i)(2)(v); §668.183(b)(3); §682.200(b); §682.204(c); §682.402(c)(4)(i)(B); §686.1; *Federal Register* dated June 23, 2008, Vol. 73, No. 121; 08-09 FSA Handbook, Volume 1, Chapter 7, p. 1-81.

CURRENT POLICY:

Current policy does not include information about the TEACH Grant Program.

REVISED POLICY:

Revised policy includes information on the following TEACH grant provisions and their implications for FFELP borrowers and loan eligibility:

- Estimated financial assistance (EFA) includes TEACH grant funds. EFA does not include the amount of a TEACH grant that is used to replace the EFC.
- Stafford annual and aggregate loan limits do not include any TEACH grant amount that has been converted to an unsubsidized Direct Stafford loan.
- For a student who withdraws, TEACH grant funds are included in the return of Title IV funds calculation, and in the order of unearned funds that a school must return to the Title IV programs.
- One of the criteria that a borrower, comaker, or endorser must meet to qualify for final total and permanent disability discharge is that, during the 3-year conditional discharge period, the borrower, comaker, or endorser must not receive a new TEACH grant or a new loan under the Federal Perkins Loan Program, the FFELP, or the Federal Direct Loan Program (with the exception of a Consolidation

loan that does not include any loans that are in a conditional discharge status).

- A TEACH grant that has been converted to an unsubsidized Direct Stafford loan is not considered for the purpose of calculating a school's cohort default rate.
- TEACH grant is defined in the glossary as a non-need-based grant intended for undergraduate, certain post-baccalaureate, or graduate students enrolled at a TEACH-grant eligible school who plan to become teachers. In exchange for the grant, a student must agree to serve as a full-time teacher in a high-need field, in a low-income school for at least four academic years within eight years of completing the program of study for which the student received the grant. If a TEACH grant recipient does not satisfy the service obligation, the TEACH grant funds that the student received convert to a unsubsidized Direct Stafford loan that must be repaid with interest accruing from the date of disbursement.

REASON FOR CHANGE:

This change is required to incorporate provisions of the *Federal Register*, Vol. 73, No. 121, dated June 23, 2008, concerning the TEACH Grant Program and its implications for FFELP borrowers and loan eligibility.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 6.6, page 17, column 1, paragraph 3, as follows:

6.6 Determining the Expected Family Contribution (EFC)

...

...

When calculating eligibility for a subsidized Stafford loan, a school may offset all or any portion of the student's EFC with any TEACH grant amount, PLUS loan amount, unsubsidized Stafford loan amount, or other education loan amount obtained for the loan period. [~~HEA §442(c); §682.200(b)(2)(i); §682.301(c); HEA §442(c)~~]

...

Revise Section 6.7, page 18, column 2, paragraph 1, as follows:

...

A student's EFA includes all aid the student—or a parent on behalf of a dependent student—will receive for the loan period from federal, state, institutional, or other sources. Examples of aid that must be included in the EFA are scholarships, grants, financial need-based employment income, and loans—including, but not limited to:

- ...
- ...
- ...
- ...
- ...
- ...
- ...

- The estimated amount of other federal student ~~financial~~ aid—including, but not limited to, Federal Pell grant, Academic Competitiveness ~~G~~grant, National SMART ~~G~~grant, TEACH grant, and campus-based aid. The gross amount (including fees) of any subsidized Stafford, unsubsidized Stafford, or PLUS loan is also included, except as noted below.
[HEA §480(j); §682.200(b)(1)(viii)]

A student's EFA does not include:

- Amounts used to replace the expected family contribution (EFC), including any TEACH grant amounts, unsubsidized Stafford loan amounts, PLUS loan amounts, and non-federal non-need-based loans, including private, state-sponsored, and institutional loan funds. However, if the sum of the ~~loan~~ amounts received that are being used to replace the student's EFC exceeds the EFC, the excess amount is treated as EFA.
[§682.200(b)(2)(i)]

- . . .

Revise Subsection 6.11.A, page 23, column 1, paragraph 4, as follows:

. . .

A Stafford annual loan limit does not include any of the following:

- ~~T~~the amount of capitalized interest or any collection costs that may have been added to the principal balance of the borrower's prior loans. When determining the borrower's Stafford loan eligibility, the financial aid administrator (FAA) may assume that all outstanding principal balances include only the balance of original principal. However, the school must secure and retain documentation of the capitalized amount included in any reported loan balances if the school's certification of a new loan would otherwise cause the borrower to exceed his or her annual limit.
- The amount of any TEACH grant that has been converted to an unsubsidized Direct Stafford loan.
[§682.204(c)]

The borrower, the school, and the lender are encouraged to work with the guarantor. . .

Revise Subsection 6.11.B, page 27, column 1, paragraph 2, as follows:

. . .

A Stafford aggregate loan limit does not include any of the following:

- ~~T~~the amount of capitalized interest or any collection costs that may have been added to the principal balance of the borrower's prior loans. When determining the borrower's Stafford loan eligibility, the financial aid administrator (FAA) may assume that all outstanding principal balances include only the balance of original principal. However, the school must secure and retain documentation of the capitalized amount included in any reported loan balances if the school's certification of a new loan would otherwise cause the borrower to exceed his or her aggregate limit.
- ~~A Stafford aggregate loan limit also does not include~~ Tthe amount of any PLUS loan borrowed by the student or his or her parents.
- The amount of any TEACH grant that has been converted to an unsubsidized Direct Stafford loan.

[\$682.204(c)]

A borrower who has reached the FFELP Stafford aggregate loan limit and whose principal is paid in part through refunds, returned funds, prepayments, payments, cancellations, discharge, or other reductions in principal regains eligibility up to the lesser of the applicable annual loan limit or the aggregate amount.

...

Revise Subsection 9.5.A, page 13, column 2, paragraph 1, as follows:

Aid Types to Be Included in the Return Calculations

When calculating the return of Title IV funds, the school must include the following Title IV funds, as applicable:

- Federal Perkins loan.
- Direct loan.
- FFELP loan.
- Federal Pell grant.
- Academic Competitiveness ~~G~~grant.
- National SMART ~~G~~grant.
- TEACH grant.
- FSEOG (not including the nonfederal share of an FSEOG award if the school meets its matching share by the individual recipient method or the aggregate method).
[\$668.22(a)(2)]

...

Revise Subsection 9.5.B, page 18, column 1, paragraph 1, as follows:

Applying Returned Funds

The Higher Education Act and federal regulations specify the order in which unearned funds must be returned to the Title IV programs. The school must ensure that returned funds are applied to eliminate outstanding balances on loans and grants for the payment period, or period of enrollment, in the following order:

- FFELP unsubsidized Stafford loans.
- FFELP subsidized Stafford loans.
- Direct unsubsidized Stafford loans.
- Direct subsidized Stafford loans.
- Federal Perkins loans.
- FFELP parent or Grad PLUS loans.
- Direct parent or Grad PLUS loans.
- Federal Pell grants.

- Academic Competitiveness Grants.
- National SMART Grants.
- Federal SEOG Program aid.
- TEACH grants.

The school may calculate and make refunds for non–Title IV federal, state, private, or institutional student assistance programs according to the applicable policies. [§668.22(i); DCL GEN-98-28]

...

Revise Subsection 13.8.G, page 47, column 1, paragraph 2, as follows:

...

If a borrower, comaker, or endorser receives a new TEACH grant or a new loan under the Federal Perkins Loan Program, the FFELP, or the Federal Direct Loan Program (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status) within 3 years of the date the physician completed and certified the discharge application stating that he or she is unable to work and earn money, the borrower, comaker, or endorser is not eligible for discharge on the loan on which he or she is a signatory or any loan made prior to that date. If a FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that will be or are disbursed after the date of the physician’s certification must be canceled, or if the disbursement is made, must be returned to the holder within 120 days of the disbursement date(s) for the borrower to preserve his or her discharge eligibility. The 3-year period, i.e., the conditional discharge period, begins on the date the physician completes and certifies the discharge application. The lender must review its records for any new loan(s) or disbursements of prior loans made to the borrower, comaker, or endorser after the date the physician certified the discharge application stating that he or she is totally and permanently disabled. If the lender’s records indicate (or the lender is otherwise aware) that a new loan(s) was made during the 3-year conditional discharge period, the lender must deny the discharge and inform the borrower, comaker, or endorser. If any FFELP loan was certified prior to the date the physician certified the discharge application, any proceeds of the loan that are disbursed after the date of the physician’s certification must be returned to the holder within 120 days of disbursement or the lender must deny the discharge and inform the borrower, comaker, or endorser. For information regarding a borrower’s eligibility for a new loan(s) after the conditional period, see Section 5.4.

[§682.402(c)(4)(~~ii~~)(B) & (C); §682.402(c)(5)(vi)(B)]

Revise Subsection 13.8.G, page 47, column 2, paragraph 2, as follows:

If the Department makes an initial determination that the borrower, comaker, or endorser is totally and permanently disabled, the Department sends notification to the borrower, comaker, or endorser that the loan—or the comaker’s or endorser’s obligation on the loan—is in a conditionally discharged status and that the conditional discharge period will last for up to 3 years after the date the physician completed and certified the discharge application. The Department’s notification identifies the following conditions that apply during the 3-year conditional discharge period:

- ...
- ...
- ...

- ...
- ...
- ...
- The disabled borrower, comaker, or endorser must not receive a new TEACH grant or a new loan under the Federal Perkins Loan Program, the FFELP, or the Federal Direct Loan Program, except for a FFELP or Direct Consolidation loan that does not include any loans that are in a conditional discharge status.
[§682.402(c)(1)(ii)(B)(4)(i)(B)]
- ...

Revise Section 16.2, page 3, column 1, by adding a new paragraph after paragraph 1, as follows:

16.2 Calculation of School Cohort Default Rates

A cohort default rate is defined as the percentage of a school's student borrowers who enter repayment during a specific fiscal year on certain FFELP or FDLP loans and who default on those loans during the same or following fiscal year (see Section 16.1). This includes borrowers who borrow any of the following types of loans:

- A Federal Stafford loan, Federal SLS loan, or Direct Stafford loan.
- The portion of a Federal Consolidation loan or Federal Direct Consolidation loan used to repay a Federal Stafford loan, Federal SLS loan, or Direct Stafford loan.

A TEACH grant that has been converted to an unsubsidized Direct Stafford loan is not considered for the purpose of calculating a school's cohort default rate.
[§668.183(b)(3)]

...

Revise Appendix G, page 19, column 2, by adding a new paragraph 3 and 4, as follows:

T
T-bill: See Treasury Bill.

TEACH Grant: See Teacher Education Assistance for College and Higher Education (TEACH) Grant.

Teacher Education Assistance for College and Higher Education (TEACH) Grant: A non-need-based grant intended for undergraduate, certain post-baccalaureate, and graduate students enrolled at TEACH grant-eligible schools who plan to become teachers. In exchange for the grant, a student must agree to serve as a full-time teacher in a high-need field, in a low-income school for at least four academic years within eight years of completing the program of study for which the student received the grant. If a TEACH grant recipient does not satisfy the service obligation, the TEACH grant funds that the student received convert to an unsubsidized Direct Stafford loan that must be repaid with interest accruing from the date of disbursement. See the FSA Handbook for more information about the TEACH grant.

...

PROPOSED LANGUAGE - COMMON BULLETIN:

Teacher Education Assistance for College and Higher Education (TEACH) Grants

The *Common Manual* has been updated to include the following salient TEACH grant references:

- Estimated financial assistance (EFA) includes TEACH grant funds. EFA does not include the amount

of a TEACH grant that is used to replace the EFC.

- Stafford annual and aggregate loan limits do not include any TEACH grant amount that has been converted to an unsubsidized Direct Stafford loan.
- For a student who withdraws, TEACH grant funds are included in the return of Title IV funds calculation, and in the order of unearned funds that a school must return to the Title IV programs.
- One of the criteria that a borrower, comaker, or endorser must meet to qualify for final total and permanent disability discharge is that, during the 3-year conditional discharge period, the borrower, comaker, or endorser must not receive a new TEACH grant or a new loan under the Federal Perkins Loan Program, the FFELP, or the Federal Direct Loan Program (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status).
- A TEACH grant that has been converted to an unsubsidized Direct Stafford loan is not considered for the purpose of calculating a school's cohort default rate.
- A TEACH grant is defined in the glossary as a non-need-based grant intended for undergraduate, certain post-baccalaureate, and graduate students enrolled at TEACH grant-eligible schools who plan to become teachers. In exchange for the grant, a student must agree to serve as a full-time teacher in a high need field, in a low-income school for at least four academic years within eight years of completing the program of study for which the student received the grant. If a TEACH grant recipient does not satisfy the service obligation, the TEACH grant funds that the student received convert to an unsubsidized Direct Stafford loan that must be repaid with interest accruing from the date of disbursement. See the FSA Handbook for more information about the TEACH Grant Program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower's Stafford loan annual or aggregate loan limit will not be impacted by the amount of a TEACH grant that is converted to an unsubsidized Direct Stafford loan. A borrower who received a TEACH grant, unlike other Title IV grants, during a conditional total and permanent disability discharge period may be ineligible for final discharge of the borrower's FFELP loans.

School:

A school may be required to revise its internal procedures for determining Stafford loan eligibility to ensure that a) TEACH grant amounts that are not used to replace the EFC are included in EFA and b) prevent any amount of a TEACH grant that is converted to an unsubsidized Direct Stafford loan from being included in the student's Stafford annual or aggregate loan limit. A school that uses the Department's approved return of Title IV funds forms and software to calculate a return of Title IV funds should not need to make procedural adjustments to ensure that TEACH grant funds are included in the calculation and considered in the order of unearned funds that a school must return. A TEACH grant that is converted to an unsubsidized Direct Stafford loan will not be included in the school's cohort default rate.

Lender/Service:

None.

Guarantor:

A guarantor may be required to revise its program review procedures.

U.S. Department of Education:

The Department may be required to revise its program review and conditional disability discharge monitoring procedures. The Department may need to modify its National Student Loan Data System (NSLDS) aggregate loan limit calculations to ensure that the amount of a TEACH grant that is converted to an unsubsidized Direct Stafford loan is not included.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
November 6, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
January 8, 2009

PROPOSAL DISTRIBUTED TO:
CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others
CM Governing Board Representatives

Comments Received From:
AES/PHEAA, ASA, CSLF, EAC, Great Lakes, HESAA, HESC, KHEAA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLND, SLSA, TG, USA Funds, and VSAC.

Responses to Comments

Many commenters supported this proposal as written. Other commenters recommended formatting or wordsmithing changes that were considered without comment. We appreciate the review of all commenters, their careful consideration of this policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

Two commenters requested that the Committee add the applicable titles of each section or subsection affected by this proposal to the directional statements.

Response:

The Committee declines to add the titles of each section or subsection to areas of the Manual affected by a proposal if the Committee will not modify Manual text that either includes or immediately follows that title. The Committee believes that doing so in every case would be unnecessarily cumbersome without adding meaningfully to the policy proposal. In addition, the Committee believes that policy proposal reviewers may find it confusing, if for example, they are directed to page 24 of the Manual where the first modification is made to a section if the section title is provided, which is located on page 22. Further, the titles of the sections and subsections that are affected by a policy proposal are provided in the "Affected Sections" on page 1 of each policy proposal.

Change:

None.

COMMENT:

One commenter recommended a revision to Section 16.2, page 3, column 1, new paragraph 2, as follows:

A TEACH grant recipient whose grant that has been converted to an unsubsidized Direct Stafford loan is not considered for the purpose of calculating a school's cohort default rate.

The commenter stated that since a cohort default rate (CDR) is borrower-based rather than loan-based, it is more accurate to describe the TEACH grant effect on the CDR in terms of the borrower rather than the loan.

Response:

While the Committee agrees that a cohort default rate is based on a comparison of borrowers who go into repayment and those who subsequently default within a cohort period, the Committee does not believe that the Manual text should be modified. Final TEACH grant rules issued in the Federal Register on June 23, 2008, state, "A TEACH grant that has been converted to a federal Direct unsubsidized loan is not considered for the purpose of calculating and applying cohort default rates." The Committee prefers to align Manual text with regulatory language that refers to the "grant," not to the "grant recipient."

Change:

None.

COMMENT:

Two commenters asked to add a citation following the new paragraph in Section 16.2, page 3, column 1, which explains that if a TEACH grant is converted to an unsubsidized Direct Stafford loan, it is not included in a school's cohort default rate calculation.

Response:

The Committee agrees.

Change:

§668.183(b)(3) has been added as a citation below the aforementioned paragraph.

jcs/edited - kk