

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1118	FFELP Teacher Loan Forgiveness Request	<p><u>2.3.C</u> <u>Common Forms</u> <u>13.9.B</u> <u>Teacher Loan</u> <u>Forgiveness Program</u></p> <p>Adds information to the Manual regarding the FFELP Teacher Loan Forgiveness Request form which a lender may use to request payment on eligible loans due to discharge for Teacher Loan Forgiveness.</p> <p>Adds a new figure to the Manual to help a lender determine what loan information must be provided on the form.</p>	Guarantor	Lenders may have begun using the FFELP Teacher Loan Forgiveness Request form upon the applicable publication date.
1119	Income-Based Repayment Option	<p>2.1.B Types of Loans Available 4.4.D Exit Counseling 6.14.A Subsized Stafford Loans 7.6.B Income-Sensitive Repayment Disclosure Requirements 10.6.B Length of Repayment Period 10.6.D Minimum Payment Requirements 10.8 Establishing a Repayment Schedule 10.8.A Standard Repayment Schedule 10.8.D Extended Repayment Schedule 10.9 Interest Charges 10.10.B Capitalization Frequency 10.11.A Applying Regular Borrower Payments 10.11.B Applying Prepayments 11.21.J Late Notification of Out-of-School Dates Figure11-2 Forbearance Eligibility Chart 12.4.A Due Diligence Requirements for Loans with Monthly Repayment Obligations 12.4.B Due Diligence Requirements for Loans with Repayment Obligations Less Frequent Than Monthly 13.7 Rehabilitation of Defaulted FFELP Loans 13.9 Forgiveness 15.3.A Providing</p>	Federal	Except for loan forgiveness, all provisions of the income-based repayment (IBR) plan are effective July 1, 2009. IBR loan forgiveness provisions are effective on July 1, 2034.

		<p>15.5.F</p> <p>15.6</p> <p>Appendix A Appendix G</p> <p>Adds information to the Manual regarding the new income-based repayment (IBR) plan, addressing the following lender/servicer activities with regard to IBR:</p> <ul style="list-style-type: none"> • Determination of partial financial hardship for a borrower who selects IBR. • Calculation of a borrower's minimum monthly payment amount under IBR. • Recalculation of a borrower's monthly payment amount under the IBR-defined permanent-standard if the borrower ceases to have a PFH, chooses not to make PFH payments but remains in IBR, or the borrower fails to renew consent for income verification. • Recalculation of a borrower's monthly payment amount under the IBR-defined expedited-standard if the borrower leaves IBR. • Application of borrower payments and prepayments. • Frequency of capitalization. • Federal interest benefits and special allowance payments. • Disclosure requirements for lenders. • IBR and loan rehabilitation. • Loan forgiveness. • Administrative forbearance to collect and process documentation for forgiveness. <p>Updates Figure 11-2, "Forbearance Eligibility Chart," to include IBR.</p>	<p>Consolidation Loan Information</p> <p>15.5</p> <p>Delinquency, Claim Filing, Loan Forgiveness, and Discharge</p> <p>15.6</p> <p>Interest Benefits and Special Allowance</p>		
1120	Rebuttable Presumption	<p><u>3.4.C</u></p> <p><u>18.1</u></p> <p>Includes the use of rebuttable presumption by the Department in administrative actions against lenders that involve violations of the prohibited inducement provisions.</p>	<p><u>Permitted and Prohibited Activities</u></p> <p><u>Actions to Limit, Suspend, or Terminate Participation</u></p>	Federal	Effective for administrative actions against lenders on or after July 1, 2008.
1121	Competitive Loan Auction Pilot Program for PLUS	<p>Chapter 3</p> <p>Adds information regarding the</p>	<p><u>Lender Participation</u></p>	Federal	Parent PLUS loans for new borrowers originated on or

	Loans	<p>Competitive Loan Auction Pilot Program for PLUS loans.</p> <p><i>Note: As of the publication date of the Manual, the Department has not implemented this program. However, the Manual is being updated with the basic program parameters as outlined in statute and Departmental guidance.</i></p>		after July 1, 2009.
1122	Program Participation Agreement (PPA)	<p><u>4.1.A</u> <u>Establishing Eligibility</u> <u>4.1.E</u> <u>School Code of</u> <u>Conduct</u> <u>Appendix G</u></p> <p>Adds the requirement that as part of a school's Program Participation Agreement (PPA), a school may not request or accept funds from a lender for private education loans, including opportunity pool loans, in exchange for FFELP loan volume or a preferred lender arrangement.</p> <p>Adds the requirement that a school school's PPA requires that the school to develop, publish, administer and enforce a code of conduct. The policy also outlines the prohibitions that must be included in the school's code of conduct.</p> <p>Updates Appendix G with definitions of "institutional-affiliated organization", "opportunity pool loans", and "preferred lender arrangement".</p>	Federal	School participating in a Title IV loan program on or after August 14, 2008.
1123	Permissible and Prohibited Assistance Provided to Schools	<p><u>4.1</u> <u>Institutional Eligibility</u></p> <p>Adds information on the permissible and prohibited assistance schools receive from lenders and guarantors as outlined in regulations and HEOA.</p>	Federal	Assistance provided to a school by a lender or guarantor on or after August 14, 2008.
1124	Ability to Benefit	<p><u>5.10</u> <u>Ability-to-Benefit Provisions</u></p> <p>Expands the ability to benefit criteria and allows a student without a high school diploma or its equivalent to become eligible to receive Title IV funding upon satisfactory completion of six credit hours or equivalent coursework that is applicable toward a degree or certificate offered by the school.</p>	Federal	Awards of Title IV assistance made on or after August 14, 2008.
1125	Independent Student Definition	<p><u>6.8</u> <u>Determining the Student's Dependency Status</u></p> <p>Incorporates the changes made to the definition of independent student by CCRAA, as well as incorporates the clarifications made to that definition through HEOA.</p>	Federal	For dependency determinations made for the 2009-2010 award year.

		Although the specific HEOA changes are not effective until July 1, 2010, the Department has updated the 2009-2010 FAFSA to reflect the changes. As a result, the <i>Common Manual</i> is being updated to reflect the HEOA clarifications.		
1126	Certifying Unsubsidized Stafford Loans	<u>6.8</u> <u>6.15.B</u> Includes new authority for an FAA to certify an unsubsidized Stafford loan for a dependent student if the student's parent(s) has ended financial support and refuses to file the FAFSA.	<u>Dependency Overrides</u> <u>Stafford Loan</u> <u>Certification</u>	Federal Loans certified for loan periods that begin on or after August 14, 2008, or include that date.
1127	Disclosure Changes for PLUS and Unsubsidized Stafford Loans	<u>7.6.A</u> Permits the lender in its initial disclosure to provide to a PLUS or unsubsidized Stafford borrower sample monthly payment amounts that assume different levels of borrowing. If the lender provides sample projections, the lender must also include information on the cost of capitalizing accrued interest versus paying the interest during the student's in-school status. Previously, the lender was required to include in that disclosure projected monthly payment amounts or information sufficient to permit a borrower to estimate those monthly payment amounts.	<u>General Initial</u> <u>Disclosure</u> <u>Requirements</u>	Federal Initial disclosures provided by the lender to the borrower on or after August 14, 2008.
1128	Pre-repayment Disclosures	<u>10.7</u> Includes new disclosure requirements that relate to the new income-based repayment plan.	<u>Disclosing Repayment</u> <u>Terms</u>	Federal Disclosures made on or after July 1, 2009.
1129	Required Lender Disclosures During Repayment	<u>Chapter 10</u> Incorporates provisions of the HEOA regarding lender disclosure requirements during repayment. This includes disclosures to a borrower who notifies the lender that he or she is having difficulty making scheduled payments.	<u>Loan Servicing</u>	Federal Required lender disclosures made for loans with first payments due on or after July 1, 2009.
1130	Disclosures When Granting Deferrals on Unsubsidized Stafford Loans	<u>11.1</u> Incorporates provisions of the HEOA regarding lender disclosure requirements when granting a deferral on an unsubsidized Stafford loan.	<u>Authorized Deferral</u>	Federal In-school, graduate fellowship, unemployment, military, or economic hardship deferrals on unsubsidized Stafford loans granted on or after August 14, 2008.
1131	Providing Forbearance Information to the Borrower or	<u>11.20.I</u> <u>11.23</u>	<u>Borrower Contact</u> <u>During Forbearance</u> <u>Mandatory</u> <u>Administrative</u>	Federal Forbearance granted by the lender on or after August 14, 2008.

	Endorser	<p><u>11.24.B</u> <u>Forbearance Internship or Residency</u></p> <p>Incorporates provisions of the HEOA that requires a lender to send a notice to the borrower or endorser when it grants a forbearance to assist the borrower or endorser, as applicable, in understanding the effect that interest capitalization has on the loan's principal balance and the amount of interest that may be paid over the life of the loan.</p> <p>Requires that the lender contact the borrower or endorser not less than every 180 days during the forbearance period, and the notice must include the additional requirements put in place by the HEOA.</p> <p>Removes the exception regarding notices for the internship and residency forbearance, and adds a cross-reference to the appropriate subsection of the Manual that describes the standard borrower notice and notification requirements.</p> <p>Amends the required notifications for mandatory forbearance.</p>		
1132	New Administrative Forbearance for Repayment Plan Change	<p><u>11.21.T</u> <u>Repayment Plan Changes</u></p> <p>Permits the lender to grant an administrative forbearance to cover a period of delinquency that exists at the time a borrower chooses a different repayment plan.</p>	Federal	Repayment plan changes granted by the lender on or after July 1, 2009.
1133	Total and Permanent Disability Discharge Requests Based on Veterans Administration Determinations	<p><u>13.8.G</u> <u>Total and Permanent Disability</u></p> <p>Adds information regarding a borrower's eligibility for loan discharge due to total and permanent disability if the borrower provides documentation from the U.S. Department of Veterans Affairs (VA) showing that the VA has determined the borrower to be unemployable due to a service-connected condition.</p>	Federal	Total and permanent disability discharge requests received by the lender on or after August 14, 2008 that are based on U.S. Department of Veterans Affairs determinations.
1134	Eligible Not-for-Profit Holder	<p><u>A.2.A</u> <u>Special Allowance and Excess Interest Rates</u></p> <p><u>Appendix G</u></p> <p>Incorporates changes from the October 23, 2008 Final Rules relating the definition of "eligible not-for-profit holder."</p>	Federal	July 1, 2009.

COMMON MANUAL - GUARANTOR POLICY PROPOSAL

Date: February 20, 2009

	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: FFELP Teacher Loan Forgiveness Request

AFFECTED SECTIONS: 2.3.C Common Forms
13.9.B Teacher Loan Forgiveness Program

POLICY INFORMATION: 1118/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Lenders may have begun using the FFELP Teacher Loan Forgiveness Request form upon the applicable publication date.

BASIS:
None.

CURRENT POLICY:

Current policy states that a lender must submit to the guarantor a loan discharge application completed by the borrower along with any supporting documentation to request payment for loans which are eligible for discharge on all or a portion of the balance due to Teacher Loan Forgiveness.

REVISED POLICY:

Revised policy adds information about the FFELP Teacher Loan Forgiveness Request form which a lender may use to request payment on eligible loans due to discharge for Teacher Loan Forgiveness. A new figure has been added to the Manual which will help a lender determine what loan information must be provided on the form. Detailed descriptions of these items are located in the Instruction for Completing the FFELP Teacher Loan Forgiveness Request located on the FFELP Teacher Loan Forgiveness Request form.

REASON FOR CHANGE:

This change is being made to convey that lenders may use the FFELP Teacher Loan Forgiveness Request form to file a claim with the guarantor.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 2.3.C, page 14, column 1, by adding a 4th bullet under 'Claim Forms', as follows:

Note: Subsection 2.3.C is also being updated as part of Policy Proposal 1080 in Batch 156.

- Claim Form
- Supplemental Claim Form
- Request for Reimbursement Due to Partial Discharge of a Federal Consolidation Loan
- FFELP Teacher Loan Forgiveness Request Form

Revise Subsection 13.9.B, page 58, column 2, by adding a new paragraph 4, as follows:

Note: Subsection 13.9.B was renumbered as Subsection 13.9.A as part of Policy Proposal 1080 in Batch 156.

FFELP Teacher Loan Forgiveness Request Form

The FFELP Teacher Loan Forgiveness Request form is designed to be used by a lender to request payment for all or a portion of the balance on a Stafford loan or Consolidation loan with an eligible Stafford underlying loan that is eligible for discharge due to teacher loan forgiveness.

FFELP Teacher Loan Forgiveness Request Form Instructions

Figure 13-5 will help a lender determine what information must be provided on the FFELP Teacher Loan Forgiveness Request form. Detailed descriptions of these items are located in the Instruction for Completing the FFELP Teacher Loan Forgiveness Request form.

Revise Subsection 13.9.B, page 58, by adding a new figure at the end, as follows:

See attached chart.

**PROPOSED LANGUAGE - COMMON BULLETIN:
FFELP Teacher Loan Forgiveness Request**

The *Common Manual* has been revised by adding text describing the use of NCHelp's FFELP Teacher Loan Forgiveness Request form. The form may be used by a lender to request payment for all or a portion of the balance on a Stafford loan or Consolidation loan with an eligible Stafford underlying loan that is eligible for discharge due to teacher loan forgiveness. A new figure has been added to the Manual which will help a lender determine what loan information must be provided on the form. Detailed descriptions of these items are located in the Instructions for Completing the FFELP Teacher Loan Forgiveness Request form.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

A lender may benefit by using the FFELP Teacher Loan Forgiveness form to submit consistent loan information to the guarantor for payment.

Guarantor:

A guarantor may benefit from receiving consistent and uniformly formatted loan information via the FFELP Teacher Loan Forgiveness form submitted as the lender's request for payment.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

Default Aversion and Claims Standardization Subcommittee (DACs)

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 4, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designee
Interested Industry Groups and Others

SEA/edited - rl

Information to Be Provided on the FFELP Teacher Loan Forgiveness Request Form

Figure 13-5

<u>Item Description</u>	<u>Required¹</u>
Section A, B, and C	
Date form is completed.	X
Servicer's Name, if not Servicer provide Lender name.	X
Lender's six-digit lender ID assigned by the Department.	X
Servicer's six-digit servicer ID assigned by the Department.	X
The name of the guarantor of the loan.	X
Borrower's Social Security number (SSN).	X
Borrower's date of birth.	X
Borrower's name.	X
Date the Loan Forgiveness Application was received from the borrower.	X
Loan type for each loan included in request (i.e., SF=Subsidized Stafford, SU=Unsubsidized Stafford, CL=Consolidation).	X
Loan ID for each loan identified on the form (e.g., the loan identifier code, file number, guarantee date, or amount, as indicated by the guarantor).	X
Date of the first disbursement.	X
Current principal balance (for Consolidation loans, only include the outstanding portion of the loan that was used to repay the eligible Stafford loan).	X
Current interest rate.	X
Date through which interest was last paid.	X
Name of the person or unit responsible for answering questions relating to the information provide on the form.	X
Date completed.	X
Telephone number of person or unit.	X

¹ Refers to information that the holder of the loan must provide on the Teacher Loan Forgiveness Request Form.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Income-Based Repayment Option

AFFECTED SECTIONS:

- 2.1.B Types of Loans Available
- 4.4.D Exit Counseling
- 6.14.A Subsidized Stafford Loans
- 7.6.B Income-Sensitive Repayment Disclosure Requirements
- 10.6.B Length of Repayment Period
- 10.6.D Minimum Payment Requirements
- 10.8 Establishing a Repayment Schedule
- 10.8.A Standard Repayment Schedule
- 10.8.D Extended Repayment Schedule
- 10.9 Interest Charges
- 10.10.B Capitalization Frequency
- 10.11.A Applying Regular Borrower Payments
- 10.11.B Applying Prepayments
- 11.21.J Late Notification of Out-of-School Dates
- Figure 11-2 Forbearance Eligibility Chart
- 12.4.A Due Diligence Requirements for Loans with Monthly Repayment Obligations
- 12.4.B Due Diligence Requirements for Loans with Repayment Obligations Less Frequent Than Monthly
- 13.7 Rehabilitation of Defaulted FFELP Loans
- 13.9 Forgiveness
- 15.3.A Providing Consolidation Loan Information
- 15.5 Repayment
- 15.5.F Delinquency, Claim Filing, Loan Forgiveness, and Discharge
- 15.6 Interest Benefits and Special Allowance
- Appendix A
- Appendix G

POLICY INFORMATION: 1119/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Except for loan forgiveness, all provisions of the income-based repayment (IBR) plan are effective July 1, 2009. IBR loan forgiveness provisions are effective on July 1, 2034.

BASIS:
§682.205(h); §682.209(a) and (b); §682.215; §682.300(b); §682.302(a); §682.304(d)(2); §682.411(d)(1); §682.604(g)(2); and the *Federal Register*, Vol. 72 No. 206, October 23, 2008, pp. 63236 - 63240.

CURRENT POLICY:
Current policy does not address income-based repayment (IBR) or forgiveness under IBR.

REVISED POLICY:
Revised policy addresses the following lender/servicer activities with regard to IBR:

- Determination of partial financial hardship for a borrower who selects IBR.
- Calculation of a borrower's minimum monthly payment amount under IBR.
- Recalculation of a borrower's monthly payment amount under the IBR-defined permanent-standard if the borrower ceases to have a PFH, chooses not to make PFH payments but remains in IBR, or the borrower fails to renew consent for income verification.

- Recalculation of a borrower's monthly payment amount under the IBR-defined expedited-standard if the borrower leaves IBR.
- Application of borrower payments and prepayments.
- Frequency of capitalization.
- Federal interest benefits and special allowance payments.
- Disclosure requirements for lenders.
- IBR and loan rehabilitation.
- Loan forgiveness.
- Administrative forbearance to collect and process documentation for forgiveness.

Revised policy also makes changes to Figure 11-2, "Forbearance Eligibility Chart," to include IBR.

REASON FOR CHANGE:

These changes are necessary to comply with the IBR final rules in the *Federal Register*, Vol. 72 No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 2.1.B, page 1, column 2, paragraph 2, bullet 1, as follows:

**2.1.B
Types of Loans Available**

...

There are several types of education loans currently offered by lenders under the FFELP:

- A **subsidized Federal Stafford loan** is available to an eligible student attending a participating postsecondary school. A student who demonstrates financial need is eligible to have the federal government pay the interest on the loan to the lender until repayment of the loan begins and during any deferment periods. The student is allowed a grace period (usually six months) after leaving school or dropping below half-time enrollment before repayment begins. Repayment of the loan is scheduled over a maximum period of 10 years. However, the repayment period may be greater than 10 years under an income-based repayment plan. For borrowers eligible for an extended repayment schedule, the maximum repayment period is, or 25 years for borrowers eligible for an extended repayment schedule.(see Section 10.8).
- ...
- A **Federal PLUS loan** is available to an eligible parent of a dependent undergraduate student attending a participating postsecondary school and to an eligible graduate or professional student enrolled in an eligible graduate or professional program at a participating school. A PLUS loan borrower must not have adverse credit or must obtain a creditworthy endorser to be eligible for the loan. The borrower is responsible for paying to the lender the interest that accrues on the loan from the time the loan is disbursed until it is paid in full. Repayment of the loan is scheduled over a maximum period of 10 years, or 25 years for borrowers eligible for an extended repayment schedule. However, the repayment period on a Grad PLUS loan may be greater than 10 years under an income-based repayment plan. (See Section 10.8).

Revise Subsection 4.4.D, page 24, column 1, paragraph 2, as follows:

Note: Subsection 4.4.D is also being updated as part of Policy Proposal 1091 in Batch 157.

The school must ensure the information on the following subjects is provided to the student borrower during exit counseling:

• ...

- Available repayment options including standard, graduated, extended, ~~and income-sensitive, and income-based~~ repayment plans and loan consolidation, including a description of the different features of the repayment options and the difference in interest paid and total payments under each. [HEA §485(b)(1)(A)(i); §682.604(g)(2)(ii)]

Revise Subsection 6.14.A, page 32, column 2, paragraph 3, as follows:

6.14.A
Subsidized Stafford Loans

A subsidized Stafford loan made for the certified amount or less—subject to the applicable Stafford annual and aggregate loan limits—is eligible for federal interest subsidy. The Department pays accruing interest on behalf of the borrower to the lender on a subsidized Stafford loan during the student’s in-school, grace, deferment, and, if applicable, post-deferment grace periods (see Appendix A). The borrower generally is responsible for paying the interest that accrues during all other periods. However, if a borrower qualifies for income-based repayment (IBR) and the monthly payment amount during the period of the borrower’s partial financial hardship (PFH) is not sufficient to pay the interest accruing on a subsidized Stafford loan, the Department pays the accrued interest that exceeds the scheduled monthly PFH payment during a consecutive 3-year period beginning with the established repayment period start date on each loan being repaid under IBR. This 3-year period excludes any period during which the borrower is on an economic hardship deferment. [§682.300(b)(1)]

Revise Subsection 7.6.B, page 11, column 1, paragraph 2, as follows:

7.6.B
Income-Sensitive and Income-Based Repayment Disclosure Requirements

The lender must also provide the borrower, in a written or electronic format, the initial disclosure information on the availability of income-sensitive repayment and, except for a parent PLUS borrower or for a Consolidation loan borrower whose Consolidation loan paid one or more parent PLUS loans, the availability of income-based repayment. By providing the borrower with the promissory note and associated materials approved by the Department, the lender meets the requirements to disclose the following information (issued together or separately):

- A statement that the borrower is eligible for income-sensitive repayment and may be eligible for income-based repayment, including through loan consolidation.
- Procedures by which the borrower may choose income-sensitive or income-based repayment.
- Where and how the borrower may obtain more information on income-sensitive and income based repayment. [§682.205(h)]

Revise Subsection 10.6.B, page 10, column 1, paragraph 4, as follows:

10.6.B
Length of the Repayment Period

The maximum allowable repayment period is calculated from the date on which the first payment is due. Generally, a borrower is allowed at least 5 but no more than 10 years from the date the first payment is due to repay each Stafford, SLS, and PLUS loan. However, the repayment period on a Stafford loan or a Grad PLUS loan may be greater than 10 years under an income-based repayment (IBR) plan. For a Consolidation loan, the repayment period may not exceed 30 years depending on the initial balance of the loan (see Subsection 15.5.C for information on Consolidation loan repayment provisions). In addition, a “new

borrower” on or after October 7, 1998, may select an extended repayment schedule that allows for a repayment period of up to 25 years (see Subsection 10.8.D).
[§682.200; §682.209(a); §682.215(b)(8)]

Revise Subsection 10.6.D, page 11, column 1, paragraph 4, as follows:

10.6.D Minimum Payment Requirements

Federal regulations outline specific requirements for the minimum annual amount the borrower must pay on a loan. Unlike the maximum repayment period, which is loan specific, a minimum annual payment amount applies to all of a borrower’s loans. Minimum annual payment amounts vary according to when the loan was first disbursed or the repayment schedule selected by the borrower:

- ...
- ...
- For loans in repayment on or after July 1, 2009, the minimum annual payment under an income-based repayment (IBR) plan by a borrower with partial financial hardship (PFH) is zero (see Subsection 10.8.D for additional information regarding the loans that qualify and borrower eligibility criteria for IBR).

Because minimum annual payment amounts apply to a borrower instead of to each loan, a lender may prorate a minimum payment across all of a borrower’s loans. As a result, the monthly payment on an individual loan may be less than \$50 or \$30 (the monthly equivalent of the \$600 and \$360 annual minimums, respectively). Except in the case of payment under IBR, the lender may round the borrower’s payment(s) to the next highest whole dollar amount that is a multiple of \$5 (when the payment amount is not a multiple of \$5). For information on the \$5 and \$10 rule under IBR, see Subsection 10.8.D.
[§682.209(a)(8)]

Payments Smaller Than Minimum

A lender may permit a borrower to make smaller payments than otherwise required if the reduced scheduled monthly payment amount equals at least the amount of interest due on the loan. This option may be provided only on a short-term basis, and a lender should ensure that the reduced payments do not cause subsequent repayment schedules to require any single payment amount to exceed any other payment amount by more than three times in cases where this is prohibited (see subheading “Three-Times Rule” later in this subsection). In the case of IBR, a payment may be less than the monthly accruing interest.

If the borrower and lender agree, the borrower may pay less than the minimum annual amount as long as the loan(s) will be repaid fully within the maximum repayment period. The lender must document the terms and conditions of the revised agreement in the borrower’s file or servicing history. If the reduced payment amount will result in the repayment period extending beyond the allowable maximum, the lender must grant a reduced-payment forbearance and obtain the borrower’s signature on the forbearance agreement (see Subsection 11.22.A).
[HEA §428(b)(1)(L)(i)]

Three-Times Rule

In all cases where a graduated or income-sensitive repayment schedule is established, federal regulations require that no single installment be more than three times greater than any other installment (the “three-times rule”). When a lender establishes the minimum payment amount on a loan under an income-sensitive repayment schedule, a lender must consider the borrower’s ability to pay, without violating the “three-times rule.” In the case of IBR, the three-times rule does not apply.
[§682.209(a)(6)(ii)]

Interest Payments

For loans that are repaid under a graduated, income-sensitive, income-based, or extended repayment schedule, the \$360 and \$600 annual payment requirements do not apply. ~~However~~Except in the case of an IBR plan, in no instance may the payment amount be less than the amount of interest due and payable. Under an IBR plan, the borrower's monthly payment may not be sufficient to pay accrued interest and principal due or to repay the loan within the maximum 25-year period.
[HEA §428(b)(1)(I)(i); §682.209(a)(6)(iv) and (c)]

Revise Section 10.8, page 14, column 2, paragraph 5, as follows:

10.8 Establishing a Repayment Schedule

If the borrower elects to repay the loan through regular installments (see Subsection 10.6.C for repayment options), the lender must offer the borrower a choice of the following:

- A standard repayment schedule.
- A graduated repayment schedule.
- An income-sensitive repayment (ISR) schedule.
- An income-based repayment (IBR) schedule.
- An extended repayment schedule, if applicable.

Lenders must offer all borrowers their choice of a ~~standard, graduated, or income-sensitive~~ repayment schedule no more than 6 months before the first payment due date. ~~In addition, lenders must offer an extended repayment schedule to borrowers who are considered "new borrower" on or after October 7, 1998, and who have more than \$30,000 in outstanding principal and interest in FFELP loans. This extended repayment schedule must provide a repayment schedule of no more than 25 years. Details regarding repayment schedule options are outlined in Subsection 10.8.A through 10.8.D 10.8.E.~~ For more information on Consolidation loan repayment, see Section 15.5.

A borrower must select a repayment schedule within 45 days of the lender's notification and advise the lender of that choice. If a borrower does not respond within 45 days—or selects an ~~income-sensitive repayment schedule~~ ISR or an IBR schedule but does not provide the required documentation—the lender must establish a standard repayment schedule. A borrower also may request a change in his or her repayment schedule. A lender must comply with an eligible borrower's request to revise his or her choice of repayment schedule at least once annually ~~every 12 months~~.

...

Revise Subsection 10.8.A, page 15, column 2, paragraph 1, as follows:

The lender must require the borrower to repay the loan under a standard repayment schedule if the borrower meets either of the following criteria:

- The borrower does not select an income-sensitive, income-based, graduated, or extended (if applicable) repayment schedule within 45 days after being notified by the lender to choose a repayment schedule.
- The borrower chooses an income-sensitive repayment schedule or an income-based repayment schedule but does not provide the documentation requested by the lender within the time period specified by the lender.
[§682.209(a)(6)(v) and (vi)]

10.8.D
Income-Based Repayment Schedule

Beginning on July 1, 2009, borrowers may request to repay eligible loans under an income-based repayment (IBR) plan. Eligible FFELP and Direct loans include the outstanding balances on all loans except:

- A defaulted loan.
- A FFELP or Direct parent PLUS loan.
- A FFELP or Direct Consolidation loan that repaid a FFELP or Direct parent PLUS loan.

If a borrower selects IBR, the lender must determine if the borrower has a partial financial hardship (PFH) for the initial year and annually for each subsequent year that the borrower selects this repayment plan. A PFH exists if the borrower has an annual amount due, calculated under a standard repayment schedule and based on a 10-year repayment period on all eligible FFELP and Direct loans outstanding when the borrower initially entered repayment on each loan (a.k.a. *standard-standard*), that exceeds 15% of the difference between the borrower's adjusted gross income and 150% of the poverty guideline for the borrower's family size. The poverty guideline refers to the income by state and family size as published annually by the U.S. Department of Health and Human Services. If a borrower is not a resident of a state listed in the guidelines, the lender uses the poverty guideline for the 48 contiguous states.

To make this determination, the borrower must provide the lender with written consent for the disclosure of the applicable adjusted gross income and other tax return information from the Internal Revenue Service. The borrower provides this consent by signing a consent form and returning the form to the lender. For a married borrower filing jointly, adjusted gross income includes both the borrower's and the spouse's income. For a married borrower filing separately, adjusted gross income includes only the borrower's income. However, if the borrower's adjusted gross income is not available or if the lender believes that the borrower's adjusted gross income does not reflect the borrower's current income, the lender may use other documentation, provided by the borrower, to verify income.

The lender receives the borrower's self-certification of family size which includes the following:

- The borrower and the borrower's spouse.
- The borrower's children, including unborn children who will be born during the year for which the borrower certifies family size, if the borrower provides more than half of the children's support.
- Other individuals who, at the time the borrower certifies family size, live with the borrower and receive more than half of their support from the borrower and will continue to receive this support from the borrower for the year being certified. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, and payment of college costs. If the borrower fails to certify family size, the lender must assume a family size of one.

Payment Amount Calculation

The borrower's annual payment under the PFH schedule is limited to no more than 15% of the amount by which the borrower's annual adjusted gross income exceeds 150% of the poverty line income for the borrower's applicable family size. The result is divided by 12 to obtain the monthly payment amount.

PFH Eligibility and Payment Amount Calculation Example:

A borrower has an adjusted gross income (AGI) of \$50,000, a family size of 5, total loans of \$25,000, and is a resident of Virginia.

Step 1: Obtain the poverty guideline for the family size and state. For this example, the applicable poverty guideline is \$25,790.

Step 2: Multiply the poverty guideline by 150% or $\$25,790 \times 1.5 = \$38,685$.

Step 3: Subtract the result in step 2 from the borrower's AGI or $\$50,000 - \$38,685 = \$11,315$.

Step 4: Calculate the borrower's maximum annual loan repayment by multiplying the result of step 3 by 15% or $\$11,315 \times .15 = \$1,697.25$.

Step 5: Determine the annual payment on the total amount of the borrower's loans based on a standard 10-year repayment schedule and the applicable interest rate. In this example, the borrower's total loan amount is \$25,000 at an interest rate of 6.8% which results in an annual payment of \$3,452.40.

Step 6: Since the annual payment amount in Step 5, \$3,452.40, is greater than the annual income-based repayment limit in Step 4, \$1,697.25, the borrower has a partial financial hardship.

Step 7: To calculate the borrower's monthly income-based payment, divide the result of Step 4 by 12 or $\$1,697.25/12 = \141.44 .

If the lender does not hold all of the borrower's eligible loans, the borrower's monthly PFH payment is multiplied by the percentage of the borrower's total outstanding principal amount of eligible loans that are held by the lender making the determination of eligibility. For this calculation, the lender may access NSLDS to determine the outstanding principal amount of the borrower's eligible loans that are held by other lenders. If the result of this calculation is less than \$5.00 at the lender level, then the borrower's monthly PFH payment is zero. If the result of the calculation is equal to or greater than \$5.00 but less than \$10.00 at the lender level, then the borrower's monthly PFH payment is \$10.00.

If a borrower selects an IBR plan, the lender must—unless the borrower requests otherwise—require that all eligible loans held by the lender be repaid under the IBR plan. If the borrower has multiple lenders and wants to repay all eligible loans under the IBR plan, the borrower must request IBR from each lender.

The lender must recalculate monthly payments for a borrower when any of the following occurs:

- The borrower ceases to have a PFH or chooses not to make PFH payments but remains in the IBR plan.
- The borrower fails to renew or withdraws consent for income verification from the Internal Revenue Service.

To recalculate the borrower's monthly payment amount, a lender uses a standard repayment schedule for a 10-year repayment period based on the borrower's outstanding loan balance at the time that the borrower began repayment under the IBR plan. This monthly payment amount (a.k.a. *permanent-standard*) may result in a repayment period that exceeds 10 years.

If a borrower leaves IBR, a lender recalculates the borrower's monthly payment amount by using a standard repayment schedule for the time remaining on a 10-year repayment period based on the borrower's outstanding loan balance at the time the borrower elects to leave IBR (a.k.a. *expedited-standard*). For a Consolidation loan, the monthly payment amount is recalculated, based on the time remaining up to a maximum of 30 years. (See Subsection 15.5.C for information on applicable repayment periods.)

10.8.E
Extended Repayment Schedule

Revise Section 10.9, page 16, column 2, paragraph 1, as follows:

10.9
Interest Charges

If a borrower's loan is a subsidized Stafford loan, the federal government pays the interest that accrues during the in-school, grace, and authorized deferment periods. If a borrower's monthly PFH payment amount, under an income-based repayment plan, is not sufficient to pay the interest accruing on a subsidized Stafford loan, the Department pays the accrued interest that exceeds the scheduled monthly PFH payment during a consecutive 3-year period beginning with the repayment period start date on each loan being repaid under IBR. This 3-year period excludes any period during which the borrower is on an economic hardship deferment.

[§682.215(b)(4)]

If the loan is an unsubsidized or a nonsubsidized Stafford loan, a PLUS loan, or an SLS loan, the borrower is responsible for paying all interest that accrues on the loan from the first disbursement date—including interest that accrues during deferment period. For information on the interest charges applicable to Consolidation loans, see Subsection 15.3.D and Section 15.6.

[§682.202; §682.300]

Revise Subsection 10.10.B, page 18, column 1, paragraph 1, as follows:

10.10.B
Capitalization Frequency

To determine when the lender may capitalize interest, the lender should refer to the following instructions.

For a loan in repayment under an income-based repayment (IBR) plan, unpaid interest is capitalized if the borrower ceases to have a partial financial hardship (PFH) or leaves IBR and is placed on the expedited-standard repayment schedule.

[§682.215(b)(5)]

Subsidized and Unsubsidized Stafford Loans First Disbursed on or after July 1, 2000

The lender may capitalize unpaid interest only as follows:

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

Revise Subsection 10.11.A, page 19, column 1, paragraph 5, as follows:

10.11.A
Applying Regular Borrower Payments

Except for payments made under an income-based repayment (IBR) plan, a lender may apply a payment received first to any accrued late charges or permissible collection costs, then to outstanding interest, and finally to outstanding principal. Under IBR, a lender must apply a payment received first to accrued interest, then to collection costs and late charges, and finally to outstanding principal. Permissible collection costs may include charges incurred

by the lender in collecting a missed payment, including court costs and attorneys' fees. The lender may not apply a borrower's payment to "normal" collection costs, such as those associated with preparing and mailing notices and letters, personal contacts, and telephone calls.

Regardless of how these monies are applied with respect to principal, interest, late charges, or collection costs, any payment received during a period when a borrower is required to make payments that equal or exceed the borrower's scheduled payment amount must be used to advance the borrower's due date. Under an IBR plan, a borrower may have a monthly payment amount of zero. Even though the borrower is not required to make a payment, the lender acknowledges that the borrower is fulfilling the monthly payment obligation by advancing the due date to the next month. If a borrower with a payment amount of zero pays an amount greater than zero, the lender acknowledges that the borrower is fulfilling a single monthly payment obligation by advancing the due date to the next month. For example, a borrower has a payment amount of zero and a due date of the 15th. Each month on the 15th, the borrower's payment is deemed to be satisfied. When appropriate, any amount (except a payment that exceeds a monthly payment amount of zero under an IBR plan) that exceeds the borrower's scheduled payment amount should be applied as a prepayment, as outlined in Subsection 10.11.B.

[§682.209(b); §682.215(c)]

...

10.11.B Applying Prepayments

A borrower may prepay his or her loan in full or in part at any time, without penalty and without liability for unearned interest. The lender may credit the entire prepayment amount first to any late charges accrued or collection costs, then to an outstanding interest, and then to outstanding principal. However, if the prepayment amount is intended for a loan being repaid under an income-based repayment (IBR) plan and the borrower's monthly payment amount is zero, the lender must apply the prepayment received first to accrued interest, then to collection costs and late charges, and finally to outstanding principal.

[§682.209(b); §682.215(c)]

...

...

Unless the borrower requests otherwise, a prepayment received during a period when regular payments are due must be applied to future installments if the payment received equals or exceeds the regularly scheduled payment amount. A prepayment received on a loan being repaid under an IBR plan with a payment amount of zero must not be applied to future installments. The lender must notify the borrower that the prepayment has been used to satisfy future installments in one of the following ways:

- Notifying the borrower *in advance* using a prominent statement in the borrower's coupon book or billing statement that any additional full payment amounts submitted to the lender without instructions will be applied to advance the due date on the loan.
- Notifying the borrower *after* the prepayment has been applied of how the payment was applied and the borrower's next scheduled payment due date.

Revise Figure 11-2, "Forbearance Eligibility Chart," page 31, as follows:

Note: Figure 11-2 is also being updated as part of Policy Proposals 1080 in Batch 156 and 1101 in Batch 157.

See attached chart.

Revise Subsection 11.21.J, page 34, column 2, paragraph 2, as follows:

11.21.J

Forgiveness under Income-Based Repayment (IBR)

The lender may grant a forbearance for a period not to exceed 60 days in order to collect and process documentation supporting the borrower's eligibility for loan forgiveness under the income-based repayment plan. If so granted, the lender must notify the borrower that the requirement to make payments on the loan(s) for which forgiveness was requested, has been suspended pending approval of forgiveness by the guarantor on each loan. For information on forgiveness under IBR, see Subsection 13.9.D. [§682.211(f)(13)]

~~11.21.J~~**11.21.K**

Late Notification of Out-of-School Dates

...

~~11.21.K~~**11.21.L**

Loan Sale or Transfer

...

~~11.21.L~~**11.21.M**

Natural Disasters, Local or National Emergency, or Military Mobilization

...

~~11.21.M~~**11.21.N**

New Out-of-School Dates after Conversion to Repayment

...

~~11.21.N~~**11.21.O**

Repayment Alignment

...

...

...

~~11.21.O~~**11.21.P**

Repurchase of a Non-Bankruptcy Claim

...

~~11.21.P~~**11.21.Q**

Spouses and Parents of September 11, 2001, Victims

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...

...

~~11.21.Q~~**11.21.R**

Total and Permanent Disability

...

...

...

11.21.R11.21.S
Unpaid Refund Discharge

...

...

...

Revise Subsection 12.4.A, page 5, column 2, paragraph 1, bullet 2, as follows:

16-180 days delinquent

If there is no rolling delinquency and no special occurrences exist on the account, the lender must perform the following activities:

- ...
- Send the borrower at least four written notices or collection letters informing the borrower of the delinquency and urging the borrower to make payments. The required notices or collection letters sent during this period must include, at a minimum, information regarding deferment, forbearance, income-sensitive repayment, income-based repayment, loan consolidation, and other available options to avoid default. At least two of the collection letters must warn the borrower that if the loan is not paid...

Revise Subsection 12.4.B, page 11, column 2, paragraph 1, bullet 2, as follows:

16-240 days delinquent

If there is no rolling delinquency and no special occurrences exist on the account, the lender must perform the following activities:

- ...
- Send the borrower at least four written notices or collection letters informing the borrower of the delinquency and urging the borrower to make payments. The required notices or collection letters sent during this period must include, at a minimum, information regarding deferment, forbearance, income-sensitive repayment, income-based repayment, loan consolidation, and other available options to avoid default. At least two of the collection letters must warn the borrower that if the loan is not paid...

Revise Section 13.7, page 15, column 2, paragraph 2, as follows:

Note: Section 13.7 is also being updated as part of Policy Proposals 1103 in Batch 157, and 1111 and 1112 in Batch 158.

A lender that purchases a rehabilitated loan must immediately establish a repayment schedule with the borrower that meets the requirements applicable to other FFELP loans of the same type. The lender must permit the borrower to choose any repayment schedule available, including the income-based repayment (IBR) plan. The schedule must be sent to the borrower no more than 60 days, and the first payment due date must be no more than 75 days after the lender considers the repurchase to be complete (e.g., the date the repurchase check is sent to the guarantor, the date the lender receives the loan file from the guarantor, or the date the lender receives collateral from the guarantor).

[\$682.405(b)(4)]

Except for IBR, the lender must consider the first payment made under the nine monthly payments required for rehabilitation as the first payment under the applicable maximum repayment period for the loan type (for example, a borrower would have a maximum repayment period of 9 years and 3 months remaining on a loan with a 10-year repayment period, and a Consolidation loan borrower with a balance greater than \$60,000 would have a maximum repayment period of 29 years and 3 months, because the nine monthly payments are considered the first 9 months of a repayment term). Under IBR, the nine monthly payments under a rehabilitation plan are considered payments on a defaulted loan and, therefore, are not qualifying payments toward the 25-year IBR forgiveness period. If a borrower was repaying under IBR before default, the rehabilitated loan may return to IBR and resume the 25-year period, i.e. only pre-default payments plus the payments made after rehabilitation are considered qualifying payments toward IBR forgiveness.
[§682.405(b)(4); §682.215(f)(5)]

When establishing the maximum repayment period on a rehabilitated Consolidation loan, the lender must use the loan's balance at the time the loan is rehabilitated (i.e., the amount paid to the guarantor to purchase the loan). The initial repayment schedule for each rehabilitated loan must provide for monthly payments that are greater than or equal to the average of the nine monthly payments received by the guarantor.
[§682.405(b)(4)]

Revise Section 13.9, page 54, column 1, paragraph 1, as follows:

Note: Section 13.9 is also being updated as part of Policy Proposals 1080 and 1088 in Batch 156.

13.9 Forgiveness

Loan forgiveness is the release of a borrower's or any comaker's, as applicable, obligation to repay his or her loan, either in whole or in part, as a result of public service provided by the borrower or comaker. Congress has authorized two programs that provide loan forgiveness, as a result of public service, to qualified FFELP borrowers. Both of these programs and their corresponding borrower eligibility criteria are outlined in this Subsections 13.9.A and 13.9.B. Subsection 13.9.C provides eligibility criteria and repayment information with regard to Civil Legal Assistance Attorneys. Subsection 13.9.D outlines eligibility criteria and lender activities with regard to loan forgiveness under income-based repayment (IBR).
[§682.215(f)]

Revise Chapter 13, by adding a new subsection after 13.9.C as follows:

Note: Subsection 13.9.C is being added to the Manual as part of Policy Proposal 1089 in Batch 156.

13.9.D Loan Forgiveness under the Income-Based Repayment (IBR) Schedule

Under IBR, a borrower who meets all eligibility requirements may have his or her outstanding principal balance and accrued interest forgiven on qualifying FFELP loans. To be eligible for loan forgiveness after 25 years, the borrower must have made payments under an IBR plan and made at least 300 monthly qualifying payments or equivalents on or after July 1, 2009, by satisfying any of the following conditions:

- Made monthly loan payments, equal to or greater than zero dollars, based on a partial financial hardship (PFH).
- Made monthly loan payments under any repayment plan that were equal to or greater than the amount required under the standard repayment schedule with a 10-year repayment period (standard-standard).

- Made monthly loan payments under the standard repayment schedule based on a 10-year repayment period for the amount of the borrower's loans that were outstanding at the time the borrower selected the IBR plan (*permanent-standard*).
- Received an economic hardship deferment on eligible loans.
[§682.215(f)(1) and (2)]

The beginning date for the 25-year period for a borrower with PFH is the date that the borrower makes a qualifying payment or receives an economic hardship deferment on one or more of his or her eligible FFELP loans. Although that date may be prior to the date that the borrower qualified for the IBR plan, the date must not be prior to July 1, 2009. If a borrower satisfies the loan forgiveness requirements, the Department pays the outstanding balance and accrued interest on any eligible FFELP loan, including a rehabilitated loan that returned to an IBR plan or for which the borrower selected IBR (see Section 13.7).
[§682.215(f)(3)and(4)]

Requirements Pertaining to Request for Payment

The lender must request payment from the guarantor not later than 60 days after the lender determines that a borrower qualifies for loan forgiveness. If the lender requests payment later than 60 days after determining that a borrower qualifies for IBR forgiveness, the lender must repay all interest and special allowance received on the forgiven loan amount for periods after the expiration of the 60-day filing period. The lender is prohibited from collecting this interest from the borrower.
[§682.215(g)(1) and (2)]

Borrower Notification Requirements

Within 30 days after notification by the guarantor that the borrower is eligible for IBR forgiveness, the lender must notify the borrower of the determination. The lender must also advise the borrower that the repayment obligation on the loan(s) for which IBR forgiveness was requested has been satisfied. The lender must also provide the borrower with information on the required processing of the amount forgiven. This includes information on the lender's understanding of the current tax treatment of the forgiven amount. The lender is also encouraged to refer the borrower to the Internal Revenue Service for additional information.
[§682.215(g)(4)]

Processing an Approved Forgiveness

If the guarantor determines that a borrower is eligible for IBR forgiveness, the lender must apply the proceeds of the forgiveness amount to satisfy the outstanding balance on the loan(s) for which IBR forgiveness was requested. If the forgiveness amount exceeds the outstanding balance on the eligible loan(s), the lender must refund the excess amount to the guarantor. The lender must promptly return to the sender any payment received on a loan after the guaranty agency pays the lender the amount of loan forgiveness.
[§682.215(g)(5) and (7)]

Denying Forgiveness

If the guarantor determines that the borrower is not eligible for IBR forgiveness, the lender may grant an administrative forbearance from the date that the borrower's repayment obligation was suspended until a new payment due date is established. The lender may capitalize any accrued or unpaid interest at the end of the forbearance, unless the denial of the "claim" resulted from a lender error.
[§682.215(g)(6)]

Revise Subsection 15.3.A, page 6, column 2, paragraph 1, as follows:

Worksheet or Web Page

A federal Consolidation loan worksheet or Web page can help the borrower:

- ...
- ...
- ...
- ...
- Calculate estimated monthly payments under standard, graduated, extended, ~~and income-sensitive,~~ and income-based repayment schedules.
- ...
- ...

Revise Section 15.5, page 11, column 1, paragraph 2, as follows:

15.5
Repayment

A Federal Consolidation loan enters repayment on the date the loan is disbursed. When establishing the repayment terms for a Consolidation loan, the lender must consider the borrower's financial ability to repay the loan and ensure that the terms meet the requirements described in this section.

[§682.102(e)(5); §682.209(a)(1); §682.209(h)(1)]

Lenders must offer Consolidation loan borrowers the choice of a standard, graduated, income-sensitive, income-based or, if applicable, an extended repayment schedule. See Section 10.7 and Subsection 10.6.D for more information on these repayment schedules and minimum payment requirements.

[§682.209(a)(6)]

Revise Subsection 15.5.F, page 13, column 2, paragraph 1, as follows:

15.5.F
Delinquency, Claim Filing, Loan Forgiveness, and Discharge

The due diligence, and default and bankruptcy claim filing requirements for a Federal Consolidation loan are identical to those applicable for other FFELP loans. Loan forgiveness and discharge provisions, and discharge claim filing requirements, however, may be different for a Consolidation loan, as follows:

- For Consolidation loan discharge provisions due to closed school and false certification, see Subsection 13.8.B and 13.8.D, respectively.
- For Consolidation loan forgiveness due to teacher loan forgiveness, the Consolidation loan must not include a FFELP or FDLP loan that was first disbursed before October 1, 1998. See Subsection 13.9.B for teacher loan forgiveness provisions for Consolidation loans.
- For Consolidation loan forgiveness under the income-based repayment (IBR) plan, the Consolidation loan must not include a FFELP or Direct parent PLUS loan. See Subsection 13.9.D for loan forgiveness under IBR provisions for Consolidation loans.
- ...

Revise Section 15.6, page 14, column 1, paragraph 5, as follows:

15.6
Interest Benefits and Special Allowance

Interest Benefits

...

...

A Federal Consolidation loan made from an application received by the lender on or after November 13, 1997, is eligible for interest subsidy during authorized periods of deferment on any portion of the Consolidation loan that paid an underlying subsidized FFELP loan or an underlying subsidized Direct loan. The borrower is responsible for interest payment during periods of authorized deferment on all other portions of a Consolidation loan.
[§682.301(a)(3)(iii)]

On or after July 1, 2009, a Consolidation loan is eligible for federal interest benefits to pay accruing interest on the subsidized portion of the Consolidation loan because the borrower's scheduled monthly partial financial hardship (PFH) payment amount, under the income-based repayment plan, is less than such accruing interest. Federal interest benefits are limited to a consecutive 3-year period that begins on the repayment period start date under IBR and includes any period for which the Department has paid accruing interest due to insufficient PFH monthly payments on the underlying subsidized Stafford loans. This 3-year period excludes any period during which the borrower is on an economic hardship deferment.
[§682.215(b)(1)(iv)]

See Appendix A for more information on interest benefits.

Revise Appendix A, page 2, column 2, paragraph 3, as follows:

For a subsidized Consolidation loan or any portion of a Consolidation loan that is subsidized, the lender may begin billing the Department for interest benefits on the first date the borrower qualifies for a deferment, except for an initial unemployment deferment based on the borrower's self certification of eligibility. In this deferment situation, the lender may begin billing the Department for interest benefits on the later of:
[§682.300(b)(1)(ii)]

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

For a subsidized Stafford loan or any portion of a Consolidation loan that is subsidized, the lender may bill the Department for interest benefits during a consecutive 3-year period, if the borrower's monthly partial financial hardship payment amount under the income-based repayment (IBR) plan is not sufficient to pay the accruing interest. The 3-year period begins on the established repayment period start date on each loan under the income-based repayment plan and excludes any period during which the borrower receives an economic hardship deferment.
[§682.300(b)(1)(iv)]

Ending Date

The Department's obligation to pay federal interest benefits ends on the earliest of the following dates, as applicable:

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

- ...
- ...
- ...
- The earlier of the date that the borrower's monthly payment amount is sufficient to pay the accrued interest on the borrower's loan or the qualifying portion of the borrower's Consolidation loan or the end of the consecutive 3-year period.

Revise Appendix A, page 4, column 1, paragraph 3, as follows:

Note: Subsection A.2.A is also being updated as part of Policy Proposal 1134 in Batch 159.

**A.2.A
Special Allowance and Excess Interest Rates**

Special Allowance Rates

Generally, the amount of special allowance that is payable on an eligible loan is determined by multiplying the average daily balance of principal and capitalized interest on the loan by the applicable special allowance rate. However, the average daily balance for a loan, on which the borrower has a partial financial hardship (PFH) as determined under the income-based repayment (IBR) plan, includes unpaid accrued interest in addition to principal and capitalized interest.

[\$682.302(a)]

Special allowance rates are calculated and published quarterly by the Department. The formulas used to calculate these rates are exhibited on the following pages. The following factors are considered in the calculation of special allowance rates for a loan:

- ...
- ...
- ...
- The applicable statutory interest rate for the loan. However, the applicable interest rate for the unpaid accrued interest on a loan subject to IBR is zero. This rate is subtracted from the sum of the appropriate factor and the applicable T-bill rate or 3-month commercial paper rate.

Revise Appendix G, page 5, column 1, as follows:

Incarcerated: ...

Income-Based Repayment (IBR) Schedule: A repayment plan available to a borrower who has a Partial Financial Hardship (PFH) or is paying a permanent-standard payment amount after qualifying for PFH. If a borrower is determined by a lender to have a PFH, the borrower's monthly payment amount on eligible loans is limited to 15% of the amount by which the borrower's annual adjusted gross income exceeds 150% of the poverty line income for the borrower's family size. Eligible FFELP and Direct loans include the outstanding balances on all loans except a defaulted loan, a FFELP or Direct parent PLUS loan, and a FFELP or Direct Consolidation loan that repaid a FFELP or Direct parent PLUS loan. The Department repays the outstanding balance and accrued interest on eligible FFELP and Direct loans after 25 years and a combination of 300 qualifying payments and economic hardship deferments, beginning no earlier than July 1, 2009.

See Partial Financial Hardship.

Income-Contingent Repayment Schedule: ...

Revise Appendix G, page 8, column 1, as follows:

Expected Family Contribution: ...

Expedited-Standard: A repayment schedule available to a borrower under the Income-Based Repayment plan. The payment amount is calculated on the basis of both of the following:

- The borrower's outstanding balance on the loan when the borrower discontinues paying under an IBR plan.
- The time remaining under a 10-year repayment period for Stafford, SLS, and Grad PLUS loans or under the applicable repayment period (between 10 and 30 years according to the original loan balance) for a Consolidation loan.

Revise Appendix G, page 14, column 2, as follows:

Partial Cancellation: ...

Partial Financial Hardship (PFH): A borrower has a partial financial hardship if the annual amount due, calculated under a standard repayment schedule and based on a 10-year repayment period on all eligible FFELP and Direct loans outstanding when the borrower initially entered repayment on each loan, exceeds 15% of the difference between the borrower's Adjusted Gross Income and 150% of the poverty guideline applicable to the borrower's family size. Eligible FFELP and Direct loans include the outstanding balances on all loans except a defaulted loan, a FFELP or Direct parent PLUS loan, and a FFELP or Direct Consolidation loan that repaid a FFELP or Direct parent PLUS loan. If a borrower is determined to have a PFH, the borrower is eligible for the income-based repayment (IBR) plan.

See Income-Based Repayment Schedule.

Participating School: ...

Revise Appendix G, page 15, column 1, as follows:

Permanent Resident of the United States: ...

Permanent-Standard: A repayment schedule available to a borrower under the Income-Based Repayment plan. The payment amount is calculated on the basis of both of the following:

- The borrower's outstanding loan balance when the borrower begins repayment under an IBR plan.
- A 10-year repayment period.

Revise Appendix G, page 19, column 1, as follows:

Standard-Standard: A repayment schedule available to a borrower under the Income-Based Repayment plan. The payment amount is calculated on the basis of both of the following:

- The borrower's outstanding loan balance when the borrower initially entered repayment on the loan.
- A 10-year repayment period.

PROPOSED LANGUAGE - COMMON BULLETIN:

Income-Based Repayment Option

The Manual was revised to include the income-based repayment (IBR) option and loan forgiveness under IBR.

Eligibility

Beginning on July 1, 2009, borrowers may request to repay eligible loans under an IBR plan. Eligible FFELP and Direct loans include the outstanding balances on all loans except:

- A defaulted loan.
- A FFELP or Direct parent PLUS loan.
- A FFELP or Direct Consolidation loan that repaid a FFELP or Direct parent PLUS loan.

If a borrower requests the IBR option, a lender must determine if the borrower has a partial financial hardship (PFH) for the initial year and annually for each subsequent year that the borrower requests IBR. A PFH exists if the borrower has an annual amount due, calculated under a standard repayment schedule and based on a 10-year repayment period on all eligible FFELP and Direct loans outstanding when the borrower initially entered repayment on each loan (a.k.a. *standard-standard*), that exceeds 15% of the difference between the borrower's adjusted gross income and 150% of the poverty guideline for the borrower's family size.

Payment Amount Calculation

The borrower's annual payment under the IBR plan is limited to no more than 15% of the amount by which the borrower's annual adjusted gross income exceeds 150% of the poverty line income for the borrower's applicable family size. The result is divided by 12 to obtain the monthly payment amount. If the lender does not hold all of the borrower's eligible loans, the borrower's monthly loan payment is multiplied by the percentage of the borrower's total outstanding principal amount of eligible loans that are held by the lender making the determination of eligibility. For this calculation, the lender may access NSLDS to determine the outstanding principal amount of the borrower's eligible loans that are held by other lenders. If the result of this calculation is less than \$5.00 at the lender level, then the borrower's monthly payment is zero. If the result of the calculation is equal to or greater than \$5.00 but less than \$10.00 at the lender level, then the borrower's monthly payment is \$10.00.

If a borrower selects an IBR plan, the lender must—unless the borrower requests otherwise—require that all eligible loans held by the lender be repaid under the IBR plan. If the borrower has multiple lenders and wants to repay all eligible loans under the IBR plan, the borrower must request IBR from each lender.

Applying Payments and Prepayments

Under IBR, a lender must apply a payment received first to accrued interest, then to collection costs and late charges, and finally to outstanding principal. Under IBR, the minimum monthly payment amount which advances the due date is \$10.00. Any payment that exceeds a borrower's minimum monthly payment of zero is applied in the same order, i.e. first to accrued interest, then to collection costs and late charges, and finally to outstanding principal, but the due date is **not** advanced.

Federal Interest Benefits

Under IBR, a borrower's monthly payment may not be sufficient to pay accrue interest and any principal due or to repay the loan within the maximum 25-year period. If the borrower's monthly PFH payment amount under the income-based repayment (IBR) plan is not sufficient to pay the interest accruing on a subsidized Stafford loan or the subsidized portion of a Consolidation loan, the Department pays the accrued interest, that exceeds the scheduled monthly payment amount, during a consecutive 3-year period beginning with the established repayment period start date on each loan being repaid under IBR. This 3-year period excludes any period during which the borrower is on an economic hardship deferment. Federal interest benefits end on the earlier of the date that the borrower's monthly payment amount is sufficient to pay the accrued interest on the borrower's loan or the qualifying portion of the borrower's Consolidation loan or the end of the consecutive 3-year period.

Payment Amount Recalculations

If a borrower ceases to have a PFH, chooses not to make PFH payments but remains in IBR, or fails to renew or withdraws consent for income verification, the lender must recalculate monthly payments. To recalculate

the borrower's monthly payment amount, a lender uses a standard repayment schedule for a 10-year repayment period based on the borrower's outstanding loan balance at the time that the borrower began repayment under the IBR plan. This monthly payment amount (a.k.a. *permanent-standard*) may result in a repayment period that exceeds 10 years.

If a borrower leaves IBR, a lender recalculates the borrower's monthly payment amount by using a standard repayment schedule for the time remaining on a 10-year repayment period based on the borrower's outstanding loan balance at the time the borrower elects to leave the IBR (a.k.a. *expedited-standard*). For a Consolidation loan, the monthly payment amount is recalculated, based on the time remaining up to a maximum of 30 years.

Loan Forgiveness

To be eligible for loan forgiveness after 25 years, the borrower must have made payments under an IBR plan and made at least 300 monthly qualifying payments or equivalents on or after July 1, 2009, by satisfying any of the following conditions:

- Made monthly loan payments, equal to or greater than zero dollars, based on a partial financial hardship (PFH).
- Made monthly loan payments under any repayment plan that were equal to or greater than the amount required under the standard repayment schedule with a 10-year repayment period (*standard-standard*).
- Made monthly loan payments under the standard repayment schedule based on a 10-year repayment period for the amount of the borrower's loans that were outstanding at the time the borrower selected the IBR plan (*permanent-standard*).
- Received an economic hardship deferment on eligible loans.

The beginning date for the 25-year period for a borrower with PFH is the date that the borrower makes a qualifying payment or receives an economic hardship deferment on one of more of his or her eligible FFELP loans. Although that date may be prior to the date that the borrower qualified for the IBR plan, the date must not be prior to July 1, 2009. If a borrower satisfies the loan forgiveness requirements, the Department pays the outstanding balance and accrued interest on any eligible FFELP loan, including a rehabilitated loan (see subsection below) that returned to an IBR plan or for which the borrower selected IBR.

Administrative Forbearance

The lender may grant a forbearance for a period not to exceed 60 days in order to collect and process documentation supporting a borrower's eligibility for loan forgiveness under IBR. The lender must notify the borrower that the requirement to make payments on the loan(s) for which forgiveness was requested, has been suspended pending approval of forgiveness by the guarantor on each loan.

Requirements Pertaining to Request for Payment

The lender must request payment from the guarantor not later than 60 days after determining that a borrower qualifies for loan forgiveness. If the lender requests payment later than 60 days after determining that a borrower qualifies for IBR forgiveness, the lender must repay all interest and special allowance received on the forgiven loan amount for periods after the expiration of the 60-day filing period. The lender is prohibited from collecting this interest from the borrower.

Borrower Notification Requirements

Within 30 days after notification by the guarantor that the borrower is eligible for IBR forgiveness, the lender must notify the borrower of the determination. The lender must also advise the borrower that the repayment obligation on the loan(s) for which IBR forgiveness was requested has been satisfied. The lender must also provide the borrower with information on the required processing of the amount forgiven. This includes information on the lender's understanding of the current tax treatment of the forgiven amount. The lender is also encouraged to refer the borrower to the Internal Revenue Service for additional information.

Processing an Approved Forgiveness

If the guarantor determines that a borrower is eligible for IBR forgiveness, the lender must apply the proceeds of the forgiveness amount to satisfy the outstanding balance on the loan(s) for which IBR

forgiveness was requested. If the forgiveness amount exceeds the outstanding balance on the eligible loan(s), the lender must refund the excess amount to the guarantor. After the loan(s) has been forgiven, the lender must promptly return any loan payment(s) to the sender.

When Forgiveness is Denied

If the guarantor determines that the borrower is not eligible for IBR forgiveness, the lender may grant an administrative forbearance from the date that the borrower's repayment obligation was suspended until a new payment due date is established. The lender may capitalize any accrued or unpaid interest at the end of the forbearance, unless the denial of the "claim" resulted from a lender error.

Special Allowance Payments

Special allowance is payable on loans in repayment under IBR. The amount of special allowance that is payable is determined by the average daily balance of principal and capitalized interest on the loan plus unpaid accrued interest multiplied by the applicable special allowance rate. The applicable interest rate for unpaid accrued interest on a loan subject to IBR is zero.

Rehabilitated Loans and IBR

A lender must permit the borrower of a rehabilitated loan to choose any repayment schedule in statute, including IBR. If a borrower was repaying under IBR before default, the rehabilitated loan may return to IBR and resume the 25-year period but only pre-default payments plus the payments made after rehabilitation are considered qualifying payments toward IBR forgiveness. The nine monthly payments under a rehabilitation plan are considered payments on a defaulted loan and, therefore, are not qualifying payments toward IBR forgiveness.

Definitions

In addition to a definition for the "Income-Based Repayment Schedule" and for "Partial Financial Hardship," the following definitions are added to Appendix G:

Expedited-Standard: A repayment schedule available to a borrower under the Income-Based Repayment plan. The payment amount is calculated on the basis of both of the following:

- The borrower's outstanding balance on the loan when the borrower discontinues paying under an IBR plan.
- The time remaining under a 10-year repayment period for Stafford, SLS, and Grad PLUS loans or under the applicable repayment period (between 10 and 30 years according to the original loan balance) for a Consolidation loan.

Permanent-Standard: A repayment schedule available to a borrower under the Income-Based Repayment plan. The payment amount is calculated on the basis of both of the following:

- The borrower's outstanding loan balance when the borrower begins repayment under an IBR plan.
- A 10-year repayment period.

Standard-Standard: A repayment schedule available to a borrower under the Income-Based Repayment plan. The payment amount is calculated on the basis of both of the following:

- The borrower's outstanding loan balance when the borrower initially entered repayment on the loan.
- A 10-year repayment period.

Figure 11-2, "Forbearance Eligibility Chart," has also been updated to include IBR.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower is afforded an additional repayment and loan forgiveness option through IBR.

School:

A school may need to update counseling material to include IBR.

Lender/Servicer:

A lender/servicer may need to revise its systems and procedures to comply with the provisions of IBR, including the tracking of the 25-year period for determining a borrower's eligibility for forgiveness and the processing of such forgiveness.

Guarantor:

A guarantor may need to revise program review criteria and to develop procedures for the rehabilitation of defaulted loans with applicable IBR history. Eventually, a guarantor will need to develop a process for reviewing and granting loan forgiveness under IBR.

U.S. Department of Education:

The Department may need to revise program review criteria. Eventually, the Department will be required to develop processes for reimbursing guarantors for the payment of IBR loan forgiveness.

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:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

ce/edited-rl

Forbearance Eligibility Chart**Figure 11-2**

TYPE	LENGTH
Discretionary	
Financial difficulties due to personal problems when the borrower is unable to make regularly scheduled payments ¹	The period established in the terms of the forbearance agreement (not to exceed 12-month increments); no maximum
Reduced-Payment Forbearance ¹	
Mandatory	
Medical or Dental Internship/Residency ^{2,3}	12-month increments (or a lesser period equal to actual period during which the borrower is eligible); no maximum
Department of Defense Student Loan Repayment Programs ³	
National Service ^{2,3}	
Child Care Provider Loan Forgiveness ^{2,9} — <i>Note: Contingent upon funding by Congress.</i>	Period while borrower maintains forgiveness eligibility. 12-month increments
Debt Exceeds Monthly Income ^{4,5}	12-month increments; 3 years maximum
Teacher Loan Forgiveness ^{2,3}	Period while borrower maintains forgiveness eligibility. 12-month increments
Mandatory Administrative	
Local or National Emergency ⁷	Period specified by the Department or guarantor plus 30 days following the period
Military Mobilization ⁸	
Designated Disaster Area ⁷	
Repayment Accommodation	3-year maximum for variable interest rate; 5-year maximum for income-sensitive repayment
Death	Date lender receives reliable notification of death to date lender receives death certificate or other acceptable documentation, not to exceed 60 days
Teacher Loan Forgiveness ^{2,6}	The period while the lender is awaiting a completed loan forgiveness application, not to exceed 60 days Date lender receives a completed loan forgiveness application to date lender receives either a denial or the loan forgiveness amount from the guarantor
Administrative	
Borrower Ineligible for Deferment ⁶	Beginning date to ending date of the ineligible deferment
Delinquency before a Deferment or Certain Forbearances ⁶	First date of overdue payment to the day before the beginning date of deferment or other forbearance type
Forgiveness under Income-Based Repayment ⁶	<u>60 days for lender to collect and process documentation supporting borrower's eligibility</u>
Late Notification of Out-of-School Dates ⁶	Date borrower should have entered repayment to date first or next payment was established
Bankruptcy Filing ⁶	The earlier of the first date of overdue payment or receipt of reliable information that the borrower has filed bankruptcy to date of discharge determination or repurchase
Total and Permanent Disability ⁶	Date lender receives physician's written request for additional time to date lender receives a complete, certified loan discharge application or other form(s) approved by the Department, if the borrower submits the certification to the lender within 90 days of the date the physician certified the application, not to exceed 60 days For a non-disabled comaker, the earlier of the date that the lender receives the loan discharge application or the date the lender receives notice from the guarantor that one comaker is totally and permanently disabled, to the date that the lender receives notice of the final discharge determination.

TYPE	LENGTH
Spouses and Parents of September 11, 2001, Victims ⁶	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination
Repurchase of a Non-Bankruptcy Claim ⁶	The period that the loan was held by the guarantor due to a claim purchase
Death	Date after mandatory administrative forbearance due to reliable notification of death ends to date lender receives death certificate or other acceptable documentation, not to exceed 60 days
Closed School	Period of unofficial closure notice as specified by guarantor
Closed School or False Certification ⁶	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination
False Certification—Identity Theft ⁶	Date eligibility requirements sent to individual to date request and documentation returned, not to exceed 60 days; and from date guarantor receives documentation to date of determination
Delinquency after Deferment or Mandatory Forbearance ⁶	Deferment or mandatory forbearance end date to establishment of next payment due date
Documentation Collection and Processing ⁶	Date borrower requests deferment, forbearance, change in repayment plan, or loan consolidation to date supporting documentation is processed by lender, not to exceed 60 days
Unpaid Refund Discharge	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination The period during guarantor review and ending on the date lender receives the guarantor's determination for a borrower who requests a review of a denial determination
Unpaid Refund ⁶	End date of initial 60-day mandatory administrative forbearance to receipt of completed discharge request, and during period of determination of discharge eligibility
New Out-of-School Dates after Conversion ⁶	Original repayment start date to adjusted start date
Loan Sale or Transfer ⁶	First date of delinquency to date loan is sold or transferred, if the loan is less than 60 days delinquent
Ineligible Summer Bridge Extension ⁶	Day after expiration of borrower's last in-school deferment to the 30th day after fall classes begin
Cure ⁶	Date of earliest unexcused violation to date lender receives a full payment or new signed repayment agreement
Natural Disasters, Local or National Emergency, Military Mobilization ⁶	From date borrower affected, not to exceed 3 months for each occurrence
Repayment Alignment-SLS/Stafford ⁴	First payment due date to last day of the longest applicable Stafford loan grace period

Note: For detailed information about each forbearance situation, refer to the applicable subsection.

¹ Lender must document the borrower's request, the reason for the forbearance, and the terms of the forbearance agreement.

² For borrowers only.

³ A request and supporting documentation from the authorized official(s) indicating the beginning and ending dates, and a verbal or written agreement are required.

⁴ A request is required.

⁵ A request and supporting documentation of monthly income and monthly payments on Title IV education loan obligations, and a verbal or written agreement are required.

⁶ Lender must notify the borrower (or individual or endorser, if applicable) and document the beginning and ending dates and reason for the forbearance in borrower history record.

⁷ Notice from the Department or guarantor is required.

⁸ Documentation showing borrower is subject to a military mobilization is required.

⁹ A request and a completed FFELP Child Care Provider Loan Forgiveness Forbearance Form are required.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Rebuttable Presumption

AFFECTED SECTIONS: 3.4.C Permitted and Prohibited Activities
18.1 Actions to Limit, Suspend, or Terminate Participation

POLICY INFORMATION: 1120/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Effective for administrative actions against lenders on or after July 1, 2008.

BASIS: §682.705(c); §682.706(d).

CURRENT POLICY: Current policy does not address rebuttable presumption in actions by the Department to limit, suspend, or terminate a lender’s eligibility to participate in FFELP.

REVISED POLICY: Revised policy includes the use of rebuttable presumption by the Department in administrative actions against lenders that involve violations of the prohibited inducement provisions.

REASON FOR CHANGE: This change is necessary to comply with the final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 61976, 61977, and 62009.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 3.4.C, page 11, column 2, paragraph 3, as follows:

Note: Subsection 3.4.C is also being updated as part of Policy Proposal 1082 in Batch 156.

These prohibitions do not preclude a lender—when buying loans that were originally made by a school—from obtaining a warranty from the seller to cover future reductions by the Department or a guarantor in computing the amount of loss payable on default claims caused by a seller’s or previous holder’s act or failure to act.

If warranted, the Department or a guarantor will notify a lender that an action is pending to limit, suspend, or terminate its eligibility to participate in the FFELP. In any such action, if the Department, its designee, or Hearing Officer finds that the lender offered or provided payments or activities that violate the inducement provisions, listed in this subsection under Prohibited Activities, the Department or the Hearing Officer will apply a rebuttable presumption that the payments or activities were offered or provided to secure FFELP loan applications or FFELP loan volume. To reverse this presumption, the lender must present evidence that the activities or payments in which the lender engaged were provided for a reason unrelated to securing applications for FFELP loans or securing FFELP loan volume. The lender will be given an opportunity to appeal such an action or to present evidence that the activities in which the lender was engaged were provided for a reason unrelated to securing application for FFELP loans or securing loan volume. For more information on limitation, suspension, and termination actions, see Chapter 18. [§682.705(b) and (c); §682.706(a) and (d); §682.707]

Revise Section 18.1, page 1, column 1, paragraph 5, as follows:

Note: Section 18.1 is also being updated as part of Policy Proposal 1117 in Batch 158.

When an LS&T Action May be Warranted

A guarantor may initiate a limitation, suspension, or termination action if it obtains reliable information demonstrating any of the following:

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

In any action to limit, suspend, or terminate a lender's eligibility to participate in the FFELP, if the Department, its designee, or a Hearing Officer finds that a lender provided or offered any of the payments or activities that violate the inducement provisions (see Subsection 3.4.C under *Prohibited Activities*) the Department or Hearing Officer will apply a rebuttable presumption that the payments or activities were offered or provided to secure FFELP loan applications or FFELP loan volume. To reverse the presumption, the lender must present evidence that the activities or payments were provided for a reason unrelated to securing applications for FFELP loans or securing FFELP loan volume.

An LS&T action does not limit an entity's responsibility to comply with all requirements applicable to FFELP participation—nor does an LS&T action limit the entity's right, if any, to benefits or payments based on previous participation in the guarantor's programs.

If the Department restricts an entity's FFELP eligibility through an LS&T action or emergency action, federal law requires that guarantors impose the same restriction on the entity.

PROPOSED LANGUAGE - COMMON BULLETIN:

Rebuttable Presumption

The *Common Manual* has been revised by including the use of rebuttable presumption in any action to limit, suspend, or terminate a lender's eligibility to participate in the FFELP, if the Department, its designee, or a Hearing Officer finds that a lender violated the inducement provisions through payments or activities provided to secure FFELP loan applications or loan volume. To reverse the presumption, a lender must present evidence that the activities or payments were provided for a reason unrelated to securing applications for FFELP loans or securing FFELP loan volume.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

A lender needs to document its compliance with the inducement provisions. In a limitation, suspension, or termination action, the lender must be able to provide evidence that its actions did not violate the prohibited inducement provisions.

Guarantor:

None.

U.S. Department of Education:

The Department may need to amend its limitation, suspension, and termination processes with respect to lenders.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
November 14, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

ce/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: Competitive Loan Auction Pilot Program for PLUS Loans

AFFECTED SECTIONS: Chapter 3 Lender Participation

POLICY INFORMATION: 1121/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Parent PLUS loans for new borrowers originated on or after July 1, 2009.

BASIS:
HEA §499; DCL GEN-08-01/FP-08-01.

CURRENT POLICY:
Current policy does not contain information about the Competitive Loan Auction Pilot Program for PLUS loans.

REVISED POLICY:
Revised policy adds information regarding the Competitive Loan Auction Pilot Program for PLUS loans.

Note: As of the publication date of the Manual, the Department has not implemented this program. However, the Manual is being updated with the basic program parameters as outlined in statute and Departmental guidance.

REASON FOR CHANGE:
This change aligns the Manual's text with provisions in the College Cost Reduction and Access Act (CCRAA) of 2007, P.L. 110-84 and the Higher Education Opportunity Act (HEOA), P.L. 110-315 regarding the Competitive Loan Auction Pilot Program provisions.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Chapter 3, page 21, column1, by adding a new Section 3.8 after paragraph 4, and moving the current text into a new Section 3.9, as follows:

3.8
Independent Audits
Competitive Loan Auction Pilot Program for PLUS Loans

Note: As of the publication date of the Manual, the Department has not implemented this program. However, the following text provides basic program parameters as outlined in statute and Departmental guidance.

The College Cost Reduction and Access Act (CCRAA) of 2007 (P.L. 110-84) directs the Department to undertake a pilot program to establish an auction process to determine the eligible lenders to originate and disburse all parent PLUS loans to new parent borrowers beginning July 1, 2009. The Department must administer a competitive auction for each state every 2 years. Lenders with winning bids are the only FFELP lenders permitted to originate parent PLUS loans for the cohort of dependent students at schools within a state until those students leave or graduate from those schools.

A bid consists of the amount of the special allowance payment that a lender proposes to accept from the the Department for the PLUS loans the lender makes. The winning bids for each state auction are the two bids with the lowest and second-lowest proposed special allowance payment. If there are no winning bids in a state, students and schools in the state will be served by a lender-of-last resort (LLR) specific to this pilot program as selected by the Department from among lenders indicating an interest to serve in this capacity. In determining

the amount of special allowance paid to the LLR, the Department takes into account the lowest bid that was submitted in that state auction and the lowest bid submitted in a similar state.

Each PLUS loan originated under this program is insured at 99 percent of the unpaid principal and interest due on the loan.

[HEA §499; DCL GEN-08-01/FP-08-01]

Consolidation Loans

A pilot program lender may consolidate a borrower's PLUS loans made under this program under certain conditions. The borrower must first notify the pilot lender of his or her intent to consolidate with another lender and provide in that notice the terms and conditions of the Consolidation loan being offered by the other lender. Within 10 days, the pilot program lender must agree to match the terms and conditions of the other lender's loan. Otherwise, the borrower may consolidate with the other lender. The pilot program lender may also consolidate the borrower's Direct PLUS or other FFELP PLUS loans. For Direct PLUS loans, the pilot program lender must agree within 10 days to match the terms and conditions available under the Direct Consolidation loan program. In the case of any other FFELP PLUS loan made on behalf of a dependent student, the pilot program lender must agree within 10 days to match the other lender's terms and conditions.

The special allowance paid to pilot program lenders on FFELP Consolidation loans is the lesser of the following:

- The weighted average of the special allowance payments on the loans consolidated (excluding Direct PLUS loans).
- The 3-month average commercial paper rate plus 1.59 percent.

A pilot program lender who consolidates a PLUS loan under this program is not subject to an interest payment rebate fee on the Consolidation loan.

[HEA §499; DCL GEN-08-01/FP-08-01]

3.9

Independent Audits

...

3.9.A

Annual Compliance Audits

...

3.9.B

Third-Party Servicer Audits

...

PROPOSED LANGUAGE - COMMON BULLETIN:

Competitive Loan Auction Pilot Program for PLUS Loans

The *Common Manual* is revised to include information about the Competitive Loan Auction Pilot Program.

Note: As of the publication date of the Manual, the Department has not implemented this program. However, the Manual is being updated to provide basic program parameters as outlined in statute and Departmental guidance.

The College Cost Reduction and Access Act (CCRAA) of 2007 (P.L. 110-84) directs the Department to undertake a pilot program to establish an auction process to determine the eligible lenders to originate and disburse all parent PLUS loans to new parent borrowers beginning July 1, 2009. The Department must administer a competitive auction for each state every 2 years. Lenders with winning bids are the only FFELP lenders permitted to originate parent PLUS loans for the cohort of dependent students at schools within a state

until those students leave or graduate from those schools.

A bid consists of the amount of the special allowance payment that a lender proposes to accept from the Department for the eligible PLUS loans the lender makes. The winning bids for each state auction are the two bids with the lowest and second-lowest proposed special allowance payment. If there are no winning bids in a state, students and schools in the state will be served by a lender-of-last resort (LLR) specific to this pilot program as selected by the Department from among lenders indicating an interest to serve in this capacity. In determining the amount of special allowance paid to the LLR, the Department takes into account the lowest bid that was submitted in that state auction and the lowest bid submitted in a similar state.

Each PLUS loan originated under this program is insured at 99 percent of the unpaid principal and interest due on the loan.

A pilot program lender may consolidate a borrower's PLUS loans made under this program under certain conditions. The borrower must first notify the pilot lender of his or her intent to consolidate with another lender and provide in that notice the terms and conditions of the Consolidation loan being offered by the other lender. Within 10 days, the pilot program lender must agree to match the terms and conditions of the other lender's loan. Otherwise, the borrower may consolidate with the other lender. The pilot program lender may also consolidate the borrower's Direct PLUS or other FFELP PLUS loans. For Direct PLUS loans, the pilot program lender must agree within 10 days to match the terms and conditions available under the Direct Consolidation loan program. In the case of any other FFELP PLUS loan made on behalf of a dependent student, the pilot program lender must agree within 10 days to match the other lender's terms and conditions.

The special allowance paid to pilot program lenders on FFEL Consolidation loans is the lesser of the following:

- The weighted average of the special allowance payments on the loans consolidated (excluding Direct PLUS loans), or
- The 3-month average commercial paper rate plus 1.59 percent.

A pilot program lender who consolidates a PLUS loan under this program is not subject to an interest payment rebate fee on the Consolidation loan.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A parent PLUS loan borrower's choice of lender for a FFELP PLUS loan is severely limited under the pilot program. Approval of parent PLUS loans may be delayed due to the timing of the implementation of this program.

School:

A school may need to change procedures and systems every 2 years to accommodate working with the states bid-winning lenders or lender-of-last resort, as applicable. A school may need to delay packaging for students due to the timing of the implementation of this program.

Lender/Service:

A lender may or may not be allowed to originate FFELP parent PLUS loans in a given state. A lender that wins the bid or the lender-of-last resort, as applicable, may receive low special allowance payments, however will receive insurance of 99 percent of the current principle balance plus unpaid interest.

Guarantor:

A guarantor may need to update processes and procedures to pay insurance for loans under this pilot program at 99 percent of the current principle balance plus unpaid interest.

U.S. Department of Education:

The Department is required to develop a mechanism to hold a bid process in each state and develop policies and procedures for this pilot program. The Department may need to update its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 16, 2009

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designee

Interested Industry Groups and Others

ma/edited - chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: Program Participation Agreement (PPA)

AFFECTED SECTIONS: 4.1.A Establishing Eligibility
4.1.E School Code of Conduct
Appendix G

POLICY INFORMATION: 1122/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: School participating in a Title IV loan program on or after August 14, 2008.

BASIS:

HEA §151(5), §487(a)(25), and §487(e), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP 08-10.

CURRENT POLICY:

Current policy does not restrict a school from requesting or accepting funds from a lender for private education loans and does not require a school to have a code of conduct.

REVISED POLICY:

Revised policy adds, as part of a school's Program Participation Agreement (PPA), the requirement that a school may not request or accept funds from a lender for private education loans, including opportunity pool loans, in exchange for FFELP loan volume or a preferred lender arrangement. Also, the PPA requires a school to develop, publish, administer and enforce a code of conduct.

A school's code of conduct must prohibit school officers, employees and agents from:

- Entering into revenue sharing arrangements.
- Receiving certain gifts.
- Accepting certain compensation.
- Assigning a lender to a first-time borrower.
- Delaying or refusing to certify a loan based on the borrower's choice of lender or guaranty agency.
- Requesting or accepting funds from a lender for private education loans in exchange for promises or concessions.
- Requesting or accepting certain staffing assistance from a lender.
- Receiving anything of value for service on any advisory board, commission, or group established by a lender or guarantor except for reimbursement of certain reasonable expenses.

Finally, the Glossary has been updated with the addition of the terms "institutional-affiliated organization", "opportunity pool loans", and "preferred lender arrangement".

REASON FOR CHANGE:

The change is necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.1.A, Page 3, column 1, by adding new bullets, as follows:

By entering into a Program Participation Agreement (PPA), the school agrees to comply with all requirements specified in statute and federal regulations, including, but not limited to:

...

- The school will not provide any commission, bonus, or other incentive payment to a person or entity engaged in student recruitment or admission activities or in making decisions regarding the awarding of Title IV aid, based directly or indirectly upon the success of securing enrollments or financial aid. This prohibition does not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Title IV aid. (See subheading “Permissible Incentive Compensation” later in this subsection for a list of permissible activities that do not violate this provision). [§668.14(b)(22)(i)]
- The school may not request or accept from any lender any offer of funds to be used for private education loans, including funds from an opportunity pool, to students in exchange for the school providing concessions or promises to the lender, including the following:
 - A specified number or volume of FFELP loans made, insured, or guaranteed.
 - A preferred lender arrangement for FFELP loans.
[HEA §487(e)(5)]
- The school must develop, publish, administer, and enforce a School Code of Conduct that meets the minimum requirements as described in Subsection 4.1.E. The code of conduct applies to the school's employees and each institution-affiliated organization that has a preferred lender arrangement for the purpose of offering FFELP or private education loans. The school, and institution-affiliated organizations that have a website, must publish the code prominently on its website. Also, the school must annually inform any of its employees or agents who have responsibilities with respect to education loans of the code's provisions.
[HEA §151(5); HEA §487(a)(25); DCL GEN-08-12/FP-08-10]

Add a new Subsection 4.1.E, after Subsection 4.1.D as follows:

4.1.E School Code of Conduct

As part of a Program Participation Agreement (PPA), the school must develop, publish, administer, and enforce a code of conduct that applies to the officers, employees, and agents of the school.

The code of conduct must include the following prohibitions:

- Ban on revenue-sharing arrangements. A school may not enter into a revenue-sharing arrangement with any lender. A revenue-sharing arrangement is defined as any arrangement between a school and a lender under which the lender makes Title IV loans to students attending the school (or to the families of those students), the school recommends the lender or the loan products of the lender and, in exchange, the lender pays a fee or provides other material benefits, including revenue or profit-sharing, to the school or to its officers, employees, or agents.
[HEA §487(e)(1); DCL GEN-08-12/FP-08-10]
- Gift ban. An employee of a school financial aid office may not receive gifts from a lender, servicer, or guarantor. An officer, employee, or agent of a school's financial aid office or a school officer or agent who has responsibilities with respect to education loans are banned from soliciting or accepting any gifts from a lender, servicer, or guarantor. A “gift” is defined as any gratuity, favor, discount, entertainment, hospitality, loan, or other item having monetary value of more than a *de minimus* amount. Exceptions to this gift ban include the following:
 - The school may accept brochures, workshops, or trainings using standard materials relating to a loan, default aversion and prevention, or financial literacy.
 - The school may accept food, training, or informational material provided as

part of a training session designed to improve the service of a lender, guarantor, or servicer if the training contributes to the professional development of the school's officer, employee or agent.

- The school may accept favorable terms and benefits on an education loan provided to a student employed by the school if those terms and benefits are comparable to those provided to all students at the school.
- A lender or guarantor may conduct entrance and exit counseling at a school, as long as the school's staff are in control of the counseling and the counseling does not promote the services of a specific lender.
- The school may accept philanthropic contributions from a lender, guarantor, or servicer that are unrelated to education loans or any contribution that is not made in exchange for advantage related to education loans.
- The school may accept education grants, scholarships, or financial aid funds administered by or on behalf of a state.

[HEA §487(e)(2); DCL GEN-08-12/FP-08-10]

- A school officer, employee, or agent working in the school's financial aid office or who has responsibilities with respect to education loans may not accept from a lender, or affiliate of any lender, any fee, payment, or other financial benefit as compensation for any type of consulting arrangement or contract to provide services to or on behalf of a lender relating to education loans.
[HEA §487(e)(3); DCL GEN-08-12/FP-08-10]
- A school may not assign, through the award packaging or other methods, a lender to a first-time borrower. In addition, the school may not delay or refuse to certify a loan based on the borrower's choice of a particular lender or guaranty agency.
[HEA §487(e)(4); DCL GEN-08-12/FP-08-10]
- A school may not request or accept funds from a lender for private education loans, including funds for opportunity pool loans, to its student in exchange for providing concessions or promises to the lender for a specific number of FFELP loans made, insured, or guaranteed, a specified loan volume, or a preferred lender arrangement.
[HEA §487(e)(5); DCL GEN-08-12/FP-08-10]
- A school may not request or accept assistance from a lender with call center or financial aid office staffing. However, a school can receive assistance from a lender in the form of professional development training, educational counseling materials as long as the materials identify the lender that assisted in preparing the materials, and short-term non-recurring staffing assistance during emergencies or disasters.
[HEA §487(e)(6); DCL GEN-08-12/FP-08-10]
- Any employee of the school's financial aid office or who has responsibilities with respect to education loans or financial aid that serves on an advisory board, commission, or group established by a lender or guarantor, or group of lenders or guarantors, is prohibited from receiving anything of value for the service except for reimbursement of reasonable expenses incurred by the employee for service on the board.
[HEA §487(e)(7); DCL GEN-08-12/FP-08-10]

Revise Appendix G, page 11, column 2, by adding a new definition after paragraph 2, as follows:

Institution-affiliated Organization: Any organization directly or indirectly related to a school, that is engaged in the practice of recommending, promoting, or endorsing education loans for students attending that school or their families. Such an organization may include an alumni organization, athletic organization, foundation, or social, academic, or professional organization of a school.

Revise Appendix G, page 14, column 2, by adding a new definition after paragraph 1, as follows:

Opportunity Pool Loan: A private education loan made by a lender to a student (or the student's family) that involves a payment by the school to the lender for extending credit to the student.

Revise Appendix G, page 15, column 2, by adding a new definition after paragraph 3, as follows:

Preferred Lender Arrangement: An arrangement or agreement between a lender and a school or an institution-affiliated organization, under which the lender provides or otherwise issues FFELP or private education loans to students attending the school (or the students' families) and involves the school or institution-affiliated organization in recommending, promoting, or endorsing the lender's education loan products. Such an arrangement does not include a school participating in the Direct Loan Program or arrangements or agreements under the PLUS auction pilot program.

PROPOSED LANGUAGE - COMMON BULLETIN:

School Code of Conduct

The *Common Manual* has been revised to include the changes made by the Higher Education Opportunity Act (HEOA), P.L. 110-315 relating to the agreements in a school's Program Participation Agreement (PPA). The updated PPA requires that a school may not request or accept funds from a lender for private education loans, including opportunity pool loans, in exchange for FFELP loan volume or a preferred lender arrangement. Also the PPA requires a school to develop, publish, administer and enforce a code of conduct.

A school code of conduct must prohibit school officers, employees and agents from:

- Entering into revenue sharing arrangements.
- Receiving certain gifts.
- Accepting certain compensation.
- Assigning a lender to a first-time borrower.
- Delaying or refusing to certify a loan based on the borrower's choice of lender or guaranty agency.
- Requesting or accepting funds from a lender for private education loans in exchange for promises or concessions.
- Requesting or accepting certain staffing assistance from a lender.
- Receiving anything of value for service on any advisory board, commission, or group established by a lender or guarantor except for reimbursement of certain reasonable expenses.

Finally, the Glossary has been updated with the addition of the terms "institutional-affiliated organization", "opportunity pool loans", and "preferred lender arrangement".

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may be advised of loan options by a school with a greater emphasis on how each option relates to the best interests of the borrower and student.

School:

A school may need to create and publish a code of conduct, or to amend an existing code of conduct, and to inform and train applicable staff regarding the code. The school may need to establish new policies to ensure compliance with the Program Participation Agreement.

Lender/Service:

A lender may not offer a school funds for private education loans in exchange for promises or concessions of a specific number or volume of FFELP loans or a preferred lender arrangement.

Guarantor:

A guarantor may be required to modify school program review standards.

U.S. Department of Education:

The Department may be required to modify school program review standards.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

August 14, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designee

Interested Industry Groups and Others

bmf/edited-rrl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2008

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Permissible and Prohibited Assistance Provided to Schools

AFFECTED SECTIONS: 4.1 Institutional Eligibility

POLICY INFORMATION: 1123/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Assistance provided to a school by a lender or guarantor on or after August 14, 2008.

BASIS:

HEA §435(d) and (e); and §487(e), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12.

CURRENT POLICY:

Current policy includes the permitted and prohibited activities of a lender in Subsection 3.4.C, but does not include information in Section 4.1 about permissible and prohibited assistance provided to schools by lenders and guarantors that is contained in the Higher Education Opportunity Act (HEOA).

REVISED POLICY:

Revised policy adds information on the permissible and prohibited assistance schools receive from lenders and guarantors as outlined in regulations and HEOA.

REASON FOR CHANGE:

This change is necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 4.1 by adding a new Subsection 4.1.F, after Subsection 4.1.E, as follows:

Note: Section 4.1 is also being updated as part of Policy Proposal 1122 in Batch 159 which includes adding a new Subsection 4.1.E, Code of Conduct.

4.1.F

Permissible and Prohibited Services Provided to Schools

Permitted Activities

A school may request or accept any of the following types of assistance or borrower benefits from a lender or guarantor:

- Technical Assistance comparable to assistance provided by the Department under the Federal Direct Loan Program.
[HEA §435(d)(5); §682.200 definition of *lender*]
- Student aid or financial literacy-related outreach activities, as long as the name of the entity that developed and paid for any materials is provided to the participants and those materials do not promote the lender's or guarantor's student loan or other products.
[HEA 487(e)(6)(ii)]
- Professional development training for financial aid administrators.
[HEA 487(e)(6)(i)]
- Meals, refreshments, and receptions that are reasonable in cost and scheduled in conjunction with training, meeting, or conference events, if they are open to all training,

meeting, or conference attendees.
[HEA 487(e)(7)]

- Toll-free numbers for use by a school or others to obtain information about FFELP loans.
[\$682.200 definition of lender]
- Free data transmission service to use in electronically submitting loan information or student status information or confirmation date.
[\$682.200 definition of lender]
- A reduced origination fee as long as the fees are assessed equally to all Stafford borrowers unless a borrower demonstrates a “greater financial need.” (See Subsection 3.5.A for more information regarding the assessment of fees.)
- A reduced interest rate.
[\$682.200 definition of lender]
- Payment of the federal default fee on behalf of the FFELP borrower.
[\$682.200 definition of lender]
- Items of nominal value that are offered as a form of generalized marketing or advertising, or to create good will.
[\$682.200 definition of lender]
- Educational counseling materials, financial literacy materials, or debt management materials, provided that the materials disclose the identity of who prepared or provided the materials.
[HEA 487(e)(6)(ii)]
- Exit counseling, as long as the school’s staff is in control of the counseling, whether in person or via electronic capabilities, and so long as the counseling does not promote the products or services of any specific lender.
[\$682.200 definition of lender]
- Staffing services on a short-term, nonrecurring basis to assist with financial aid-related functions on an emergency basis.
[HEA §435(e)(6)(B)(iii)]
- Reimbursement for reasonable expenses incurred in serving on an advisory board, committee, or group established by a lender or guarantor.
[HEA §435(e)(7)]

Prohibited Activities

The following activities are prohibited by federal regulations and may result in a loss of the school’s FFELP eligibility:

- Payments or other benefits to the school, school-affiliated organization, or to any individual in exchange for FFELP loan applications, referrals, or a specified volume or dollar amount of loans made, or placement on a school’s list of recommended or suggested lenders or guarantors.
[HEA 435(d)(5)(G) ; \$682.200 definition of lender]
- Entering into any type of consulting arrangement or other contract with an employee in the financial aid office of a school or an employee who has responsibilities with respect to student loans or other financial aid at the school, to provide services to the lender.
[HEA §435(d)(5)(C)]
- Accepting FFELP loans—directly or indirectly—points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of

information technology equipment at below-market value, additional financial aid funds, or other inducements to any employee of the school to secure applications for FFELP loans or to secure FFELP loan volume.

[HEA §435(d)(5)(H); §682.200 definition of lender]

- Performing for or paying another person to perform any function that the school is required to perform under any Title IV program. A lender may participate in person in a school's required exit counseling as long as the school's staff is in control of the counseling, whether in person or via electronic capabilities, and so long as the counseling does not promote the products or services of any specific lender.
[HEA §435(d)(5)(E) and (F); HEA §487(e)(2)(B)(ii)(IV)]
- Call center or financial aid office staffing services, except for services provided to participating foreign schools at the direction of the Department, as a third-party servicer or otherwise on more than a short-term, emergency basis, to assist a school with financial aid-related functions.
[HEA §435(d)(6)(A)§487(e)(6)(A) and (B) (iii); §682.200(b)]
- Participating in person in a school's required entrance counseling.
[HEA §435(d)(5)(E)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Permissible and Prohibited Assistance Provided to Schools

The *Common Manual* has been updated to include the types of assistance a school may or may not accept from a lender or guarantor. The Higher Education Opportunity Act (HEOA) modified the list of services that a school is permitted to accept to include professional development training for financial aid administrators; educational counseling materials, financial literacy materials, or debt management materials for students and borrowers provided those materials disclose to the recipient who developed and provided the materials; and clarified that a school employee may be reimbursed for reasonable expenses incurred in serving on a lender's or guarantor's financial aid advisory board, commission, or similar group. The HEOA restricted the school from receiving any assistance with a call center and the lender or guarantor from entering into any type of consulting arrangement or other contract with an employee of the school with respect to student loans or other financial aid at the school.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

A school may need to assess those activities and services that it currently receives from guarantors and lenders to ensure that it complies with restrictions, and conversely may be able to avail themselves of some services that it had previously believed were prohibited.

Lender/Servicer:

A lender/servicer may be required to revise its policies and procedures to ensure compliance.

Guarantor:

A guarantor may need to amend its policies and procedures to ensure compliance. A guarantor may also need to revise program review procedures.

U.S. Department of Education:

The Department may need to revise its program review procedures.

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:

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

om/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: Ability to Benefit

AFFECTED SECTIONS: 5.10 Ability-to-Benefit Provisions

POLICY INFORMATION: 1124/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Awards of Title IV assistance made on or after August 14, 2008.

BASIS:

HEA §484(d)(4), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy allows a student without a high school diploma or its equivalent to become eligible to receive Title IV funding only after a Department-approved test of the student's ability to benefit has been administered and the student's ability to benefit from the program has been established.

REVISED POLICY:

Revised policy expands the ability to benefit criteria and allows a student without a high school diploma or its equivalent to become eligible to receive Title IV funding upon satisfactory completion of six credit hours or equivalent coursework that is applicable toward a degree or certificate offered by the school.

REASON FOR CHANGE:

The change is necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 5.9, page 13, column 2, paragraph 2, as follows:

**5.9
Required High School Diploma or Equivalent**

To be eligible for FFELP funds, the borrower, or the dependent student for whom a parent seeks a PLUS loan, must have a high school diploma or its equivalent, or must ~~receive a passing score on an approved ability-to-benefit test~~ demonstrate an ability to benefit from a program of study offered by a postsecondary institution (see Section 5.10 for more information on ability-to-benefit provisions). The following are considered equivalent to a high school diploma for establishing Title IV eligibility:
[§668.32(e)(1) and (2)]

- ...

Revise Section 5.10, page 14, column 1, paragraph 1, by adding a new 4th bullet as follows:

**5.10
Ability-to-Benefit Provisions**

To receive Title IV assistance, a student without a high school diploma or its equivalent must demonstrate the potential to succeed in (i.e., an ability to benefit from) a program of study in offered by a postsecondary institution. A student who is admitted on an ability-to-benefit (ATB) basis must meet one of the following requirements:
[§668.32(e); §682.201(a)(8)]

- The student takes—and achieves at least a passing score as specified by the U.S. Department of Education; on—an independently administered test that has been approved by the Department to establish (according to the Department’s criteria) whether the student has the ability to benefit from the education or training being offered. The independent administrator for the ATB test must be an individual or organization that has been certified by the test publisher and has no fiscal interest in the school.
[§668.141(a)(1)]
- The student obtains a passing score on a Department-approved state test or assessment.
[§668.141(a)(1)]
- The student is enrolled in an eligible school that participates in a state-approved testing process that is approved by the Department.
[§668.141(a)(2)]
- The student satisfactorily completes six credit hours or equivalent coursework that is applicable toward a degree or certificate offered by the school. The student is ineligible to receive Title IV assistance while earning the six credit hours or their equivalent.
[HEA §484(d)(4); DCL GEN-08-12/FP-08-10]

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

Ability-to-Benefit: (ATB): Basis on which a student without a high school diploma, a recognized equivalent, or a General Education Development (GED) Certificate may qualify for federal student aid. A student that passes an approved test or has satisfactorily completed at least six credit hours or equivalent coursework applicable toward a degree or certificate offered by the school may qualify for federal student aid. The Department maintains a list of approved tests for measuring a student’s ability to benefit from the educational program the student seeks. The test must be administered before the school admits the student. See Section 5.10.

Revise Appendix G, page 11, column 2, paragraph 3, as follows:

Institution of Higher Education (Institution): A school that:

- Is located in a state (see State).
- Admits as a regular student only a person who has a certificate of graduation from a secondary school or a recognized equivalent or is beyond the age of compulsory school attendance in the state in which the school is physically located and has demonstrated the ability to benefit (*see Ability-to-Benefit*) from the school’s education or training program ~~by passing a federally approved standardized test.~~
- ...
- ...

See Participating School and School.

PROPOSED LANGUAGE - COMMON BULLETIN:

Ability-to-Benefit

The *Common Manual* has been revised to incorporate a provision of the Higher Education Opportunity Act (HEOA) that expands the methods by which a student may demonstrate an ability to benefit from a postsecondary program of study and updates the definitions in the glossary pertaining to ability to benefit. As an alternative to passing a Department-approved ability to benefit test, the new provision allows a student who does not have a high school diploma or its equivalent to demonstrate an ability to benefit by satisfactorily completing six credit hours or equivalent coursework that is applicable toward a degree or a certificate offered by the school. A student who completes those hours or their equivalent becomes eligible for Title IV assistance. A student is not eligible for Title IV assistance while earning the six credit hours or their equivalent.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower's ability to benefit may also be demonstrated through the satisfactory completion of six credit hours or equivalent coursework that is applicable toward a degree or a certificate offered by the school.

School:

A school, in addition to the ATB requirements that already exist, may document that a student has an ability to benefit from a program by documenting that the student has satisfactorily completed six credit hours or equivalent coursework that is applicable toward a degree or a certificate offered by the school.

Lender/Service:

None.

Guarantor:

A guarantor may be required to revise program review criteria for determining how a school determines a student's ability to benefit.

U.S. Department of Education:

The Department may be required to revise program review criteria for determining how a school determines a student's ability to benefit.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

August 14, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designee
Interested Industry Groups and Others

bmf/edited -rrl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Independent Student Definition

AFFECTED SECTIONS: 6.8 Determining the Student's Dependency Status

POLICY INFORMATION: 1125/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: For dependency determinations made for the 2009-2010 award year.

BASIS:

HEA §480(d)(1), as amended by the College Cost Reduction and Access Act (CCRAA) of 2007, P.L. 110-84 and the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-01; DCL GEN-08-12; 2009-2010 *Free Application for Federal Student Aid (FAFSA)*.

CURRENT POLICY:

Current policy for the definition of independent student does not include the changes brought forth by the College Cost Reduction and Access Act (CCRAA) or the clarifications contained in the Higher Education Opportunity Act (HEOA).

REVISED POLICY:

Revised policy incorporates the changes made to the definition of independent student by CCRAA, as well as incorporates the clarifications made to that definition through HEOA. Although the specific HEOA changes are not effective until July 1, 2010, the Department has updated the 2009-2010 FAFSA to reflect the changes. As a result, the *Common Manual* is being updated to reflect the HEOA clarifications.

Revised policy amends the independent student criteria related to a student who is an orphan or ward of the court by including reference to foster care, and clarifying that if the student was an orphan or ward of the court at any time when the student was 13 years of age or older, the student is considered an independent student.

Revised policy adds two new criteria for determining a student's independent status. The first criterion states that if a student is or was (immediately prior to attaining the age of majority) an emancipated minor or in legal guardianship as determined by a court in the student's state of legal residence, the student is considered independent.

The second criterion states that if the student has been verified, after the start of the academic year for which the FAFSA is filed, as either an unaccompanied youth who is a homeless child or an unaccompanied youth at risk of being homeless and self supporting, the student is considered independent. For purposes of this criterion, the following definitions apply:

- "Homeless" means lacking fixed, regular, and adequate housing, which includes living in shelters, motels or cars, or temporarily living with other people because the student has nowhere else to go.
- "Unaccompanied" means that the student is not living in the physical custody of his or her parents or guardian.
- "Youth" means 21 years of age or younger and the student is still in high school as of the day the FAFSA is completed.

Homeless status can be verified by any one of the following entities:

- A local educational homeless liaison designated pursuant to the McKinney-Vento Homeless Assistance Act.
- The director of an emergency shelter or transitional housing program funded under the Runaway and Homeless Youth Act.
- The director of a program funded under the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants).
- The financial aid administrator.

REASON FOR CHANGE:

This change is necessary to incorporate changes made to the definition of independent student included in both CCRAA and HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: Section 6.8 is also being updated as part of Policy Proposals 1107 in Batch 157 and 1126 in Batch 159.

Revise Section 6.8, page 19, column 2, paragraph 2, as follows:

Determining the Student's Dependency Status

A student's dependency status is determined from information provided on the Free Application for Federal Student Aid (FAFSA). A student's dependency status affects the expected family contribution (EFC) and the types and amounts of aid that the student may be eligible to receive.

For purposes of Title IV aid, a student is considered independent if he or she meets one or more of the following criteria:

- The student is at least 24 years old by December 31 of the award year.
- The student is an orphan, in foster care, or ward/dependent of the court, or was an orphan or a ward/dependent of the court until he or she reached age 18 at any time when the student was 13 years of age or older.
[HEA §480(d)(1)(B); DCL GEN-08-01; DCL GEN-08-12]
- The student is or was, immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court in the student's state of legal residence.
[HEA §480(d)(1)(C); DCL GEN-08-01; DCL GEN-08-12]
- The student has been verified, after the start of the academic year for which the FAFSA is filed, as either an unaccompanied youth who is a homeless child or an unaccompanied youth at risk of being homeless and self supporting. For purposes of this criteria, the following definitions apply:
 - Homeless means lacking fixed, regular, and adequate housing, which includes living in shelters, motels or cars, or temporarily living with other people because the student has nowhere else to go.
 - Unaccompanied means the student is not living in the physical custody of his or her parents or guardian.
 - Youth means 21 years or age or younger and the student is still in high school as of the day the FAFSA is completed.

Homeless status can be verified by any one of the following entities:

- A local educational homeless liaison, designated pursuant to the McKinney-Vento Homeless Assistance Act.
- The director of an emergency shelter or transitional housing program funded under the Runaway and Homeless Youth Act.
- The director of a program funded under the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants).
- The financial aid administrator.
[HEA §480(d)(1)(H); DCL GEN-08-01; DCL GEN-08-12]

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

A student is considered dependent if he or she does not meet any of the preceding criteria for an independent student unless the financial aid administrator (FAA) determines that the student is independent on the basis of special circumstances and performs a dependency override.

[HEA §480(d)(7); §668.2(b)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Definition of Independent Student

The *Common Manual* has been updated to incorporate changes made to the definition of independent student that were included in the College Cost Reduction and Access Act (CCRAA) of 2007 and further clarified through the Higher Education Opportunity Act (HEOA). Although the specific HEOA changes are not effective until July 1, 2010, the 2009-2010 *Free Application for Federal Student Aid* (FAFSA) has already been updated to reflect the changes. As a result, the *Common Manual* is being updated to reflect the HEOA clarifications.

The independent student criteria related to a student who is an orphan or ward of the court has been revised by including reference to foster care, and clarifying that if the student was an orphan or ward of the court at any time when the student was 13 years of age or older, the student is considered an independent student.

The Manual is also revised to include two new criteria for determining a student's independent status. The first criterion states that if a student is or was (immediately prior to attaining the age of majority) an emancipated minor or in legal guardianship as determined by a court in the student's state of legal residence, the student is considered independent.

The second criterion states that if the student has been verified, after the start of the academic year for which the FAFSA is filed, as either an unaccompanied youth who is a homeless child or an unaccompanied youth at risk of being homeless and self supporting, the student is considered independent. For purposes of this criteria, the following definitions apply:

- "Homeless" means lacking fixed, regular and adequate housing, which includes living in shelters, motels or cars, or temporarily living with other people because the student has nowhere else to go.
- "Unaccompanied" means the student is not living in the physical custody of his or her parents or guardian.
- "Youth" means 21 years of age or younger and the student is still in high school as of the day the FAFSA is completed.

Homeless status can be verified by any one of the following entities:

- A local educational homeless liaison designated pursuant to the McKinney-Vento Homeless Assistance Act.
- The director of an emergency shelter or transitional housing program funded under the Runaway and Homeless Youth Act.
- The director of a program funded under the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants).
- The financial aid administrator.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who is an orphan or ward of the court, homeless, or an unaccompanied youth may be considered an independent student for purposes of obtaining Title IV aid.

School:

A school is able to more clearly understand the revisions made to the definition of independent student when determining a student's eligibility for Title IV aid.

Lender/Service:

None.

Guarantor:

A guarantor may need to revise its program review procedures to reflect the expanded definition.

U.S. Department of Education:

The Department may need to revise its program review procedures to reflect the expanded definition.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 12, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

nm/edited-rrl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Certifying Unsubsidized Stafford Loans

AFFECTED SECTIONS: 6.8 Dependency Overrides
6.15.B Stafford Loan Certification

POLICY INFORMATION: 1126/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Loans certified for loan periods that begin on or after August 14, 2008, or include that date.

BASIS:

HEA §479(a), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy does not address a financial aid administrator's (FAA's) authority to certify an unsubsidized Stafford loan for a dependent student if the student's parent(s) has ended financial support and refuses to file the FAFSA.

REVISED POLICY:

Revised policy includes new authority for an FAA to certify an unsubsidized Stafford loan for a dependent student if the student's parent(s) has ended financial support and refuses to file the FAFSA. In this situation providing financial support includes not only payment of educational costs, but also providing the student other cash or non-cash support, such as room and/or board. This professional judgment authority is *not* the same as the dependency override provision contained in Section 480(d)(1)(I) of the Higher Education Act (HEA). Prior Department guidance has specifically stated that the refusal of a parent to support a student and to complete the FAFSA is not, by itself, sufficient for a dependency override. However, based upon documentation received, the FAA may use his/her professional judgment to certify an unsubsidized Stafford loan without the parent(s) having completed the FAFSA, but not to perform a full dependency override. If the FAA does utilize this authority, the dependent student is only eligible to receive an unsubsidized Stafford loan and not any other Title IV assistance. Also, the student's parent(s) is not eligible to apply for a PLUS loan on the student's behalf.

Revised policy also states that before an FAA can exercise professional judgment and certify an unsubsidized Stafford loan to a dependent student based on these circumstances, the FAA must verify that the parent(s) has ended financial support and refuses to complete the parental section of the FAFSA. The student is not permitted to self-certify this information. The FAA must obtain a signed and dated statement from one of the student's parents stating the following:

- The parent(s) has stopped providing financial support to the student. The statement must include the date when the financial support stopped.
- The parent(s) will not provide financial support in the future.
- The parent(s) refuses to complete the parental section of the FAFSA.

Revised policy also states that if the student's parent(s) will not provide the required verification statement, the FAA must obtain documentation from a third party (e.g., teacher, counselor, clergy, court) describing the student's relationship with his or her parents prior to certifying the unsubsidized Stafford loan. In addition, the FAA may, but is not required to, determine how the student intends to financially support himself or herself without parental support.

Revised policy also states that the maximum annual unsubsidized loan amount that a dependent student may receive under the new authority is the limit for the student's grade level plus the additional unsubsidized amount of \$2,000 annually.

REASON FOR CHANGE:

The change is necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: Section 6.8 is also being updated as part of Policy Proposals 1107 in Batch 158 and 1125 in Batch 159.

Revise Section 6.8, page 20, column 2, Dependency Overrides subheading, as follows:

Dependency Overrides

...

Unusual circumstances may include, but are not limited to:

- An abusive family situation in which an otherwise dependent student has been a victim of domestic violence and is no longer residing with his or her parents.
- Abandonment by parents in which a student's parents cannot be located.

The following four conditions, individually or in combination with one another, do not qualify as unusual circumstances:

- A parent's refusal to contribute to the student's education.
- A parent's unwillingness to provide information on the FAFSA or for verification.
- A parent not claiming the student as a dependent for income tax purposes.
- A student's demonstration of total self-sufficiency.

Note: If both of the first two conditions listed above exist, an FAA is permitted to certify an unsubsidized Stafford loan for a dependent student if the student's parent(s) has ended financial support and refuses to file the FAFSA. This is not a situation that permits an FAA to perform a dependency override. See Subsection 6.15.B for more information on this professional judgment authority.

An FAA may make a dependency override only from dependent to independent. However, if an independent student is receiving substantial support from his or her parents, a school may use professional judgment to adjust one or more of the FAFSA's data elements, such as untaxed income, to reflect this support.

[DCL GEN-03-07; 07-08 FSA Handbook, Application and Verification Guide, Chapter 2, p. AVG-24]

Revise Subsection 6.15.B, page 34, column 1, by adding a new subheading, as follows:

**6.15.B
Stafford Loan Certification**

...

...

...

...

Aid Administrator's Professional Judgment for Students Whose Parent(s) Ceases Financial Support and Refuses to Complete FAFSA

A financial aid administrator (FAA) is permitted to use his/her professional judgment to certify

an unsubsidized Stafford loan for a dependent student if the student's parent(s) has ended financial support and refuses to file the FAFSA. In this situation, providing financial support includes not only payment of educational costs, but also providing the student other cash or non-cash support, such as room and/or board. [This authority is not the same as the dependency override policy contained in Section 6.8.] If the FAA exercises this professional judgment, the dependent student is only eligible to receive an unsubsidized Stafford loan and may not receive any other Title IV assistance. Also, the student's parent(s) is not eligible to apply for a PLUS loan on the student's behalf.

The FAA must verify that the parent(s) has ceased financial support and refuses to complete the parental section of the FAFSA. The student is not permitted to self-certify this information. The FAA must obtain a signed and dated statement from one of the student's parents specifically stating each of the following:

- The parent(s) has stopped providing financial support to the student. The statement must include the date when the financial support stopped.
- The parent(s) will not provide financial support in the future.
- The parent(s) refuses to complete the parental section of the FAFSA.

If the student's parent(s) will not provide the required verification statement, the FAA must obtain alternative documentation from a third party (e.g., teacher, counselor, clergy, court) prior to certifying the unsubsidized Stafford loan. The alternative documentation must describe the student's relationship with his or her parents. In addition, the FAA may, but is not required to, determine how the student intends to financially support himself or herself without parental support.

The maximum annual unsubsidized Stafford loan amount that a dependent student may receive under this authority is the "base" limit for a dependent student based on the student's grade level plus the additional unsubsidized amount of \$2,000 (see Figure 6-4). [HEA §479(a); GEN-08-12/FP-08-10]

PROPOSED LANGUAGE - COMMON BULLETIN:

Financial Aid Administrator's Professional Judgment Authority to Certify Unsubsidized Stafford Loan to Students Whose Parents Cease Financial Support and Refuse to Complete the FAFSA

The *Common Manual* has been revised to include the new professional judgment authority for an FAA to certify an unsubsidized Stafford loan for a dependent student if the student's parent(s) has ended financial support and refuses to file the FAFSA, as provided through the Higher Education Opportunity Act (HEOA). In this situation providing financial support includes not only payment of educational costs, but also providing the student other cash or non-cash support, such as room and/or board. This professional judgment authority is not the same as the dependency override provision contained in Section 480(d)(1)(I) of the Higher Education Act (HEA). Prior Department guidance has specifically stated that the refusal of a parent to support a student and to complete the FAFSA is not, by itself, sufficient for a dependency override. However, based upon documentation received, the FAA may decide to certify an unsubsidized Stafford loan without the parent(s) having completed the FAFSA, but not to perform a full dependency override. If the FAA does utilize this authority, the dependent student is only eligible to receive an unsubsidized Stafford loan and not any other Title IV assistance. Also, the student's parent(s) is not eligible to apply for a PLUS loan on the student's behalf.

The policy also states that before an FAA can exercise professional judgment to certify an unsubsidized Stafford loan to a dependent student based on these circumstances, the FAA must verify that the parent(s) has ended financial support and refuses to complete the parental section of the FAFSA. The student is not permitted to self-certify this information. The FAA must obtain a signed and dated statement from one of the student's parents stating the following:

- The parent(s) has stopped providing financial support to the student. The statement must include the date when the financial support stopped.
- The parent(s) will not provide financial support in the future.
- The parent(s) refuses to complete the parental section of the FAFSA.

The policy also states that if the student's parent(s) will not provide the required verification statement, the FAA must obtain documentation from a third party (e.g., teacher, counselor, clergy, court) describing the student's relationship with his or her parents prior to certifying the unsubsidized Stafford loan. In addition, the FAA may, but is not required to, determine how the student intends to financially support himself or herself without parental support.

Finally, the policy states that the maximum annual unsubsidized loan amount that a dependent student may receive under the new authority is the limit for the student's grade level plus the additional unsubsidized amount of \$2,000 annually.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A dependent student whose parent(s) ceases financial support and refuses to complete the FAFSA may be able to borrow an unsubsidized Stafford loan.

School:

A school is permitted to use professional judgment to certify an unsubsidized Stafford loan for a dependent student whose parent(s) ceases financial support and refuses to complete the FAFSA. The school may be required to establish policies with respect to the certification and procedures to document the student's eligibility for this type of professional judgment.

Lender/Service:

None.

Guarantor:

A guarantor may need to update its program review procedures.

U.S. Department of Education:

The Department may need to update its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

January 23, 2009

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others

nm/edited-rrl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: Disclosure Changes for PLUS and Unsubsidized Stafford Loans

AFFECTED SECTIONS: 7.6.A General Initial Disclosure Requirements

POLICY INFORMATION: 1127/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Initial disclosures provided by the lender to the borrower on or after August 14, 2008.

BASIS:

HEA §433(d), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy requires the lender to provide in the initial disclosure projected monthly payment amounts or information that would allow the borrower to estimate a monthly payment amount. Current policy does not require the lender to include in the initial disclosure for a PLUS or unsubsidized Stafford loan the cost to the borrower of both capitalizing the interest and paying the interest as it accrues.

REVISED POLICY:

Revised policy permits the lender in its initial disclosure to provide to a PLUS or unsubsidized Stafford borrower sample monthly payment amounts that assume different levels of borrowing. If the lender provides sample projections, the lender must also include information on the cost of capitalizing accrued interest versus paying the interest during the student's in-school status. Previously, the lender was required to include in that disclosure projected monthly payment amounts or information sufficient to permit a borrower to estimate those monthly payment amounts.

REASON FOR CHANGE:

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

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 7.6.A, page 10, column 1, paragraph 2, bullet 6, as follows:

Note: Subsection 7.6.A is also being update as part of Policy Proposal 1108 in Batch 158.

**7.6.A
General Initial Disclosure Requirements**

At or before the first disbursement of a Stafford or PLUS loan, the lender must provide the borrower (at no cost to the borrower) with the following initial disclosure information in a written or electronic format:

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

- A statement of the cumulative outstanding balance of loans the borrower owes to the lender, including the loan applied for, and an estimate of—or information that will allow the borrower to estimate—the projected monthly payment amount based on the cumulative outstanding balance. In the disclosure to a PLUS or an unsubsidized Stafford loan borrower, the lender may provide, in lieu of projected monthly payment amounts, sample projections of monthly payment amounts that assume different levels of borrowing and interest accrued during the student's in-school status. If the lender provides sample projections, the disclosure must also include the borrower's cost if the borrower authorizes the lender to capitalize the accrued interest or if the borrower pays the interest as it accrues.
[HEA 433(d); DCL GEN-08-12/FP-08-10]

• . . .
 . . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Disclosure Changes for PLUS and Unsubsidized Stafford Loans

The *Common Manual* has been revised to permit a lender to provide in the initial disclosure to a PLUS or unsubsidized Stafford loan borrower, at or before the first disbursement of the loan, sample projections of monthly payment amounts that assume different levels of borrowing and interest accrued during the student's in-school status. If the lender provides sample projections, the disclosure must also include the borrower's cost if the borrower authorizes the lender to capitalize accrued interest or if the borrower pays the interest as it accrues. These sample projections may be provided in lieu of the projected monthly payment amount that the lender would otherwise be required to provide.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may receive different information pertinent to PLUS and/or unsubsidized Stafford loans and his or her future repayment obligation.

School:

None.

Lender/Service:

A lender may choose to provide alternative repayment projections to PLUS and unsubsidized Stafford borrowers. That choice may require changes to systems and procedures.

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:

February 11, 2009

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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CM Guarantor Designee
Interested Industry Groups and Others

bg/edited - kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
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SUBJECT: Pre-repayment Disclosures

AFFECTED SECTIONS: 10.7 Disclosing Repayment Terms

POLICY INFORMATION: 1128/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Disclosures made on or after July 1, 2009.

BASIS:

§428(b)(9), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; §682.205(h); DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy requires that a lender provide notice to FFELP borrowers of the availability of income-sensitive repayment at the time it offers repayment options, provide procedures by which the borrower may choose income-sensitive repayment, and advise the borrower where and how the borrower may obtain more information on income-sensitive repayment.

REVISED POLICY:

Revised policy includes new disclosure requirements that relate to the new income-based repayment plan. In addition to providing a borrower information on income-sensitive repayment, a lender is required to provide, at the time it offers repayment options, a notice to the borrower, (except for a parent PLUS borrower or a Consolidation borrower whose Consolidation loan paid off one or more parent PLUS loans) of the availability of an income-based repayment plan. The notice must provide the process by which the borrower may qualify for income-based repayment and must advise the borrower where and how he or she may obtain more information on the income-based repayment plan.

REASON FOR CHANGE:

This change is made to incorporate provisions of the HEOA and the *Federal Register* Vol. 73, No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: Section 10.7 is also being updated as part of Policy Proposal 1109 in Batch 158.

Revise Section 10.7, page 12, column 2, paragraph 3, as follows:

Disclosing Repayment Terms

...

A lender must offer the borrower a choice of a standard, graduated, income-sensitive, income-based, or, if applicable, an extended repayment plan schedule. The lender must also inform the borrower that he or she is eligible for income-sensitive repayment (including through loan consolidation), or may be eligible for an income-based repayment plan (except for a parent PLUS loan borrower or a Consolidation loan borrower whose Consolidation loan paid off one or more parent PLUS loans). The lender must also provide the procedures by which the borrower can choose income-sensitive or income-based repayment, and where and how the borrower may obtain more information on income-sensitive and income-based repayment plans ~~may be obtained~~. If a lender chooses to include repayment choices with the repayment notification, the lender must ensure that the timing of this notice also meets the requirements of Subsection 10.7.A.
[§428(b)(9) and §682.205(h)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Pre-repayment Disclosures

The *Common Manual* has been revised to include the lender disclosure requirements related to the new income-based repayment plan. In addition to providing a borrower information on existing repayment plans, a lender is also required to provide, at the time it offers repayment options, a notice to a borrower (except a parent PLUS loan borrower or a Consolidation loan borrower whose loan paid off one or more parent PLUS loans) on the availability of an income-based repayment plan. The notice must provide the process by which the borrower may qualify for income-based repayment and must advise the borrower where and how the borrower may obtain more information on income-based repayment plans.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will receive notification of the availability of all repayment options, including the new income-based repayment plan.

School:

None.

Lender/Service:

A lender will need to update notices to include the availability of the new income-based repayment plan.

Guarantor:

A guarantor may need to revise program review procedures.

U.S. Department of Education:

The Department may need 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 31, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others

jhh/edited-as

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Required Lender Disclosures During Repayment

AFFECTED SECTIONS: Chapter 10 Loan Servicing

POLICY INFORMATION: 1129/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Required lender disclosures made for loans with first payments due on or after July 1, 2009.

BASIS:

HEA §433(e)(1) and (2), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy does not contain information about the required repayment disclosure provision or the lender disclosure requirement for borrowers having difficulty making payments from the HEOA.

REVISED POLICY:

Revised policy adds new disclosures for borrowers during the repayment period. A lender must provide a borrower in repayment with a bill or statement that corresponds to each payment installment period for which a payment is due and that includes, in simple and understandable terms, each of the following:

- The original principal amount of the borrower's loan.
- The borrower's current balance, as of the time of the bill or statement.
- The interest rate on the loan.
- The total amount the borrower has paid in interest on the loan.
- The aggregate amount the borrower has paid for the loan, including all the interest and fees paid, and the amount paid against the balance.
- A description of each fee charged for the most recently preceding installment period.
- The payment amount, the due date for the payment to avoid additional fees, and the amount of any such fees.
- The lender's or loan servicer's address and toll-free phone number for payment and billing error purposes.
- A reminder of the borrower's option to change repayment plans, a listing of the repayment plans available to the borrower, a link to the Department's website for more information on the repayment plans, and directions to the borrower on how to request a change of repayment plan.

Revised policy also requires a lender to provide a borrower who notifies the lender that he or she is having difficulty making scheduled payments a description, in simple and understandable terms, of each of the following:

- The repayment plans available to the borrower and how the borrower can request a change of repayment plan.
- The requirements for obtaining a forbearance on the loan, including the associated costs.
- The other options available to the borrower to avoid default, including any associated costs or fees.

REASON FOR CHANGE:

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

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Chapter 10, page 22, column1, by inserting a new Section 10.12, as follows:

10.12
Lender Disclosures During Repayment

A lender must provide all borrowers in repayment a bill or statement that corresponds to each payment installment period for which a payment is due and that includes, in simple and understandable terms, each of the following:

- The original principal amount of the borrower's loan.
- The borrower's current balance, as of the time of the bill or statement.
- The interest rate on the loan.
- The total amount the borrower has paid in interest on the loan.
- The aggregate amount the borrower has paid for the loan, including all the interest and fees paid, and the amount paid against the balance.
- A description of each fee charged for the most recently preceding installment period.
- The payment amount, the due date for the payment to avoid additional fees, and the amount of any such fees.
- The lender's or loan servicer's address and toll-free phone number for payment and billing error purposes.
- A reminder of the borrower's option to change repayment plans, a listing of the repayment plans available to the borrower, a link to the Department's website for more information on the repayment plans, and directions to the borrower on how to request a change of repayment plan.

[HEA §433(e)(1); DCL GEN-08-12/FP 08-10]

Required Lender Disclosure for a Borrower Having Difficulty Making Payments

If a borrower notifies the lender that he or she is having difficulty making scheduled payments, the lender must provide, in simple and understandable terms, a description of each of the following:

- The repayment plans available to the borrower, including how the borrower can request a change of repayment plan.
- The requirements for obtaining a forbearance on a loan, including costs associated with the forbearance.
- The other options with which the borrower may avoid defaulting on the loan, including any fees or costs associated with those options.

[HEA §433(e)(2); DCL GEN-08-12/FP-08-10]

Revise Chapter 10 by renumbering Section 10.12, page 22, column 1 as follows:

10.13~~2~~ **Paid-in-Full Loans**

PROPOSED LANGUAGE - COMMON BULLETIN:

Required Lender Disclosures During Repayment

The *Common Manual* is being revised by adding information regarding new disclosures a lender must provide to a borrower during the repayment period. A lender must provide a borrower in repayment with a bill or statement that corresponds to each payment installment period for which a payment is due and that includes, in simple and understandable terms, each of the following:

- The original principal amount of the borrower's loan.
- The borrower's current balance, as of the time of the bill or statement.
- The interest rate on the loan.

- The total amount the borrower has paid in interest on the loan.
- The aggregate amount the borrower has paid for the loan, including all the interest and fees paid, and the amount paid against the balance.
- A description of each fee charged for the most recently preceding installment period.
- The payment amount, the due date for the payment to avoid additional fees, and the amount of any such fees.
- The lender's or loan servicer's address and toll-free phone number for payment and billing error purposes.
- A reminder of the borrower's option to change repayment plans, a listing of the repayment plans available to the borrower, a link to the Department's website for more information on the repayment plans, and directions to the borrower on how to request a change of repayment plan.

The *Common Manual* is also being updated to include the requirement that, if the borrower notifies the lender that he or she is having difficulty making scheduled payments, the lender must provide to the borrower a description of each of the following:

- The repayment plans available to the borrower and how the borrower can request a change of repayment plan.
- The requirements for obtaining a forbearance on the loan, including the associated costs.
- The other options available to the borrower to avoid default, including any associated costs or fees.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower is provided more information throughout repayment of his or her loan(s). A borrower who is having difficulty making scheduled payments may also receive additional information regarding repayment plans, forbearance, and options to avoid default.

School:

None.

Lender/Servicer:

A lender must develop processes and procedures for providing the required disclosures to a borrower throughout the borrower's repayment period. A lender may also need to change systems and procedures to provide a borrower who indicates that he or she is having difficulty making payments with the required information.

Guarantor:

A guarantor may need to update program review procedures, and may need to update program participation agreements because guarantors are no longer protected from the loss of federal reinsurance on a loan when required disclosures are not provided [per HEOA §433(f)].

U.S. Department of Education:

The Department may need to update program review procedures and procedures to limit suspend, or terminate a participating lender from the FFELP if the lender fails to comply with the disclosure requirements.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

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PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees
Interested Industry Groups and Others

jhh/edited - aes

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: Disclosures When Granting Deferments on Unsubsidized Stafford Loans

AFFECTED SECTIONS: 11.1 Authorized Deferment

POLICY INFORMATION: 1130/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: In-school, graduate fellowship, unemployment, military, or economic hardship deferments on unsubsidized Stafford loans granted on or after August 14, 2008.

BASIS:

HEA §428(b)(1)(Y)(iii), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP 08-10.

CURRENT POLICY:

Current policy does not reflect that when granting certain deferments on an unsubsidized Stafford loan, a lender must provide information to the borrower to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and the total amount of interest that will need to be paid over the life of the loan.

REVISED POLICY:

Revised policy states that when granting an in-school, graduate fellowship, unemployment, military or economic hardship deferment on an unsubsidized Stafford loan, a lender is required to provide information to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and the total amount of interest that will need to be paid over the life of the loan.

REASON FOR CHANGE:

The change is necessary to incorporate provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Section 11.1, page 5, column 2, by adding a new Subsection 11.1.J after paragraph 3, as follows:

11.1.J

Disclosures When Granting Deferments on Unsubsidized Stafford Loans

When granting an in-school, graduate fellowship, unemployment, military, or economic hardship deferment on an unsubsidized Stafford loan, a lender must provide information to the borrower to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and the total amount of interest that will need to be paid over the life of the loan.

[§428(b)(1)(Y)(iii)]

PROPOSED LANGUAGE - COMMON BULLETIN:

Disclosure When Granting Deferments on Unsubsidized Stafford Loans

The *Common Manual* has been revised to state that when granting an in-school, graduate fellowship, unemployment, military or economic hardship deferment on an unsubsidized Stafford loan, a lender must provide information to the borrower to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and the total amount of interest that will need to be paid over the life of the loan.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower is provided more information about the impact of capitalization of interest on the borrower's loan principal and the total amount of interest that will need to be paid over the life of the loan when the borrower is granted certain deferments on his or her unsubsidized Stafford loan.

School:

None.

Lender/Service:

A lender may need to develop processes and procedures to provide a borrower with information about the impact of capitalization of interest on the borrower's loan principal and the total amount of interest that will need to be paid over the life of the loan when the borrower is granted certain deferments on his or her unsubsidized Stafford loan.

Guarantor:

A guarantor may need to revise program review procedures.

U.S. Department of Education:

The Department may need 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:

September 16, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designee
Interested Industry Groups and Others

ma/edited - chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: Providing Forbearance Information to the Borrower or Endorser

AFFECTED SECTIONS: 11.20.I Borrower Contact During Forbearance
11.23 Mandatory Administrative Forbearance
11.24.B Internship or Residency

POLICY INFORMATION: 1131/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Forbearance granted by the lender on or after August 14, 2008.

BASIS:

HEA §428(c)(3), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP-08-10.

CURRENT POLICY:

Current policy requires the lender to send a notice to a borrower with whom it has negotiated a verbal forbearance agreement to confirm the terms of the forbearance. Current policy also requires the lender to contact the borrower or endorser at least once every 6 months to inform the borrower of each of the following:

- The continuing obligation to repay the loan.
- The outstanding principal and interest balance.
- That interest continues to accrue on the loan during the forbearance period.
- That the borrower or endorser may choose to discontinue the forbearance at any time.

Current policy with respect to the mandatory forbearance for an intern or resident does not include the requirement to notify the borrower every 6 months, nor does policy regarding mandatory administrative forbearance include the periodic notification requirements or all of the data that the lender must now provide in each of those notices.

REVISED POLICY:

Revised policy requires the lender to send a notice to the borrower or endorser when it grants a forbearance to assist the borrower or endorser, as applicable, in understanding the effect that interest capitalization has on the loan's principal balance and the amount of interest that may be paid over the life of the loan. Revised policy also requires the lender to contact the borrower or endorser not less than every 180 days during the forbearance period and include in its notice each of the following in addition to the existing requirements:

- The amount of interest accrued since the last borrower contact.
- The amount of interest that will be capitalized on the loan and the date that the capitalization will occur.
- The option to pay the interest before it is capitalized.

Revised policy removes the exception regarding notices for the internship and residency forbearance, and adds a cross-reference to the subsection that describes the standard borrower notice and notification requirements. Revised policy also amends the required notifications for mandatory forbearance.

REASON FOR CHANGE:

These changes are made to comply with the provisions of the HEOA.

PROPOSED LANGUAGE - COMMON MANUAL:

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

11.20.I
Borrower Contact during Forbearance

When a lender grants a forbearance, the lender must send to the borrower or the endorser, as applicable, information to assist the borrower or endorser in understanding how interest is capitalized, the effect of interest capitalization on the loan's principal balance, and the total amount of interest that will accrue during the life of the loan.

If the lender and borrower or endorser agree verbally to a discretionary forbearance, the lender must record the forbearance terms in the borrower's file and send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the forbearance agreement.

~~Whenever granting forbearance involves postponing all payments~~ During the forbearance period, the lender must contact the borrower or endorser not less than once every 180 days at least once every 6 months during the forbearance period. The lender must inform the borrower or endorser of all of the following information in each such contact:

- The obligation to repay the loan.
- The outstanding balance of principal and interest on the loan.
- That interest will accrue on the loan for the entire forbearance period.
- The amount of interest accrued since the last interest accrual information was provided to the borrower.
- The amount of interest that will be capitalized on the loan and the date that the capitalization will occur.
- The borrower's option to pay the interest before it is capitalized.
- That the borrower or endorser may opt to discontinue the forbearance at any time.

~~This notification requirement does not apply to the postponement of interest payments during a deferment period, a period of forbearance for an internship or residency, or a period of mandatory administrative forbearance. (See Subsection 11.24.B for information regarding required notification for internship and residency forbearance. See Section 11.22 for information regarding notification for mandatory administrative forbearance.)~~
[HEA §428(c)(3); §682.211(e); DCL GEN-08-12/FP-08-10]

Revise Section 11.23, page 38, column 1, paragraph 1, as follows:

11.23 Mandatory Administrative Forbearance

A lender must grant a mandatory administrative forbearance when applicable. This type of forbearance does not require the borrower's request or a forbearance agreement between the lender and the borrower. As soon as feasible, the lender must notify the borrower or endorser that the lender has granted a forbearance and indicate the date that payments should resume. See Subsection 11.20.I for information regarding the notices that the lender must send when granting a forbearance and during the forbearance period. ~~The lender's notification must state that the borrower or endorser:~~

- ~~• May decline the forbearance and continue to be obligated to make scheduled payments.~~
- ~~• Consents to make payments in accordance with the lender's notification if the forbearance is not declined.~~

Any outstanding delinquency that precedes the beginning . . .

[HEA §428(c)(3); §682.211(i)(1) and (2)]

Revise Subsection 11.24.B, page 40, column 1, paragraph 2, as follows:

Eligibility and documentation requirements are the same as for a borrower who has requested an internship/residency deferment (see Section 11.7). A lender must grant forbearance in 12-month increments unless the actual period during which a borrower is eligible is less than 12 months. See Subsection 11.20.I for information regarding notices that the lender must send when granting a forbearance and during the forbearance period.

PROPOSED LANGUAGE - COMMON BULLETIN:

Providing Forbearance Information to the Borrower or Endorser

The *Common Manual* has been revised to require the lender to send a notice to the borrower or endorser, as applicable, when it grants a forbearance to assist the borrower or endorser in understanding the effect that interest capitalization has on the loan's principal balance and the amount of interest that may be paid over the life of the loan. Revised policy also requires the lender to contact the borrower or endorser not less than every 180 days during the forbearance period and include in its notice each of the following new data elements in addition to existing requirements:

- The amount of interest accrued since the last interest accrual information was provided to the borrower.
- The amount of interest that will be capitalized on the loan and the date that the capitalization will occur.
- The option to pay the interest before it is capitalized.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will receive additional information when the lender grants forbearance and during the forbearance period.

School:

None.

Lender/Service:

A lender may be required to amend its procedures and systems for sending forbearance notifications.

Guarantor:

A guarantor may be required to 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:

February 2, 2009

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

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Interested Industry Groups and Others

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COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: New Administrative Forbearance for Repayment Plan Change

AFFECTED SECTIONS: 11.21.T Repayment Plan Changes

POLICY INFORMATION: 1132/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: Repayment plan changes granted by the lender on or after July 1, 2009.

BASIS:
§682.211(f)(14).

CURRENT POLICY:
Current policy does not permit a lender to grant an administrative forbearance to a borrower to cover a period of delinquency that exists at the time the borrower chooses a different repayment plan.

REVISED POLICY:
Revised policy permits the lender to grant an administrative forbearance to cover a period of delinquency that exists at the time a borrower chooses a different repayment plan.

REASON FOR CHANGE:
These changes are necessary to incorporate provisions of the *Federal Register* Vol. 73, No. 206 dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

Insert a new Subsection 11.21.T, page 37, column 1, after paragraph 2, as follows:

Note: The subsections in 11.21 are being renumbered as part of Policy Proposal 1119 in Batch 159.

11.21.T
Repayment Plan Change

The lender may grant an administrative forbearance to cover a period of delinquency that exists at the time a borrower chooses a different repayment plan, for example, from standard to income-based.

PROPOSED LANGUAGE - COMMON BULLETIN:
Administrative Forbearance for Repayment Plan Change

The *Common Manual* has been revised to permit the lender to grant an administrative forbearance to cover a period of delinquency that exists at the time a borrower chooses a different repayment plan, for example, when from changing from a standard repayment plan to an income-based repayment plan.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower's loan may be brought current when he or she chooses a different repayment plan.

School:
None.

Lender/Servicer:

A lender may grant an administrative forbearance to a borrower when he or she chooses a different repayment plan. The lender may need to update processes and systems, and to amend its borrower counseling information.

Guarantor:

The guarantor may need to amend its program review procedures and to amend its borrower counseling information.

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:

February 2, 2009

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No Changes	

SUBJECT: **Total and Permanent Disability Discharge Requests Based on Veterans Administration Determinations**

AFFECTED SECTIONS: **13.8.G Total and Permanent Disability**

POLICY INFORMATION: **1133/Batch 159**

EFFECTIVE DATE/TRIGGER EVENT: Total and permanent disability discharge requests received by the lender on or after August 14, 2008 that are based on U.S. Department of Veterans Affairs determinations.

BASIS:

HEA §437(a), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315; DCL GEN-08-12/FP 08-10; Discharge Application: Total and Permanent Disability published February 10, 2009.

CURRENT POLICY:

Current policy does not address a borrower's eligibility for a loan discharge due to total and permanent disability if the borrower provides documentation from the U.S. Department of Veterans Affairs (VA) showing that the borrower has been determined to be unemployable due to a service-connected condition, and such documentation is approved by the Department of Education.

REVISED POLICY:

Revised policy adds information regarding a borrower's eligibility for loan discharge due to total and permanent disability if the borrower provides documentation from the U.S. Department of Veterans Affairs (VA) showing that the VA has determined the borrower to be unemployable due to a service-connected condition.

REASON FOR CHANGE:

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

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 13.8.G, page 45, column 2, by adding a new paragraph 2, as follows:

Note: Subsection 13.8.G is also being updated as part of Policy Proposal 1068 in Batch 154.

**13.8.G
Total and Permanent Disability**

Discharge requests based on U.S. Department of Veterans Affairs (VA) determinations have different criteria than those that are not based on VA determinations, as outlined below.

Discharge Requests Based on VA Determinations

A borrower is eligible for loan discharge due to total and permanent disability if the borrower provides documentation from the VA showing that the VA has determined the borrower to be unemployable due to a service-connected condition, and this documentation is acceptable to the Department. The borrower is not required to provide additional documentation to support the discharge, however, the borrower is required to fill out Section 1 and Section 3 of the Discharge Application: Total and Permanent Disability form. The VA documentation and the application form must be transferred to the Department for determination of the borrower's eligibility for discharge of the loan. The borrower is not subject to the 3 year conditional period. If the Department grants a final discharge based on a determination by the VA, it will notify the loan holder of the determination. Any loan payments made after the effective date of the VA

determination are refunded to the borrower.

Discharge Requests Not Based on VA Determinations

If any party to a loan claims to be totally and permanently disabled, the lender must request that party to provide certification of the disability from a physician who is a doctor of medicine or osteopathy and is legally authorized to practice in a state. An eligible party includes any one of the following:

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

...

PROPOSED LANGUAGE - COMMON BULLETIN:

Total and Permanent Disability Discharge Requests Based on U.S. Department of Veterans Affairs Determinations

The *Common Manual* has been revised to add information about total and permanent disability discharge requests based on U.S. Department of Veterans Affairs (VA) determinations. Discharge requests based on VA determinations have different criteria than those that are not based on VA determinations.

A borrower is eligible for loan discharge due to total and permanent disability if the borrower provides documentation from the VA showing that the VA has determined the borrower to be unemployable due to a service-connected condition, and this documentation is acceptable to the Department. The borrower is not required to provide additional documentation to support the discharge, however, the borrower is required to fill out Section 1 and Section 3 of the Discharge Application: Total and Permanent Disability form. The VA documentation and the application form must be transferred to the Department for determination of the borrower's eligibility for discharge of the loan. The borrower is not subject to the 3 year conditional period. If the Department grants a final discharge based on a determination by the VA, it will notify the loan holder of the determination. Any loan payments made after the effective date of the VA determination are refunded to the borrower.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who requests loan discharge due to total and permanent disability based on VA determinations that the borrower is unemployable due to a service-connected condition is not subject to the 3-year conditional discharge period. Any loan payments made after the effective date of the VA determination are refunded to the borrower.

School:

None.

Lender/Service:

A lender may need to update its processes and procedures to accommodate loan discharge due to total and permanent disability determinations made by the VA.

Guarantor:

A guarantor may need to update its processes and procedures to accommodate loan discharge due to total and permanent disability determinations made by the VA. A guarantor may need to update its program review procedures.

U.S. Department of Education:

The Department may need to update its processes and procedures to accommodate loan discharge due to total and permanent disability determinations made by the VA. The Department may need to update its

program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

September 16, 2008

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COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 20, 2009

X	DRAFT	Comments Due	Mar 13
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Eligible Not-for-Profit Holder

AFFECTED SECTIONS: A.2.A Special Allowance and Excess Interest Rates
Appendix G

POLICY INFORMATION: 1134/Batch 159

EFFECTIVE DATE/TRIGGER EVENT: July 1, 2009.

BASIS:
§682.302(f)(3).

CURRENT POLICY:

Current policy contains a definition of “eligible not-for-profit holder” as it relates to special allowance payments, and includes information regarding how a lender meets this designation.

Current policy states that an eligible lender trustee (ELT) can be designated as an eligible not-for-profit holder if the ELT is acting on behalf of a state, political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is an eligible lender.

Current policy does not include information on what compensation a lender may receive for acting as an ELT for a state or nonprofit entity.

Current policy states that a lender cannot be designated as an eligible not-for-profit holder if the lender (directly or through an ELT) is owned or controlled, in whole or in part, by a for-profit entity or if the lender is not the sole owner of the beneficial interest in and the income from a loan.

Current policy does not contain information on the policy for notifying the Department if a lender’s eligible not-for-profit holder designation changes.

REVISED POLICY:

Revised policy defines an “eligible not-for-profit holder” as an eligible lender (other than a school lender) that requests special allowance payments from the Department and that meets one of the qualifying conditions. To be designated as an eligible not-for-profit holder, a state or nonprofit entity must have made or acquired a FFELP loan on or before September 27, 2007.

Revised policy states that an ELT may qualify as an eligible not-for-profit holder if the ELT is acting on behalf of an entity that is not an eligible school and is a state or nonprofit entity or special purpose entity for a state or non-profit entity that was the sole beneficial owner of a loan eligible for special allowance payments on September 27, 2007. Revised policy also includes definitions in the related subsection of the Manual for “state or nonprofit entity” and “special purpose entity” (including “related special purpose entity”).

Revised policy states a lender may receive compensation for reasonable and customary fees for acting as an ELT on behalf of a state or nonprofit entity. Fees are considered reasonable and customary if either of the following applies:

- The fees do not exceed the amounts the ELT received for similar services on similar loan portfolios of that state or special purpose entity that are not eligible for special allowance payments at the rate paid to an eligible not-for-profit holder.
- The fees do not exceed an amount as determined by another method requested by the state or nonprofit entity and that the Department considers reliable.

Revised policy states that a lender cannot be designated as an eligible not-for-profit holder if the lender

(directly or through an ELT or a special purpose entity) is owned or controlled, in whole or in part, by a for-profit entity. A for-profit entity has ownership and control of a state or nonprofit entity or its related special purpose entity if any of the following occurs:

- The for-profit entity is a member or shareholder of a state or nonprofit entity or related special purpose entity that is a membership or stock corporation, and the for-profit entity has sufficient power to control the state or nonprofit entity or its special purpose entity.
- The for-profit entity employs or appoints individuals that together represent a majority of the state, nonprofit, or special purpose entity's board of trustees or directors, or a majority of that board's audit committee or compensation committee.
- If a state, or a nonprofit, or special purpose entity does not have a board of trustees or directors, or associated committees, the for-profit entity is authorized by law, agreement, or otherwise to approve decisions by the entity regarding its audits, investments, hiring, retention, or compensation of officials unless the Department determines that the authority to approve such decisions is not likely to affect the integrity of those decisions.

Revised policy states that a lender (directly or through an ELT or a special purpose entity) cannot be designated as an eligible not-for-profit holder if the lender is not the sole owner of the beneficial interest in and the income from a loan. Revised policy also includes definitions in the related subsection of the Manual for "beneficial owner" (including "beneficial ownership" and "owner of a beneficial interest") and "sole owner".

Revised policy states that if a state or nonprofit entity designated as an eligible not-for-profit holder (directly or through an ELT) becomes aware of a change that may cause loss of that eligibility, the state or nonprofit entity must, within 10 business days of becoming aware of the change, do each of the following:

- Submit the details of the change to the Department.
- Cease special allowance billing at the eligible not-for-profit holder rate from the date of the change to the date the Department determines that the state or nonprofit entity has not lost its eligibility due to the change.

Revised policy also updates the definition of "eligible not-for-profit holder" in Appendix G.

REASON FOR CHANGE:

This change is necessary to incorporate provisions of the *Federal Register* Vol. 73, No. 206, dated October 23, 2008.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection A.2.A, page 4, column 2, paragraph 1, as follows:

Note: Subsection A.2.A is also being updated as part of Policy Proposal 1119 in Batch 159.

The special allowance factor for a loan first disbursed on or after October 1, 2007, is based on whether the lender qualifies as an eligible not-for-profit holder. As it relates to special allowance payments on loans first disbursed on or after October 1, 2007, a lender is considered to be an eligible not-for-profit holder if the lender is was an active, eligible lender and that requests special allowance payments from the Department and meets met any one of the following conditions ~~on September 27, 2007:~~

- The lender is a state, or a political subdivision, authority, agency, or other instrumentality of such, including those entities that are eligible to issue tax-exempt bonds, and that made or acquired a FFELP loan on or before September 27, 2007.
- The lender is a qualified scholarship funding corporation established by a state or one or more political subdivisions, that has not elected to cease status as a qualified scholarship funding corporation and that made or acquired a FFELP loan on or before September 27, 2007.
[§150(d)(2) and (3) of the Internal Revenue Code of 1986]

- The lender is a tax-exempt organization as described in ~~Section~~ §501(c)(3) of the Internal Revenue Code of 1986 that made or acquired a FFELP loan on or before September 27, 2007.
- The lender is acting as an eligible lender trustee (ELT) on behalf of an entity (other than an eligible school lender) that is a state or nonprofit entity, or a special purpose entity for a state or nonprofit entity, and that was the sole beneficial owner of a loan eligible for special allowance payments on September 27, 2007, ~~political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is an eligible lender as defined by the Higher Education Act (HEA) of 1965, as amended.~~

– A state or nonprofit entity is an entity as described in the bullets above, regardless of whether that entity is an eligible lender.

– A special purpose entity is an entity established for the limited purpose of financing the acquisition of loans from (or at the direction of) a state or nonprofit entity, or for servicing and collecting such loans, and that is established by the state or nonprofit entity or from an established special purpose entity.

– A special purpose entity is a related special purpose entity of a state or nonprofit entity if it holds any interest in loans acquired from (or at the direction of) the state or nonprofit entity or from an established special purpose entity.

A lender may receive compensation for reasonable and customary fees for acting as an ELT on behalf of a state or nonprofit entity. Fees are considered reasonable and customary if either of the following applies:

– The fees do not exceed the amounts the ELT received for similar services on similar loan portfolios of the state or nonprofit entity, or special purpose entity, that are not eligible for special allowance payments at the rate paid to an eligible not-for-profit holder.

– The fees do not exceed an amount as determined by another method requested by the state or nonprofit entity and that the Department considers reliable.

If an ELT receives fees in excess of the reasonable and customary fees on loans owned by a state or nonprofit entity, or related special purpose entity, those loans no longer qualify for special allowance payments at the rate paid to an eligible not-for-profit holder.

[HEA §435(p)(1); §682.302(f)(3)(i) - (iii) and ~~(viii)(v)~~; DCL FP-07-12]

The state may waive the above requirements for a new eligible not-for-profit holder that it determines to be necessary to fill a public purpose of that state. A state may not waive any requirements for trustees.

[HEA §435(p)(2)(A)(ii); §682.302(f)(3)(iv); DCL FP-07-12]

A lender is not considered to be an eligible not-for-profit holder if any of the following conditions occurs:

- The lender is a school lender.
- ~~The lender~~ state or nonprofit entity, or related special purpose entity, (directly or through an ELT-eligible lender trustee) is owned or controlled, in whole or in part, by a for-profit entity. A for-profit entity has ownership and control of a state or nonprofit entity or its related special purpose entity if any of the following occurs:
 - The for-profit entity is a member or shareholder of a state or nonprofit entity, or its special purpose entity, that is a membership or stock corporation, and the for-profit entity has sufficient power to control the state or nonprofit entity or its special purpose entity.

- A for-profit entity has sufficient power to control a state or nonprofit entity or its special purpose entity if it possesses directly (or represents, alone or with other persons) under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who hold a sufficient voting percentage of the membership interests or voting securities that direct or cause the direction of the management and policies of the state or nonprofit entity or its related special purpose entity.
[§682.302(f)(3)(vi)(A)]
- The for-profit entity employs or appoints individuals that together represent a majority of the state, nonprofit, or special purpose entity's board of trustees or directors, or a majority of that board's audit, executive, or compensation committee.
- An individual is considered to be employed or appointed by a for-profit entity if the entity employs a family member of that individual [as defined in §600.21(f)], unless the Department determines that the specific nature of the family member's employment is not likely to affect the integrity of decisions made by the board or committee member.
[§682.302(f)(3)(vi)(B)]
- If a state, nonprofit, or special purpose entity does not have a board of trustees or directors, or associated committees, the for-profit entity is authorized by law, agreement, or otherwise to approve decisions by the entity regarding its audits, investments, hiring, retention, or compensation of officials unless the Department determines that the authority to approve those decisions is not likely to affect the integrity of the decisions.
[§682.302(f)(3)(v)]
- The lender (directly or through an ~~ELT eligible lender trustee~~ or a special purpose entity) is not the sole owner of the beneficial interest in, and the income from a loan.
 - Beneficial owner (including beneficial ownership and owner of a beneficial interest) is the entity that has the rights to a loan or income from a loan that are normal occurrences of ownership. This includes the right to receive, possess, use, and sell, or otherwise exercise control over, a loan and the income from a loan. The ownership may be subject to any rights granted and limitations imposed in connection with or related to the granting of a security interest, and subject to any limitations on those rights as a result of the entity not qualifying as an eligible lender or holder.
 - Sole owner is the entity that has all the rights to a loan or the income from a loan subject to the rights and limitations above, excluding any other entity with respect to both a loan and the income from a loan.

[HEA §435(p)(2)(B) and (C); §682.302(f)(3)(~~vi~~) and (vi); DCL FP-07-12]

A state or nonprofit entity that has sole ownership of the beneficial interest in and income from a loan will retain that ownership if the entity transfers the beneficial interest to its special purpose entity and no other party owns any beneficial interest or residual ownership interest in, or income from, the loan.

~~An eligible not-for-profit holder~~ state or nonprofit entity, its related special purpose entity, or an ELT, regardless of whether that entity is an eligible lender as defined by the HEA, is not considered to be owned or controlled by a for-profit entity, and will not lose its status as sole owner of beneficial interest in and income from a loan by granting security interest in, or using a loan or income from a loan as collateral, to secure a debt obligation for which the not-for-profit holder is the issuer of the debt obligation.

[HEA §435(p)(2)(E); §682.302(f)(3)(~~vi~~-ix); DCL FP-07-12]

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Not-For-Profit Holder Designation

In order for a lender to be designated as a not-for-profit holder (directly or through an ELT eligible lender trustee) for purposes of special allowance payments, two certifications must be submitted to the Department: a certification signed by the state or nonprofit entity's chief executive officer (CEO) and a certification or opinion signed by the state or nonprofit entity's external legal counsel or the office of the state's attorney general. For additional information on these certifications, refer to DCL FP-07-12 dated December 28, 2007. [\$682.302(f)(3)(x)]

Change in Not-for-Profit Holder Designation

If a state or nonprofit entity designated as an eligible not-for-profit holder (directly or through an ELT) becomes aware of a change that may cause loss of that eligibility, the state or nonprofit entity must, within 10 business days of becoming aware of the change, do each of the following:

- Submit the details of the change to the Department.
- Cease special allowance billing at the eligible not-for-profit holder rate from the date of the change to the date the Department determines that the state or nonprofit entity has not lost its eligibility due to the change. If the Department determines that there is no loss of eligibility, the eligible not-for-profit holder may bill for special allowance in the following quarter in an amount equal to the difference in the special allowance rate paid during the change period and the special allowance rate paid to an eligible not-for-profit holder.

Revise Appendix G, page 7, column 1, paragraph 3, as follows:

Eligible Not-For-Profit Holder: As it relates to special allowance payments on loans first disbursed on or after October 1, 2007, a holder of a loan that is:

- A state, or political subdivision, authority, agency, or other instrumentality of such, including those lenders that are eligible to issue tax-exempt bonds, and that made or acquired a FFELP loan on or before September 27, 2007.
- A qualified scholarship funding corporation established by a state, or one or more political subdivisions, that has not elected to cease status as a qualified scholarship funding corporation and that made or acquired a FFELP loan on or before September 27, 2007.
- A tax-exempt organization as described in Section §501(c)(3) of the Internal Revenue Code of 1986 that made or acquired a FFELP loan on or before September 27, 2007.
- An eligible lender trustee (ELT) acting on behalf of an entity (other than an eligible school) that is a state or nonprofit entity or special purpose entity for a state or nonprofit entity that was the sole beneficial owner of a loan eligible for special allowance payments on September 27, 2007, political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is a eligible lender as defined by the Higher Education Act of 1965, as amended.

See Subsection A.2.A for more information on eligible not-for-profit holder designations.

PROPOSED LANGUAGE - COMMON BULLETIN:

Eligible Not-for-Profit Holder

The *Common Manual* has been updated with regulatory guidance published in the *Federal Register* Vol. 73, No. 206, dated October 23, 2008, as it relates to the definition of "eligible not-for-profit holder." An eligible not-for-profit holder is an eligible lender that requests special allowance payments from the Department and that meets one of the qualifying conditions. To qualify as an eligible not-for-profit holder, a state or nonprofit entity must have made or acquired a FFELP loan on or before September 27, 2007.

An eligible lender trustee (ELT) may be designated as an eligible not-for-profit holder if acting on behalf of an entity (other than an eligible school lender) that is a state or nonprofit entity, or a special purpose entity for a state or nonprofit entity, that was the sole beneficial owner of a loan eligible for special allowance payments on September 27, 2007. Subsection A.2.A of the Manual has been updated to include definitions of "state or nonprofit entity" and "special purpose entity" (including "related special purpose entity").

A lender may receive compensation for reasonable and customary fees for acting as an ELT on behalf of a state or nonprofit entity. Fees are considered reasonable and customary if either of the following applies:

- The fees do not exceed the amounts the ELT received for similar services on similar loan portfolios of that state or special purpose entity that are not eligible for special allowance payments at the rate paid to an eligible not-for-profit holder.
- The fees do not exceed an amount as determined by another method requested by the state or non-profit entity and that the Department considers reliable.

A lender cannot be designated as an eligible not-for-profit holder if the lender (directly or through an ELT or a special purpose entity) is owned or controlled, in whole or in part, by a for-profit entity. A for-profit entity has ownership and control of a state or nonprofit entity, or its related special purpose entity if any of the following occurs:

- The for-profit entity is a member or shareholder of a state or nonprofit entity or related special purpose entity that is a membership or stock corporation, and the for-profit entity has sufficient power to control the state or nonprofit entity or its special purpose entity.
- The for-profit entity employs or appoints individuals that together represent a majority of the state, nonprofit, or special purpose entity's board of trustees or directors, or a majority of that board's audit committee or compensation committee.
- If a state, nonprofit, or special purpose entity does not have a board of trustees or directors, or associated committees, the for-profit entity is authorized by law, agreement, or otherwise to approve decisions by the entity regarding its audits, investments, hiring, retention, or compensation of officials unless the Department determines that the authority to approve such decisions is not likely to affect the integrity of those decisions.

A lender (directly or through an ELT or a special purpose entity) cannot be designated as an eligible not-for-profit holder if the lender is not the sole owner of the beneficial interest in, and the income from a loan. Subsection A.2.A of the Manual is being updated to include definitions of "beneficial owner" (including "beneficial ownership" and "owner of a beneficial interest") and "sole owner".

If a state or nonprofit entity designated as an eligible not-for-profit holder (directly or through an ELT) becomes aware of a change that may cause loss of this eligibility, the state or nonprofit entity must, within 10 business days of becoming aware of the change, do each of the following:

- Submit the details of the change to the Department.
- Cease special allowance billing at the eligible not-for-profit holder rate from the date of the change to the date the Department determines that the state or non-profit entity has not lost its eligibility due to the change.

The definition of "eligible not-for-profit holder" contained in Appendix G of the Manual has also been updated with related changes.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Service:

For an applicable lender, the definition of “eligible not-for-profit holder” has been revised.

Guarantor:

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

U.S. Department of Education:

The Department may need to revise 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 31, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

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