

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1236	School Misrepresentation	4.1.E School Misrepresentation Incorporates new language that prohibits schools from making false, erroneous or misleading statements to current, prospective, or graduating students.	Federal	Misrepresentations by a school on or after July 1, 2011.
1237	Foreign School Audited Financial Statements and Compliance Audits	4.3.A General School Financial Responsibility Requirements 4.8 Independent Audits Updates the Manual's policy regarding foreign school requirements for submission of audited financial statements and compliance audits and references new regulatory cites.	Federal	Foreign school audited financial statement and compliance audit submissions on or after July 1, 2011.
1238	Definition of "Module"	6.1.B Academic Year Categories Appendix G States that a "module" is a course or courses in the program that do not span the entire length of the payment period or period of enrollment.	Federal	Enrollment periods that begin on or after July 1, 2011.
1239	Certifying Loans in Both FFELP and FDLP	4.1.A Establishing Eligibility Permits a school to certify loans of the same type under both the FFELP and the FDLP for a single borrower even if the certifications apply to a single loan period.	Correction	None. These provisions were implemented and enforced by the Department.

Batch 176 (Out for Comment)

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 14, 2011

X	DRAFT	Comments Due	Feb. 4
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: School Misrepresentation

AFFECTED SECTIONS: 4.1.E School Misrepresentation

POLICY INFORMATION: 1236/Batch 176

EFFECTIVE DATE/TRIGGER EVENT: Misrepresentations by a school on or after July 1, 2011.

BASIS:

§668.71; *Federal Register* dated October 29, 2010, pp. 66958 – 66959.

CURRENT POLICY:

The *Common Manual* does not have any current policies that specifically address misrepresentation by a school.

REVISED POLICY:

Revised policy incorporates new language that prohibits schools from making false, erroneous or misleading statements to current, prospective, or graduating students.

REASON FOR CHANGE:

The purpose for this proposal is to incorporate into the Manual the guidance in the final regulations regarding misrepresentation by a school.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise page 13, column 1, by creating a new Subsection 4.1.E for School Misrepresentation and renumbering the current Subsection 4.1.E (School Code of Conduct) to Subsection 4.1.F, as follows:

4.1.E School Misrepresentation

Substantial misrepresentation is any false, erroneous or misleading statement made by an eligible school, one of its representatives, or any ineligible school, organization, or person with whom the eligible school has an agreement, directly or indirectly to a student, to a prospective student, to any member of the public, to an accrediting agency, to a state agency or to the Department. A misleading statement is any communication made in writing, visually, orally or through other means that has the capacity, likelihood or tendency to deceive or confuse. If the Department determines that an eligible school has engaged in substantial misrepresentations, the Department may:

- Revoke the school's participation agreement;
- Impose limitations on the school's participation in Title IV programs;
- Deny a participation application made on behalf of a school; and
- Initiate a proceeding against the school under subpart G of §668.71.

For detailed information on specific activities that constitute substantial misrepresentation see 34 CFR §668.72, 73, 74, and 75.

4.1.F School Code of Conduct

PROPOSED LANGUAGE - COMMON BULLETIN:

School Misrepresentation

The *Common Manual* has been updated to include the Department's definition of substantial misrepresentation and the actions the Department may take if it determines a school or one of its

representatives has engaged in substantial misrepresentation.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will receive consistent viable information from a school regarding a variety of topics.

School:

A school cannot make false, erroneous, or misleading statements to prospective students, currently enrolled students, or graduating students.

Lender/Servicer:

None.

Guarantor:

None.

U.S. Department of Education:

The Department may need 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:

November 30, 2010

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

ly/edited-rrl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 14, 2011

X	DRAFT	Comments Due	Feb 4
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Foreign School Audited Financial Statements and Compliance Audits

AFFECTED SECTIONS: 4.3.A General School Financial Responsibility Requirements
4.8 Independent Audits

POLICY INFORMATION: 1237/Batch 176

EFFECTIVE DATE/TRIGGER EVENT: Foreign school audited financial statement and compliance audit submissions on or after July 1, 2011.

BASIS:
§668.23(h); *Federal Register* dated November 1, 2010, pp. 40 and 41.

CURRENT POLICY:

Current policy provides information regarding foreign school requirements for submission of audited financial statements and compliance audits.

REVISED POLICY:

Revised policy updates the Manual's policy regarding foreign school requirements for submission of audited financial statements and compliance audits and references new regulatory cites.

REASON FOR CHANGE:

This change was made to align the Manual's text with final rules published in the *Federal Register* on November 1, 2010.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.3.A, page 17, column 2, paragraph 2, as follows:

In addition, each year a foreign and domestic schools must submit to the Department a compliance audit of its administration of Title IV programs, conducted on a fiscal-year basis by an independent auditor. The compliance audit must be submitted to the Department not more than 6 months after the end of the school's fiscal year. The compliance audit must cover all Title IV transactions in that fiscal year and all transactions that occurred since the period covered by its last compliance audit. It must be conducted in accordance with generally accepted standards for compliance audits and procedures for audits contained in the Department's audit guide. The Department may also require the school to provide copies of its compliance audit report to guarantors, eligible FFELP lenders, state agencies, the Secretary of Veterans' Affairs, or nationally recognized accrediting agencies.
[§668.23(b); §668.23(h)(2)]

...

...

A foreign school must also submit, in English, an audited financial statement of the most recently completed fiscal year in accordance with 34 CFR 668.23(h)(1). ~~If the foreign school received less than \$500,000 (U.S.) in Title IV program funds during that fiscal year, its audited financial statement for that year may be prepared under the auditing standards and accounting principles of the school's home country.~~

~~If the foreign school received \$500,000 (U.S.) or more in Title IV program funds during its most recently completed fiscal year, the school must submit its audited financial statement in accordance with U.S. federal regulation and satisfy the general standards of financial responsibility outlined for schools in the United States, or must qualify under an alternate standard of financial responsibility specified in regulation.~~

Revise Section 4.8, page 40, column 1, paragraph 1, as follows:

Waiver of Annual Audit Submission

The Department ~~may~~ waives the annual audit submission requirement for a foreign school that received less than \$500,000 in Title IV program funds ~~loans~~ in the award year proceeding the audit period. ~~The Department will notify the school if a decision is made to exercise this waiver authority.~~

. . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Foreign School Audited Financial Statements and Compliance Audits

The *Common Manual* has been updated to align the Manual's text with final rules published in the *Federal Register* on November 1, 2010, regarding a foreign school's submission of audited financial statements and compliance audits.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

A foreign school must comply with the requirements for audited financial statement and compliance audit requirements as outlined in 34 CFR §668.23(h)(1) and (2).

Lender/Service:

None.

Guarantor:

A guarantor that works with foreign schools may need to update its compliance and training tools for those schools.

U.S. Department of Education:

The Department may need to update its financial responsibility standards for foreign schools.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

January 11, 2011

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee

CM Guarantor Designees

Interested Industry Groups and Others

ma/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: January 14, 2011

X	DRAFT	Comments Due	Feb 4
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Definition of “Module”

AFFECTED SECTIONS: 6.1.B Academic Year Categories
Appendix G

POLICY INFORMATION: 1238/Batch 176

EFFECTIVE DATE/TRIGGER EVENT: Enrollment periods that begin on or after July 1, 2011.

BASIS:

§668.22(l)(6); *Federal Register* dated October 29, 2010, pp. 66897, 66935, and 66951.

CURRENT POLICY:

Current policy states that a “module” is a course or group of courses offered for a period of time that is different (usually shorter) than the program’s quarter, trimester, semester, other academic term, or period of enrollment.

REVISED POLICY:

Revised policy states that a “module” is a course or courses in the program that do not span the entire length of the payment period or period of enrollment including, for example, an intersession that the school combines with a standard term or mini-sessions that the school combines to form a summer term.

REASON FOR CHANGE:

This change is required to conform to final rule changes published in the October 29, 2010, *Federal Register*.

PROPOSED LANGUAGE - COMMON MANUAL:

Note: Additional occurrences of the term “mini-session” in Manual text will be corrected through the technical edit process. Final rule changes that impact withdrawal determinations in a modular program will be addressed in a separate proposal.

Revise Subsection 6.1.B, page 3, column 1, paragraph 3, as follows:

Credit-Hour Programs Using Standard Terms or Nonstandard Terms That Are SE9W Offered in a Traditional Academic Year Calendar: Using BBAY1

If a program is offered in an SAY, the school may use BBAY1 as an alternative to the SAY for monitoring annual loan limit progression. . . ~~Mini-sessions-Modules~~ (summer or otherwise) that are offered consecutively within a term must be combined and treated as a single term.

...

...

Credit-Hour Programs Using Standard Terms or Nonstandard Terms That Are SE9W Not Offered in a Traditional Academic Year Calendar: Using BBAY2

If a school has a program that is not offered in a traditional academic year calendar (i.e., one that corresponds to an SAY), the school must use BBAY2. . . ~~Mini-sessions-Modules~~ (summer or otherwise) must be combined and treated as a single standard term.

Revise Appendix G, page 16, column 1, paragraph 2, as follows:

Module: A course or group of courses ~~offered for a period of time in a program that is different (usually shorter) than~~ do not span the program’s quarter, trimester, semester, other academic term, or entire length of the payment period or period of enrollment including, for

example, an intersession that the school combines with a standard term or mini-sessions that the school combines to form a summer term.

[The Blue Book, October 2005, Appendix A, p. A-54-§668.22(l)(6); Federal Register dated October 29, 2010, pp. 66897 and 66935]

PROPOSED LANGUAGE - COMMON BULLETIN

Definition of “Module”

The *Common Manual* has been revised to provide an updated glossary definition of “module,” based on final rule changes published in the *Federal Register* dated October 29, 2010. A “module” is a course or group of courses in a program that do not span the entire length of the payment period or period of enrollment including, for example, an intersession that the school combines with a standard term or mini-sessions that the school combines to form a summer term.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower attending a program offered in modules will experience consistent application of loan period, disbursement scheduling, delivery, and return of Title IV funds rules.

School:

A school will consistently apply loan period, disbursement scheduling, delivery, and return of Title IV funds rules to students enrolled in a program offered in modules.

Lender/Servicer:

None.

Guarantor:

A guarantor may need to update its compliance and training tools for schools.

U.S. Department of Education:

The Department may be required to update its program review materials for schools.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

November 18, 2010

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others

jcs/edited-kk

COMMON MANUAL – CORRECTION POLICY PROPOSAL

Date: January 14, 2011

X	DRAFT	Comments Due	Feb 4
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Certifying Loans in Both FFELP and FDLP

AFFECTED SECTIONS: 4.1.A Establishing Eligibility

POLICY INFORMATION: 1239/Batch 176

EFFECTIVE DATE/TRIGGER EVENT: None. These provisions were implemented and enforced by the Department.

BASIS:

Section 2210 of the Health Care and Reconciliation Act of 2010 (HCERA).

CURRENT POLICY:

Current policy provides that a school may participate in both the FFELP and the Federal Direct Loan Program (FDLP) simultaneously but that it is not permitted to certify the same type of loan – Stafford or PLUS – for the same borrower under both loan programs if that certification covered a single period of enrollment.

REVISED POLICY:

Revised policy permits a school to certify loans of the same type under both the FFELP and the FDLP for a single borrower even if the certifications apply to a single loan period.

REASON FOR CHANGE:

The HCERA deleted §454(a)(4) of the Higher Education Act of 1965, as previously amended, in order to facilitate the transition to Direct Lending.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 4.1.A, page 4 column 2, paragraph 1, as follows:

A school may participate in the FFELP and the Federal Direct Loan Program (FDLP) at the same time. For the period between March 30, 2010, and June 30, 2010, a school was permitted to certify for a single student or parent borrower loans of the same type – Stafford or PLUS – under the two separate loan programs even if those loans were for a single period of enrollment. However, a school is prohibited from certifying loans of the same type (be it Stafford or PLUS) under each program for the same student for the same period of enrollment. A school may, though, certify a PLUS loan under either program, and a Stafford loan under the other program, when the loans benefit the same student for the same period of enrollment. For example, the school may certify a Stafford loan under the FFELP and a PLUS loan under the FDLP for the same student for the same period of enrollment.
[HEA §454(a)(4); 09-10 FSA Handbook, Volume 3, Chapter 6, p. 3-96]

PROPOSED LANGUAGE - COMMON BULLETIN:

Certifying Loans in Both FFELP and FDLP

The Manual has been corrected to include statutory changes that permitted a school to certify loans of the same type – Stafford or PLUS – under both the FFELP and the FDLP for a single borrower even if the certifications apply to a single loan period.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

Borrowers with loans made under the FFELP could obtain additional loans for the same loan period if the additional loans would be disbursed after the school transitioned to the FDLP.

School:

Schools could ensure that borrowers continued to receive loan funds if the school participated in the FFELP

for the first part of any loan period, and subsequently was required to certify loans only in the FDLP.

Lender/Service:
None.

Guarantor:
Guarantors may be required to amend program review parameters.

U.S. Department of Education:
The Department may be required to amend its program review parameters.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
August 4, 2010

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

bg/edited-tmh