



Unified Student Loan Policy

**POLICY UPDATE PROPOSALS – IMMEDIATE ACTION REQUIRED
COMMENTS DUE FRIDAY, DECEMBER 30, 2016**

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

FROM: Benjamin Lee
Great Lakes, CM Policy Development Contractor

RE: *Common Manual* Policy Update
[Batch 209: Proposals 1320 & 1321]

DATE: December 9, 2016

Enclosed with this memorandum is the **Two Hundred and Ninth** batch of policy update proposals completed by the *Common Manual* Policy Development Contractor (PDC).

Policies 1320 & 1321 are federal policy proposals and are intended to align *Common Manual* text with federal regulations and other federal publications.

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

Please review these policy update proposals and provide written comments by Friday, December 30, 2016, to:

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

Following the review of comments received, the PDC will update the proposals and distribute them to each member of the *Common Manual* Governing Board for review and approval at its February 2017 meeting.

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

Enclosures:

Policy Proposal Transmittal
Common Manual Policy Proposals (1320 & 1321)

Common Manual Policy Proposal Batch 209 Transmittal**December 9, 2016**

#	Subject	Summary of Change to <i>Common Manual</i>	Type of Update	Effective Date
1320	Loan Rehabilitation and Interest Capitalization	This change conforms common policy to regulations published in the November 1, 2016 <i>Federal Register</i> (81 FR 75926), which prohibit capitalizing outstanding accrued interest when a lender purchases a rehabilitated loan and establishes the borrower's repayment schedule.	Federal	For rehabilitated loans purchased on or after July 1, 2017.
1321	Death Discharge	Allows two additional types of documentation for a death discharge. Those are an accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or by facsimile transmission or verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.	Federal	For death discharge applications and claims received on or after July 1, 2017.

Batch 209 (Out for Comment)

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: December 9, 2016

X	DRAFT	Comments Due	12/30/16
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Loan Rehabilitation and Interest Capitalization

AFFECTED SECTIONS: 10.10 Capitalizing Accrued Interest
13.7 Rehabilitation of Defaulted FFELP Loans

POLICY INFORMATION: 1320/Batch 209

EFFECTIVE DATE/TRIGGER EVENT: For rehabilitated loans purchased on or after July 1, 2017.

BASIS:

Final Rule published in November 1, 2016 *Federal Register* (81 FR 75926); §682.202(b)(1), and §682.405(b)(4)(ii).

CURRENT POLICY:

Lenders may consider the purchase of a rehabilitated loan as entry into or resumption of repayment and thus capitalize outstanding accrued interest when purchasing a rehabilitated loan from a guarantor and establishing the borrower's repayment schedule.

REVISED POLICY:

A lender must not consider the purchase of a rehabilitated loan as entry into or resumption of repayment and therefore may not capitalize outstanding accrued interest when purchasing a rehabilitated loan from a guarantor and establishing the borrower's repayment schedule.

REASON FOR CHANGE:

This change conforms common policy to regulations published in the November 1, 2016 *Federal Register* (81 FR 75926), which prohibit capitalizing outstanding accrued interest when a lender purchases a rehabilitated loan and establishes the borrower's repayment schedule.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 10.10, page 23, column 2, paragraph 1 as follows:

Capitalization of interest on all FFELP loans is permitted under the terms of the promissory note and federal regulations. A lender capitalizes interest by adding accrued interest to the loan's principal balance.

A lender is not permitted to capitalize outstanding accrued interest at the time it purchases a rehabilitated loan from a guarantor and establishes the borrower's repayment schedule. The lender may not consider the purchase of a rehabilitated loan as entry into repayment or resumption of repayment for the purposes of interest capitalization.

[§682.202(b)(1); §682.405(b)(4)(ii)]

Revise Subsection 13.7, page 16, column 2, paragraph 3 as follows:

The purchasing lender will receive payment history information (such as payment amounts and dates when the loan was in a default status) with the loan documentation to assist in the accurate conversion to repayment. A rehabilitated loan retains the same interest rate and deferment provisions that were applicable when the loan was first disbursed and repayment terms and all other benefits applicable to other FFELP loans made under the same loan type. The lender is not permitted to capitalize outstanding accrued interest at the time it purchases a rehabilitated loan and establishes the borrower's repayment schedule. The lender may not consider the purchase of a rehabilitated loan as entry into repayment or resumption of repayment for the purposes of interest capitalization.

[§682.202(b)(1); §682.405(b)(4)]

PROPOSED LANGUAGE - COMMON BULLETIN:

The *Common Manual* is being revised to incorporate regulatory changes outlined in the November 1, 2016 *Federal Register* that prohibit the lender's capitalization of outstanding accrued interest when purchasing a rehabilitated loan from a guarantor and establishing the borrower's repayment schedule. The lender may not

consider the purchase of a rehabilitated loan as entry into repayment or resumption of repayment for the purpose of interest capitalization. The change is effective for rehabilitated loans purchased on or after July 1, 2017.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: Borrowers with outstanding accrued interest on rehabilitated loans will not have that interest capitalized into the principal balance of the loan.

School: None.

Lender/Service: Lenders and servicers must not capitalize outstanding accrued interest upon purchasing a rehabilitated loan from a guarantor.

Guarantor: None.

U.S. Department of Education: None.

To be completed by the Policy Development Contractor

POLICY CHANGE PROPOSED BY:

Policy Development Contractor

DATE SUBMITTED TO CM POLICY DEVELOPMENT CONTRACTOR:

November 17, 2017

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Governing Board Chair

CM Guarantor Designees

Interested Industry Groups and Others

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: December 9, 2016

X	DRAFT	Comments Due	12/30/16
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: Death Discharge

AFFECTED SECTIONS: 13.1.D Claim File Documentation
13.1.E Missing Claim File Documentation
13.8.C Death

POLICY INFORMATION: 1321/Batch 209

EFFECTIVE DATE/TRIGGER EVENT: For death discharge applications and claims received on or after July 1, 2017.

BASIS:

Final Rule published in November 1, 2016 *Federal Register* (81 FR 75926); §682.402(b).

CURRENT POLICY:

Current policy requires that documentation for a death discharge must include either an original or certified copy or an accurate and complete photocopy of the original or certified copy, of the death certificate. The use of a fax or electronic version of the death certificate is not permitted.

REVISED POLICY:

Revised policy allows two additional types of documentation for a death discharge. Those are an accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or by facsimile transmission or verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

REASON FOR CHANGE:

These changes conform common policy to final regulations published in the November 1, 2016 *Federal Register*, (81 FR 75926), which revised the required documentation acceptable for a death discharge.

PROPOSED LANGUAGE - COMMON MANUAL:

Revise Subsection 13.1.D, page 6, column 1, paragraph 2, as follows:

Death Claims

For a death claim, the lender must submit—in addition to the preceding items 1 through 7—one of the following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate (see Subsection 13.8.C). The use of a fax or electronic version of the death certificate is not permitted.~~

In the event of an exceptional circumstance and on a case-by-case basis, the lender must submit other reliable documentation approved by the guarantor's CEO. (See Subsection 13.8.C)
[§682.402(b)(2); §682.402(g)(1)(iii); §685.212(a)(1)]

Revise Subsection 13.1.E, page 6 column 2, paragraph 2, as follows:

To expedite the claim filing process and avoid the return of claim files to the lender, the guarantor may use a fax machine to request and receive missing information from lenders. The types of

documentation that may be transmitted and received by fax include, but are not limited to, the application, promissory note, promissory note assignment, specialty claim documentation, payment history information, deferment or forbearance documentation, and missing collection history. In the case of documentation where an original or true and exact copy, or an accurate and complete photocopy of the original or certified copy, may be required (such as the promissory note ~~and death certificate~~), the lender may fax a copy of the document so that the guarantor can continue processing the claim. However, the lender must, within the time frame established by the guarantor, forward the original document—or a copy certified as true and exact, or an accurate and complete photocopy of the original or certified copy—to the guarantor to avoid a future claim return.

Revise Subsection 13.8.C, page 29 column 1, paragraph 1 & 2, as follows:

Suspending Collection

If a lender receives reliable but unofficial notification of a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or Consolidation loan that paid in full a PLUS loan, the lender must suspend collection activity on the loan for up to 60 days and diligently attempt to obtain the required documentation. ~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate.~~ Required documentation includes one of the following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation of the borrower's or student's death. If additional time is needed to obtain this documentation, collection activity may be suspended for up to an additional 60 days, for a total suspension of up to 120 days. If documentation is not received, the lender should treat the period of suspension as though a forbearance had been granted. A signed forbearance agreement is not required for this period. The delinquency status, if any, that existed on the loan before the lender suspended its collection activity remains. The lender must resume collection activity immediately at the level of delinquency at which it was suspended.

[§682.402(b)(2) and (3)]

After receiving the required documentation ~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the borrower's or student's death,~~ as stated above, ~~certificate~~ or notification of discharge approval from the guarantor, the lender may not attempt to collect on a loan or the discharged portion of a loan from the borrower, the borrower's estate, or any endorser.

[§682.402(b)(4)]

Revise Subsection 13.8.C, page 29 column 2, paragraph 1, as follows:

Timely Filing Deadline for Death Claims

A lender must file a death claim within 60 days of receiving one of the following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

~~an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate.~~ If a lender discovers that it has on file a photocopy, an electronic copy, or a facsimile copy of a death certificate for an account that was never submitted as a death claim or was denied as a death claim (because at the time of original receipt, copies and facsimiles were not

acceptable proof of the borrower's death), the lender must file the death claim within 60 days of that discovery. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation.
[§682.402(b)(2) and (g)(2)(i)]

PROPOSED LANGUAGE - COMMON BULLETIN:

The *Common Manual* is being revised to include regulatory changes made to acceptable documentation for loan discharge due to a borrower's or student's death as outlined in the November 1, 2016 *Federal Register*. Effective July 1, 2017, a death claim can be submitted based on one of following:

- An original or certified copy of the death certificate.
- An accurate and complete photocopy of the original or certified copy of the death certificate.
- An accurate and complete original or certified copy of the death certificate that is scanned and submitted electronically or sent by facsimile transmission.
- Verification of the borrower's or student's death through an authoritative Federal or State electronic database approved for use by the Department.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower: Borrowers or their families may now provide lenders copies of death certificates electronically or via facsimile transmission.

School: Schools may now provide lenders copies of death certificates electronically or via facsimile transmission.

Lender/Service: Lenders/Serviceers must accept copies of death certificates electronically or via facsimile transmission. If and when the Department approves the use of an authoritative Federal or State database to document death, the lenders/serviceers must comply.

Guarantor: Guarantors must accept the additional forms of documentation now acceptable for a death discharge for death claim processing, and must also revise their program review procedures accordingly.

U.S. Department of Education: None.

To be completed by the Policy Development Contractor

POLICY CHANGE PROPOSED BY:

Policy Development Contractor

DATE SUBMITTED TO CM POLICY DEVELOPMENT CONTRACTOR:

November 17, 2016

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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